

CMA Housebuilding Market Study

Bellway plc's Response to the CMA's Statement of Scope

1. Overview

- 1.1 Bellway plc ("**Bellway**") welcomes the opportunity to comment on the proposed scope of the CMA's housebuilding market study (the "**Market Study**") which was announced on 28 February 2023, as set out in the Housebuilding Market Study Statement of Scope dated 28 February 2023 (the "**Statement of Scope**"). It is committed to working with the CMA on this Market Study with a view to ensuring that the CMA has a full and proper understanding of the market and how it operates and can therefore draw appropriate conclusions in its final report. In this submission, Bellway wishes to highlight certain key points from Bellway's individual perspective¹.
- 1.2 Bellway is a national housebuilder, with a focus on high quality homes designed to complement the style of existing local housing in developments that meet local demand and enhance the community. Bellway has a responsible and sustainable approach to managing its business with a strong track record of being customer focussed. It is rated as a five star builder by HBF, and this is indicative of the importance that Bellway attaches to customer care and its relationships with its customers.
- 1.3 It has been nearly 15 years since the Office of Fair Trading (the "**OFT**") published its 2008 final report in respect of the market study into the homebuilding in the UK². Then, as now, the UK was facing a period of economic instability, with consequential impacts on the housing industry. Although the OFT's report identified some important aspects which needed to be addressed, the OFT also concluded that the "*the supply of new homes is characterised by aggressive competition for land and the best locations and that existing homes act as a constraint on the price of new homes*"³.
- 1.4 In Bellway's experience, it remains the case today that: (i) there is fierce competition between housebuilders, both to acquire land/development plots (often through a bidding or tender process) and, once sites are built out, to sell houses to new customers (although Bellway would not compete with smaller housebuilders for the acquisition of sites, given its focus on larger scale developments, it would compete heavily with them for the sale of any houses); (ii) the price of new homes continues to be set with reference to the prices of existing homes within the same area; and (iii) the rate of build-out and supply of new homes is set by reference to the supply of existing homes and local demand.
- 1.5 The Statement of Scope also indicates that the market for new homes is not particularly concentrated, with the top 5 housebuilders only accounting for 30% in 2021⁴. According to HBF, the largest 10 and 25 firms represented 35.5% and 45.6% of new build completions in the UK in 2020 respectively – which was largely unchanged from the previous decade⁵. The absence of any material trend towards

¹ Bellway has also seen draft versions of the following documents it understands will be submitted by the Home Builders' Federation ("**HBF**"): (i) HBF response to the CMA's Statement of Scope and (ii) a HBF paper summarising the recent history of the housebuilding industry and the impact of policy interventions and market events ("**House Building in England since the 1980s**")

² OFT1020, Homebuilding in the UK, A Market Study, September 2008

³ Paragraph 4.188 of OFT1020, Homebuilding in the UK, A Market Study, September 2008

⁴ Paragraph 1.20 of the Statement of Scope

⁵ See e.g. HBF paper, House Building in England since the 1980s

market concentration, and the constraint posed by existing housing stock, should also be taken into account as part of any consideration of barriers to entry.

- 1.6 However, there are also certain aspects of the market which raise considerable challenges for Bellway and likely for other housebuilders, and which hinder the effective functioning of the market, namely:
 - 1.6.1 The complexity and inefficiency of the planning permission system (which the changes proposed in the Levelling Up and Regeneration Bill (the "**LURB**") will exacerbate);
 - 1.6.2 The limited supply of suitable land available for development (set out in more detail in section 3.1.2 below);
 - 1.6.3 The increasing level and volume of regulation and requirements which housebuilders must meet, which may be particularly burdensome for SME housebuilders, make it more costly for housebuilders to operate, and lead to delays in delivering new housing⁶;
 - 1.6.4 A skills shortage in the industry;
 - 1.6.5 Availability of mortgages on terms that are acceptable to consumers;
 - 1.6.6 Availability of development finance for SME developers; and
 - 1.6.7 Supply chain shortages that have further extended the typical housebuilding process from start to finish. This means that housebuilders are required to carry cash risk for longer periods than usual.
- 1.7 In Bellway's view it is essential that the CMA considers closely and takes account of these aspects as part of its Market Study if it seeks to understand the way the industry operates and the factors affecting the supply of new homes (in line with the proposed Statement of Scope⁷).
- 1.8 The CMA's Statement of Scope contains various factual mischaracterisations of how the market operates (including regarding the role of housebuilders in relation to s.106 agreements and viability assessments). Some of these aspects are referred to further in Bellway's observations below. In moving forward with this Market Study, Bellway trusts that the CMA will approach this Market Study with an open mind, (i) recognising the value brought by housebuilders of all sizes; and (ii) seeking to get to the heart of market dynamics, and what drives particular outcomes.

2. Comments on the CMA's proposed scope

Exclusions from the proposed scope are not warranted

- 2.1. Bellway is concerned that the CMA does not intend to address the issues set out in paragraph 1.13 of its Statement of Scope in the Market Study and, in particular, to weigh the costs and benefits of the LURB. The LURB – if enacted – will make fundamental changes to the planning permission system, which will further increase the scale and complexity of the planning permission regime, and will have a very significant impact on housebuilders and the volume of new homes developed and which come to market. Excluding these aspects from the Market Study will result in a CMA report which is partial at best, does not identify the relevant features that might affect the effective functioning of the market (in particular in terms of entry and expansion) and is not sufficiently forward-looking to address the challenges which the industry and market is facing. On this basis, Bellway does not agree that the exclusion of *"fundamental aspects of the planning regime"* will enable the CMA to *"focus on the aspects of the housebuilding market where we consider that the CMA can provide most insight and have the greatest impact"*⁸.

New homes cannot be considered in isolation

- 2.2. Further, Bellway believes that new homes cannot properly be considered in isolation. Although the CMA's focus in the Market Study is intended to be on newly built homes, the CMA should take sufficient account in the Market Study of the fact that newly built homes are one small part of the overall housing market and are inextricably linked to existing housing stock (which accounts for the vast majority of the housing market). For example: (i) the prices of newly built homes for sale are set by reference to local demand, including for existing housing stock (with the prices of existing houses therefore constraining the price of newly built homes); (ii) when moving homes, customers may look to move from an existing house to a newly built house (reflecting that they are part of the same supply chain) – indeed, this is the case for a majority of Bellway's customers; and (iii) the valuation of land (on a price per square foot for the relevant area) is based on the prices of housing stock in that area (covering both existing homes and new homes). As a result of the above, pricing, demand, and ultimately the build-out rate of newly built homes is inextricably tied to that of existing homes. Bellway

⁶ Please refer to HBF's paper, House Building since the 1980s, for more information

⁷ Paragraph 1.11 of the Statement of Scope

⁸ Paragraph 1.13 of the Statement of Scope

would urge the CMA to widen its proposed scope for the Market Study in order to consider the market for both existing and newly built homes as is reflected in the OFT and CMA's decisional practice⁹.

- 2.3. Other, more general, observations on the proposed scope as set out in the CMA's Statement of Scope are detailed below:

- 2.3.1. **Geographic scope:** Bellway does not disagree with the CMA's proposed geographical scope, including that the Market Study will not cover Northern Ireland. The features and conditions of the housebuilding market in Northern Ireland are substantially different from those in England, Scotland and Wales.
- 2.3.2. **Affordable housing:** Bellway notes that the CMA intends to focus on issues relating to affordable housing. Bellway agrees affordable housing is an important aspect to which the CMA should have regard in the Market Study, in light of its social impact. Bellway is committed to providing affordable housing as part of its developments in conjunction with the requirements of relevant authorities. The provision of affordable housing can also assist with a housebuilder's overheads and managing its investment risks insofar as it often provides an earlier return on investment to the housebuilder, and certainty of forward sales.
- 2.3.3. The CMA should also take account of the integral role played by affordable housing in the value of land. Moreover, if the CMA is to examine properly the functioning of the market in respect of affordable housing, it should as part of its scope of the Market Study consider the role and practices/incentives of: (i) landowners; and (ii) registered providers of social housing who are the main developers of new homes in the social housing sector. At present, there is no indication in the scoping document that the CMA will consider these aspects.
- 2.3.4. **Adoption of roads and amenities:** Similarly, issues as to the adoption of roads, which can have important impacts for buyers of new build houses, need to be examined in light of the relevant policies and practices of Local Authorities, which in Bellway's experience, are the key determinants of whether local roads and other amenities are adopted.
- 2.3.5. **Development funding:** Bellway notes that access to development financing is critical for many housebuilders (and likely, in particular, SMEs) given the high-risk nature of the market, where: (i) substantial investment is required upfront in terms of costs for land acquisition, planning permission costs and development costs; (ii) returns on investment are not received until the newly built homes have sold (and, indeed, a housebuilder might not break even until they have sold a significant proportion of the homes built) and (iii) there is a very lengthy process involved in developing a site and bringing homes to market. For example, even a relatively small development (e.g. 10 – 20 houses) could take 18 – 24 months before a housebuilder would see any return on its investment. The availability and terms of this development financing should be taken account of by the CMA in the Market Study and included within its scope.
- 2.3.6. **Other economic factors:** The CMA should take sufficient account of the significant impact of the general economy and the financial market on both the supply side and demand side of the market. Among these are many factors affecting both the demand and supply side that are beyond housebuilder's control, such as e.g. conditions in the mortgage market, regulatory requirements, economic pressures in obtaining road and sewer bonds, a skills shortage in the industry, interest rates, and inflation.

3. General observations

- 3.1. Aside from the points outlined above on the CMA's proposed scope, Bellway would like to highlight the following additional points that it considers are relevant to how the CMA considers and approaches its Market Study, or which seek to clarify points included in the CMA's Statement of Scope:
- 3.1.1. **The market is inherently cyclical:** As the CMA will be aware, the housing market is inherently cyclical and can fluctuate significantly, often driven by wider issues with the economy. This Market Study follows a period of sustained growth in the housing market, although all the indications are that conditions in the market have become significantly more challenging over the last 6-9 months and that this is expected to continue in light of increased

⁹ In its 2008 market study, the OFT found that "homebuilders in the UK compete for sales against each other and existing homes – that is, while some homebuyers may wish to buy only a new home, many consider buying either a new or existing home, and so the price of existing homes and the price of new homes constrain each other", and that as a result it was highly likely that "all homes of all sizes are effectively in the same economic market". It also found that "where a single homebuilder supplies a significant proportion of new homes in a local market, the ability of this homebuilder to influence prices will be limited" (Paragraphs 1.6, 4.30 and 4.26 of OFT1020, Homebuilding in the UK, A Market Study, September 2008). The CMA took into account the constraint exerted by the supply of older homes in its investigation into the completed acquisition of Banner Homes Group plc by Cala 1 Limited (ME/6435/14)

interest and mortgage rates. The CMA should be conscious that many of the documents that it will request and receive during this Market Study may have been prepared whilst the market was still growing and therefore may not fully represent the present market circumstances.

- 3.1.2. **Access to land/land holdings:** Land (and, in particular, good quality sites) is in finite supply in the UK and housebuilders are reliant on landowners (including local authorities and Government institutions) to release land for sale/development. Bellway spends considerable resource in seeking to identify land for sale. The Statement of Scope indicates that the CMA intends to consider the effect of land holdings on competition¹⁰. In approaching this aspect of the Market Study, it is important that the CMA properly appreciates that not all land, once purchased, can immediately be developed. For example: (i) some land is purchased without planning permission and needs to go through the full planning permission cycle before development can begin; and (ii) land that has planning permission cannot necessarily be developed until all planning conditions have been discharged. Other aspects such as local demand, access to necessary skills and the need to have a pipeline of work so that a housebuilder can efficiently use its employees are also all factors in why a housebuilder might buy land that is not immediately developed. However, it is not in the interests of Bellway as a housebuilder not to develop land, in particular as it will not recoup its investment in land until it is able to sell homes on the development. Bellway is at present actively developing all sites within its portfolio which have planning permission and for which the necessary planning conditions have been discharged.
- 3.1.3. **Local Planning Authorities:** Figure 1.1 of the Statement of Scope refers to pressures on the local planning authorities ("LPAs") in the planning process forming part of the Market Study's proposed scope. Question 8 set out in the Statement of Scope also raises questions as to whether housebuilders may seek to use s.106 Agreements to reduce requirements for affordable housing. However, in Bellway's experience, LPAs are the key determinants of what is included in s.106 Agreements. It is far from the case that these LPAs are at a negotiating disadvantage with housebuilders; rather, they are sophisticated counterparties, often benefitting from the advice of third party consultants and external legal advisers. These LPAs are each guided by their internal policies (which typically differ by LPA, of which there are 333 in England alone); it is these policies that are the starting point for Bellway in any project. Bellway would urge the CMA to take appropriate account of this as part of its assessment.
- 3.1.4. **Viability assessment:** The Statement of Scope refers to "*the viability assessment that is often part of the negotiations between housebuilders and LPAs that take place following the award of the outline planning permission*". This is not correct. Bellway notes that formal discussions regarding viability typically take place at the outset of a development project as part of pre-consent negotiations, and that a viability argument between a housebuilder and an LPA would only become relevant where it would otherwise not be viable to commence the development of a site.

4. Concluding remarks

- 4.1. Bellway trusts that the CMA will take account of the above as it confirms the scope of the Market Study, and welcomes any questions the CMA may have on these points as part of its review. Bellway looks forward to engaging further with the CMA as the Market Study develops.

¹⁰ See, for example, Figure 1.1 of the Statement of Scope