



## HOMES FOR SCOTLAND'S RESPONSE TO THE COMPETITION AND MARKETS AUTHORITY HOUSEBUILDING MARKET STUDY

MARCH 2023

### Purpose of Homes for Scotland

As at 20<sup>th</sup> March 2023, Homes for Scotland (HFS) has 39 home builder members which together deliver the majority of new homes of all tenures across Scotland. Membership spans from smaller niche developers and RSLs, through to larger private companies and PLCs – building across all market segments and price points.

In total our almost 200 members includes associate members (businesses in the supply chain such as architects, engineers, lawyers, planning consultants, land promoters and mortgage advisors), all of which provide a crucial function in the wider delivery process of increasing the supply of new homes.

HFS is the only housing organisation in Scotland promoting an all-tenure approach which recognises the importance of all types of housing (whether private for sale or Affordable Housing) and the interdependencies that exist between them in terms of planning and delivery. For example, the Scottish Government has concluded that the overall contribution from developers was worth £30,500 for each private sector home built in Scotland in 2018/19, with the majority (65%) of overall contributions attributable to the value captured through affordable housing.

Furthermore, we understand that based on feedback from HFS members, circa 30% of all affordable homes in Scotland are delivered as a result of S75 (planning obligations) so if the number of private housing sites drop there will be a decline in the number of affordable homes delivered. Therefore promoting the supply of homes of all tenures is essential.

The overall purpose of HFS as set out in our draft strategy 2023-2028<sup>1</sup> is that *“Our wish is that everyone with an interest in increasing housing supply can unify around the overarching purpose of the organisation: **To deliver more homes for the people of Scotland**”*.

We will deliver our objective of increasing support for the delivery of more homes by:

- Influencing stakeholders and those interested in housing by working collaboratively to shape policies that support our sector
- Improving the perception and understanding of the sector and the need for more homes by being evidence-based, solutions-driven and future-facing

---

<sup>1</sup> Our strategy is currently being finalised and a copy will be sent to CMA shortly.

- Supporting our members to deliver more homes for the people of Scotland by being an influencer and source of knowledge and expertise.

### **Our operational environment**

Both housing and planning are devolved to the Scottish Government although other related matters such as consumer protection and energy remain with Westminster. This can lead to some areas of friction between national (UK), national (Scottish) and local government priorities as they impact on the delivery of homes in Scotland.

Housing contributes to a number of the Scottish Government's [National Outcomes](#) as outlined in the [National Performance Framework](#). Disappointingly, however, there is no specific outcome relating to the right to a warm, safe home. New build housing provides people with positive outcomes in terms of stability, equality, wellbeing, economy, placemaking, education, jobs, skills and health and thus directly impacts the majority of the existing National Outcomes (Communities, Economy, Education, Health, Human Rights, Poverty).

### **The value of home building in Scotland**

Building new sustainable homes contributes significantly to both society and the economy. HFS commissioned a report in 2022 on '[The Social and Economic Benefits of Home Building in Scotland](#)'. Using data from 2019, the findings evidenced that the building of private homes provided/supported:

- £521m of tax was paid (including LBTT, Corporation Tax, NI and PAYE contributions)
- £511m of developer contributions (the equivalent of £30,500 per private home built)
- 79,200 jobs (equivalent to 3.5 jobs per private home built)
- £3.4bn direct, indirect and induced GVA
- Improved health and education outcomes
- The challenge of demographic change by providing accessible and adaptable homes
- Improved access to fit-for-purpose and energy-efficient homes
- Enhanced quality of life for residents inside and outside of their homes
- Net zero ambitions
- Fuel poverty ambitions

As HFS itself does not build homes, we have limited our answers only to those questions where we believe that we have specific market knowledge and insight which may be helpful to the CMA in finalising the scope of its market study. We have not therefore answered every question in the consultation and we have left it to our members individually to respond to other questions which they are best placed to answer directly. If there are specific questions we have not answered but which the CMA would like us to answer, please let us know. We would also welcome the opportunity to participate further in the in the CMA's market study assessment should this be helpful.

### **QUESTION RESPONSES**

1. **Do you agree with our proposed geographic scope for the market study, as set out in paragraph 2.32? If not, why not? In particular, do you think that Northern Ireland should be included in the scope of the market study?**

Yes.

Homes for Scotland has no working knowledge of Northern Ireland and cannot comment on its inclusions / exclusion.

**2: Do you agree with our areas of focus for the market study as set out in paragraphs 2.1-2.31. If not what other matters should we focus on and why?**

No. We do not believe that the current scope of the market study will accurately pick up on all the issues that interconnect to secure the delivery of more homes in Scotland. We refer to the range of issues at play as the 'housing jigsaw' which we highlighted in our manifestos for the [2021 Scottish Parliament](#) and [2022 local](#) elections.

In essence, we believe that to maximise the supply of more homes, there needs to be a strong political and policy framework that puts delivery of more homes at the heart of national and local policy and decision-making. We do not believe that all aspects of this jigsaw are working together as well as they could be and therefore some of these areas, within the remit of national and local government and other enabling delivery agencies (e.g., infrastructure /energy providers), should also be the focus of this market study.



The key components of the 'jigsaw' are:

- Support for consumers and business confidence
- A deliverable housing vision
- Leadership towards a green transition
- Support for SME home builders
- A national delivery agency
- A planning system focused on delivering quality homes and places
- Up front strategic infrastructure delivery
- Promotion of low carbon housing

- Specific measures to support Affordable Housing
- Alignment of national and local policy

**3. We may carry out case studies during the course of the market study. Can you suggest any local areas across the UK we should look at:**

Overall we feel the market is not performing across all of Scotland. There are issues across all local authority areas which we would be happy to discuss in more detail should this be required.

One particular point that we would wish to highlight at this stage is the very rural nature of Scotland which may differ from other parts of the UK. Across the mainly rural and island areas we understand there to be particular issues associated with the cost and viability of delivering homes in these areas. The remote nature of many of these locations makes it more likely that it will be SME home builders delivering in these locations and we will touch further in this submission on the particular difficulties facing SMEs.

**4. How can competition in this market be strengthened?**

Competition would be significantly increased with the introduction of an all-tenure housing target with an increased focus and commitment at a national and local government level to ensuring the delivery of sites and a consenting regime to facilitate home building.

An all tenure housing target would better reflect the inter-dependencies of the system as we indicated previously as opposed to the Scottish Government's current target which only focuses on the delivery of Affordable Housing and ignores where the majority of the housing supply comes from.

A regulatory environment that was considered focused on deliverability would increase interest for new entrants entering the market, particularly SMEs. At the moment, the regulatory and policy environment is often considered hostile to the delivery of much needed new homes with political and policy support often not supportive at a local and national level thus often deterring delivery in some areas.

Recent building regulations changes specifically relating to energy and sustainability were cited by 86% of SME builders in a recent survey as being a major or minor barrier to growth. Whilst the survey was focused on English SMEs, it is our understanding that similar levels of concern exist amongst Scottish SMEs. Over the long run it is often the complexity and uncertainty of delivering new standards that causes the greatest disadvantage to small firms. It is for this reason that HBF worked with Government and other stakeholders to found the independent Future Homes Hub which will support the industry in the delivery of the Future Homes Standard which will represent a huge step-change even from recent building regulations changes. While the Hub's work has been actively supported through funding and expertise by the largest home builders, the outputs, including via a specific working group, will support all participants in the market. Homes for Scotland on behalf of Scottish homebuilders is now seeking to formalise our relationship with the FHH so that businesses here can benefit from the shared learning being developed across the UK on this key issue.

**5. How can the functioning of the market be improved?**

As above, improving the regulatory and policy environment to one that is more supportive to home builders of all tenures would improve competition in the market for all homebuilders. In particular ensuring a more effective supply of land through more proactive and supportive planning regime would greatly increase supply of homes.

In addition, actively improving the operational environment for SMEs would assist greatly.

Since the 2007/08 global financial crisis, one sector of the market that has failed to recover substantially from the downturn is SMEs. Our 2019 [‘Small-Scale Home Builders: Increasing Supply’ report](#) specifically sought to address weaknesses in the SME market and recommended a series of public policy interventions that could be introduced to further support SME developers and allow them to increase their market share. The report suggested actions focused around the key areas of:

- Planning
- Finance and Taxation
- Utilities, infrastructure and non -planning consents
- Skills, resourcing and attitudes

The report was published just prior to the pandemic, and with the home building landscape evolving throughout the course of 2020-2022 and new challenges being presented, we felt it appropriate to undertake a review of the report. With full engagement from our SME members, this was recently completed, resulting in several updated recommendations specifically centred around:

- The lack of data on SME home builders in Scotland
- The challenges faced by SMEs in relation to Land and Buildings Transaction Tax & Additional Dwelling Supplement
- The lack of suitable and accessible funding for SME home builders in Scotland
- Raising the profile and understanding of SME home builders in Scotland

HFS firmly believes that by addressing these challenges, and with support from the Scottish Government and other stakeholders, we can significantly improve the environment in which SME home builders operate.

HFS recently met with the Scottish Government to specifically discuss the lack of data available on both SME and home building in general. The current data available is sparse and outdated. Current Scottish Government housing statistics are around 6 months out of date, making it incredibly difficult to understand how the new build housing market is performing. The Scottish Government agreed that this is an area which requires improvement and there is ongoing consideration of this. HFS is also investigating other avenues to explore how a database of home builders in Scotland can be built.

**6. What, if any, are the key differences in housebuilding in each of England, Scotland, and Wales that should be reflected in our analysis? Please explain any such differences and how each may affect the analysis.**

As planning and housing are devolved matters there are clearly differences in the regulatory and policy environment in which home builders operate.

One particular difference we wish to highlight is the present minimal support for First Time Buyers in Scotland. Historically, the First Home Fund and Help to Buy existed to assist those looking to purchase their first home. The First Home Fund ran from 2019 – 2021 but was closed in 2021. The reasoning for this by the Scottish Government was due to a high

number of applications, a reduced budget for the 2021/2022 term and as a result of the reduced budget, no plans to extend into another financial year. The First Home Fund provided first time buyers with loans of up to £25,000 to help boost their deposit to purchase a property in Scotland.

Help to Buy in Scotland ran from 2013 – 2021 and was a Scottish Government scheme to help first time buyers and existing homeowners to buy an affordable new build home up to the value of £200,000. The shared equity scheme helped more than 17,000 people to buy a home. The Scottish Government cited a cut to the Scottish Government Financial Transactions as a result of the UK Government's Spending Review as the reason for closure of the scheme.

As a result of the closures of these schemes, there is no public policy intervention to help stimulate the delivery of an increased supply of new homes. The presence of such schemes would undoubtedly help stimulate the provision of more homes.

### **7. Have any of the following aspects changed over time?**

No response

### **8 (a) The time and cost to gain approval through the planning process is a major barrier to housing delivery in Scotland.**

The most recently published planning statistics in Scotland (April 2022 to September 2022 [here](#)) show that the average time to determine a major planning application for residential development in Scotland is just over 36 weeks against a target determination period of 16 weeks. These statistics do not take account of the time to both validate a planning application once submitted by an applicant to the planning authority nor do they include the post-planning approval period during which pre-commencement planning conditions must be agreed and signed off. Therefore, the average time period for processing of a planning application is, in reality, much longer than the 36 weeks suggested by the statistics.

There are many aspects contributing to the unduly and unacceptable lengthy period of time to process planning applications in Scotland.

These include:

- Delays in registering planning applications across each local authority and a lack of a consistent national approach to registration.
- Difficulties in accessing a consistent and timely pre-application planning service.
- Lack of availability of planners to meet/discuss applications with applicants.
- Lack of 'specialist' resourcing within local authorities to determine whether reports such as flood risk assessments, ecology assessments or contamination studies are acceptable to allow the planning applications to process, or not, to approval.
- Inconsistent approaches from different departments within local authorities e.g., roads officers/policies in conflict with the view of planning officers/policies.
- Infrequent scheduling of local authority decision-making committees meaning that an application must wait for an appropriate slot in the committee cycle for a decision.
- Long lists of pre-commencement conditions attached to a planning approval when many of the issues will already have been considered during the application process.



- Lengthy and unnecessary periods to negotiate and agree a s.75 agreement<sup>2</sup>. This can be due to a lack of legal resource within planning authorities.

The cost of submitting and processing a planning application continues to rise in Scotland without any notable improvements in the quality of service or timely delivery of planning approvals.

On 1<sup>st</sup> April 2022 planning fee increases were implemented. To summarise, the most recent increases, the cost of a 20-unit site rose by 30.92% to £10,500, a 50-unit site rose by 19.7% to £24k and the maximum fee for sites of 750 or more units rose by 20.14% to £150k. It is disappointing that the proportionate rise was felt hardest by the smaller housing sites. It is unlikely that a direct consequence of increasing planning fees will mean that planning authorities can be better resourced due to both a lack of ring fencing of fees and a shortage of planners in Scotland.

In addition to the planning application fee, the number of specialist reports requiring to be submitted as part of a planning submission continues to increase. These include reports covering aspects such as flood risk, contamination, ecology and archaeology. The preparation of these types of reports is likely to require external consultancy support due to home builders not having such skill sets in-house. Again, this places a further disproportionate burden on SME builders especially given that the reports are undertaken and paid for upfront and at risk until such time as/if planning approval is issued.

It is disappointing that Scotland's newly adopted [National Planning Framework 4](#) (NPF4) did very little to address the resource burden on local authority planning departments or the cost burden or delays associated with planning applications for home builders. This was a missed opportunity to streamline the planning system and help to empower local authority planners through the decision-making process.

#### ***(b) Likelihood of success in securing planning permission.***

As noted above, it is not always possible to gain constructive and timely pre-application input from a planning authority. Notwithstanding this, there are a number of planning applications being refused at committee by elected members which are in conflict with a planning officer's recommendation to approve and on land that may also be allocated for housing in a local development plan. Often, there are no valid planning reasons for a recommendation to approve being over-turned by elected members. This has the knock-on effect of causing further delay to the delivery of new homes, additional cost to both the applicant and local authority and compounding resource constraints within local authorities and the independent appeals authority in Scotland, the Planning and Environmental Appeals Division.

It is noted that the Scottish Government intends to publish a consultation in the spring of 2023 on Mandatory Elected Member Training. This is welcomed by HFS. The outcome of this consultation will be critical to ensuring that the planning application system is no longer delayed by what would appear to be planning refusals being decided upon due to entirely political reasons with no basis in sound planning policy or decision making. If a site is already allocated in a local development plan there should be no argument over the principle of development.

NPF4 was adopted on 13<sup>th</sup> February and at that point became part of the statutory development plan alongside adopted Local Development Plans (LDPs). The home building

---

<sup>2</sup> In Scotland a Section 75 agreement is a planning obligation relating to Developer Contributions. In England this is known as a Section 106 agreement.

sector requested and advised that there should be a fair and proportionate transitional period implemented upon NPF4's adoption whereby a 'grace' period be granted for any applications already registered in the system. Unfortunately, this has not been the case meaning that every live application and appeal must now be reconsidered under the terms of NPF4. Not only does this cause delay and uncertainty to applicants, but it also places another resource burden on decision-makers who are now duty bound to re-assess every live planning application or appeal.

**10. What are the main barriers, (if any) to the provisions of affordable housing for (a) LPAs and (b) developers ?**

The majority of Affordable Housing in Scotland is funded partially via the Scottish Government's Affordable Housing Supply Programme along with RSL's / Local Authorities own borrowing. In addition, a recent HFS survey of members indicated that around 30% of all new affordable homes built in Scotland are delivered as a result of S75 contributions made by private developers.

Housing of all tenures faces the same delays and constraints with regards to planning and consenting regimes and lack of land supply across many areas of Scotland. This is undoubtedly contributing to the current failure to deliver the Scottish Government affordable housing targets.

In addition, the current supply chain constraints, cost inflation and ever-increasing building standards requirements are making the delivery of affordable housing even less viable. With Scottish Government statistics demonstrating that the number of new affordable housing starts has fallen again this year, the under supply of affordable homes will continue.

**Constraints on Buyers Choices**

***12. As regards land (a) what issues (if any) do developers face in identifying and securing land for development and how do they navigate these?***

The scarcity of deliverable and marketable land is a major challenge for home builders in Scotland.

The reasons for this can be summarised as follows:

- The Housing Land Requirement, the number used to identify how much land requires to be allocated for housing within the plan period, is often based on a significant under-estimate of the true need and demand for new homes in a local authority area. The tool and process used by local authorities in Scotland to determine a baseline figure is the Housing Needs and Demand Assessment (HNDA). This tool takes an extremely limited view of what constitutes need and uses past trend data to predict future demand. The attached paper highlights HFS's key methodological concerns of the HNDA process. This ultimately means that not enough land is being allocated in local development plans as a starting point to accommodate the actual need and demand for new homes.
- There are a large number of allocated housing sites in LDPs that are not deliverable. The reasons that allocated sites are not deliverable during the plan period, and therefore constrained, can range from physical and infrastructure constraints, ownership constraints and localised marketability constraints. These can all make an allocated site unviable and/or unavailable. This then compounds the issue covered in the previous bullet point as if the sites that are allocated are then not deliverable they effectively block new housing sites from coming forward.



- The LDP regulations in Scotland are set to change in the next couple of months, meaning that the preparation of preparing a plan will be different and the time period to be covered by new LDPs increasing from 5 years to 10 years. Unfortunately, the knock-on effect of the delay to the preparation and adoption of NPF4 means that the publication of the new LDP regulations is causing a significant backlog in the preparation of 'new style' LDPs. Taking into consideration bullets one and two, that neither are there enough housing sites being allocated in LDPs in the first place nor are there enough that are deliverable, there is also a lengthy period ahead until new style LDPs will be adopted. The earliest likely timeline for most new LDPs to be adopted in Scotland is by 2028. This paints a very bleak picture for new housing allocations being able to come forward in the meantime to plug the housing land shortfall, with many LDPs in Scotland either already out of date or nearing their expiry date.

Compounding this further is the fact that, according to recent 'transitional' advice from the Chief Planner, there is no mechanism available to fix a shortfall in delivering the housing land requirement within current LDPs. This advice will do nothing to ensure that there is adequate land available to continue to build the number of homes that Scotland needs. Given the point above that new style LDPs are not likely to bring in additional allocated housing sites until 2028 at the earliest, the availability of deliverable land for housing will become increasingly more challenging and a blocker to delivering the number of new homes that are needed.

The newly adopted NPF4 does offer some long-term hope that planning for the availability of land could improve. Notwithstanding this, and as mentioned earlier, HFS is still firmly of the view that the baseline tool used to determine the numbers of new homes is fundamentally flawed. NPF4 places an onus on allocated housing sites having proven deliverability and appears to give local authorities a mandate to de-allocate sites that are no longer capable of coming forward for delivery. This is positive in principle, however, HFS remains concerned that there is no guidance for local authorities or promoters of housing land as to how a deliverable pipeline of housing land should be defined, identified and reviewed. There is also a major concern that NPF4 does not offer any adequate or workable solutions to 'fixing' an under-delivering housing land pipeline during the lifetime of a ten year LDP.

### **Exploitation of market power**

***23. What differences (if any) are there between small, medium and large developers in:***  
***(a) The types of developments they develop (e.g. types of housing provided).***  
***(b) The type of land they develop on (e.g. size of site, propensity to use greenfield vs brownfield sites, urban vs rural)***

For the purposes of clarity, HFS classifies small-scale home builders as those delivering up to 50 homes per year, and medium and large builders as those delivering over 50 homes per year.

With regards to the type of land built on by developers of different size, larger developers build on sites situated closer to towns/cities while typically brownfield sites in both rural and urban locations are most suitable for SME developers. This is due to the size of these sites being suitable for small developments and the absence of competition from larger developers for these types of sites. There are, however, other challenges associated with brownfield sites.

Firstly, the remedial works on brownfield sites are costly and requires SME developers to 'forward fund', often with no guarantee that planning permission will be granted. Many SME

developers work on a site-to-site basis and are simply unable to secure funding for remedial works.

Secondly, Developer Contributions (i.e. Section 75 contributions required to facilitate development) are generally required to be paid on sites of more than 4 homes. Our '[Small-Scale Home Builders: Increasing Supply](#)' report identified that this was a major barrier for SME developers. The report recommended that National Planning Framework 4 should waive any requirements for developer contributions on small home builder sites of up to 12 homes, and that a graded approach should be implemented on sites of 13-25 homes with provision made for a proportionate capped fee. The provision of this approach would increase developer confidence and reduce SME risk. This would significantly increase site viability, meaning more homes delivered by SME developers.

The recommendations from the SME report were regrettably not picked up in NPF 4.

Finally, following the pandemic, SME developers building in rural locations have faced difficulties in securing labour and sub-contractors to support builds. This is alongside cost price inflation, which is further exacerbated when factoring in the rural locations of these builds.

## **24. What are the key challenges for small and medium developers in:**

### **(a) Securing sites for development?**

Securing sites for development is one of the biggest challenges that our SME members face, the main barriers being land supply and viability. LDPs do not usually allocate sites that are suitable for small-scale developers. For example, a site for 20 homes which would be suitable for an SME developer would also attract interest from larger developers. This often means SME developers must identify land independently. This is a costly and timely process, which often does not lead to securing suitable land. Quite often the most suitable land for SME developers is brownfield. The remedial and pre-development costs on this type of site are significant, often rendering brownfield sites as unviable for SME developers.

Another significant challenge that SME developers face ahead of securing sites is difficulty in obtaining finance. Finance for home building projects is deemed as high risk and is a particular issue for SME home builders due to the site-by-site nature that they work by (in comparison to larger builders who will work on a number of sites simultaneously). Without financial support for SME home builders, the opportunity to transfer lending into businesses, which supports growth is lost. As mentioned previously, the often very onerous costs of specialist reports to support planning applications require substantial upfront costs for SMES in particular. They often have a lack of in-house resource to produce such reports leading to additional costs and delayed timescales acting as further barriers to entry.

Following the publication of the HFS '[Small-Scale Home Builders: Increasing Supply](#)' report in 2019 and subsequent economic challenges, we are undertaking a project to address several key areas of challenge for SME home builders in Scotland. One of these challenges is centred around the lack of suitable finance available to support SME developers to deliver much-needed homes.

### **(b) Securing planning permission?**

Our SME members face particular barriers in the planning process. Once an SME home builder has identified suitable land, they then face a number of challenges when they enter the planning process. The planning process in Scotland is inefficient, inconsistent and there is a significant lack of resource across many Local Authorities. There is substantial financial

investment required to enter the planning process with no guarantee of a positive outcome. This is a particular challenge for SME developers who often do not have the capital to fund pre-planning costs.

Another challenge they face is the lack of proportionality in regard to the cost of the planning process. Many of the costs such as planning fees, reporting requirements (e.g. flooding, contamination, ecology) and technical aspects are similar to those for larger developments. Many SMEs do not have the resources to undertake this kind of preparatory work and have to outsource to external partners incurring significant additional costs. Planning fees in Scotland were amended in April 2022, placing an almost 100% increase on the smallest sites. This again demonstrates that there is no proportionality with regards to SME home builders, making them subject to the same and in some cases, higher costs than larger home builders.

### **(c) Building-out sites?**

The biggest challenge SME developers face in terms of building out sites are additional costs, coupled with changes in building regulations, planning policy and environmental policy. Following Covid we have witnessed cost price inflation on a number of materials and components which has resulted in some home builders assessing the viability of affordable housing contracts. It is important to highlight the inter-connectedness of private and social housing. HFS undertook analysis in summer 2022 which showed that around a third of affordable housing in Scotland is directly delivered through contributions by our private developer members. This rises to 90% of HFS members once contracting arms are factored in. Our statistics evidence two things: firstly, that a strong private sector is a pre-requisite of affordable housing ambitions and, secondly, that the same blockers that affect the delivery of private homes for sale also impact the delivery of social housing.

There are a number of ongoing changes in regulations which will have a further impact on the delivery of homes. This includes but is not limited to:

- Enhanced levels of Building Standards coming forwards (net-zero, fire standards, Housing for Varying Needs, a Scottish equivalent of Passivhaus standard)
- Increased delivery costs faced by providers alongside rent freezes/caps and borrowing costs
- Recent introduction of NPF4

A further challenge for SME home builders is that for those who build four or more homes on any site, they are required to pay the same developer contributions as larger home builders. There is no proportionately, meaning an SME who is building 4 homes will pay the same per home as those delivering 200 homes.