

Housebuilding Market Study  
Competition and Markets Authority  
The Cabot  
25 Cabot Square  
London  
E14 4QZ

16 March 2023

Dear Sir / Madam

**Housebuilding market study: Statement of Scope**

In my role as the Chairman, I write to introduce the Land Promoters and Developers Federation ('LPDF') to you, in the hope and expectation that we will be able to assist the CMA in its study of the Housebuilding market. I am aware that you have written directly to a number of our members.

The LPDF, which was formed in 2018, represents land promoters and housebuilders, of all sizes, who due to their land interests interact with the planning system across England to establish the principle of development, normally for a residential use. As a consequence of these multiple daily interactions with Local Planning Authorities ('LPAs') and consultees throughout the country, we are uniquely placed to comment on the operation of both the plan making and decision taking components of our planning system. In addition, as our members compete in the land markets for strategic land opportunities (those without a planning consent), and then sell to market participants (housebuilders) when a planning consent is achieved, we are uniquely placed to assist the CMA in certain aspects of its review. It has been estimated that the land promotion sector is responsible for in excess of 40% of the outline planning consents for residential development on an annual basis (see Lichfields report "Scale and Role of Specialist Land Promoters in Housing Delivery" of 2018 enclosed with this letter), a figure that is likely to have grown since 2018.

The LPDF and its members seek to conduct business to accord with the following values:

- Working with government (central and local) and key stakeholders to deliver a planning system capable of supplying the homes we need;
- Meeting housing needs countrywide, including affordable homes;
- Creating sustainable, attractive places to live supported by new infrastructure;
- Promoting beauty in design;
- Broadening the type and tenure of new homes;
- Enabling all businesses to deliver the homes we need (including, but not limited to, senior living, PRS, modular build, custom build and, in particular, SMEs);
- Promoting intergenerational fairness; and
- Putting the environment and nature at the heart of places and homes.

As a consequence, we are keen as a sub-sector of the industry, to ensure a diversity of delivery within the market and in 'normal' conditions, when land is not severely rationed by the operation of planning policy (nationally and locally), the land promotion sector efficiently facilitates this. The operating model of land promotion, which bears the burden of the significant financial risks in obtaining a planning consent, benefits from as broad a market of potential purchasers for land as possible, without adding any additional cost for the end purchaser of a home. We would be delighted to spend time discussing in more detail how the sector operates, the legal agreements used within it, together with the consequential benefits to the housebuilding sector and how this fits within the wider financial operating model of the industry.

Whilst we would welcome the opportunity to engage with the CMA on a number of the questions posed in its Statement of Scope published on 28 February 2023, I hope you will understand that due to the scale of consultations and reviews<sup>1</sup> being undertaken at present which impact on the sector, we have limited the focus of this letter to Question 2 of General Questions (page 26) in relation to whether we agree with the areas of focus for the market study, as set out in paragraphs 2.1 to 2.31. We set out below the areas where the absence of review will not allow the CMA to reach a meaningful conclusion on the operation, functioning and structure of the housebuilding sector.

#### National planning policy and regulation

We note at paragraph 1.13 that you suggest that your review will not consider "fundamental aspects of the planning regime and government policy". We do not see how you can review the market operation of a sector when you are excluding from your study the principal constraint on the supply of the key 'raw material', land with planning permission for residential development, which is determined at any point in time by government policy and its implementation by local planning authorities. Whilst it may be expedient to try to avoid analysing the impact on how the structure of the housebuilding industry has developed without considering the impact of planning policy and wider regulation, it is absolutely necessary for academic completeness and robustness to do so.

It is our belief, as highlighted in our responses to the recent government consultation on the Levelling-up and Regeneration Bill: Reforms to National Planning Policy (enclosed with this letter), that it has been the evolution of policy that has created, in large part, the market structure that now exists. We have highlighted within it, through research conducted by Savills on our behalf and of one of our members (Appendix 10 of our response to the NPPF consultation enclosed), the impact of land scarcity created through the operation of the

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<sup>1</sup> Current consultations include Levelling UP and Regeneration Bill: Reforms to National Planning Policy (closed 2 March 2023); APPG on Housing Markets and Housing Delivery Housing Solutions for Homeless Households – rethinking conversions (closed 7 March 2023); Labour Party National Policy Forum consultation (closing date 17 March 2023); APPG for SME housebuilders inquiry into the difficulties smaller builders have in accessing finance (closing date 26 March 2023); House of Lords Built Environment Committee Inquiry into the impact of environmental regulations on development (closing date 31 March 2023); DLUHC Increasing planning fees and performance: technical consultation (closing date 25 April 2023); further consultations via DLUHC on Infrastructure Levy and on the National Planning Policy Framework are expected

planning system on the supply of consented sites, especially sites of fewer than 100 dwellings, which are likely to be required by small and medium sized housebuilders. Further research undertaken by Lichfields on behalf of the LPDF and HBF (Appendix 1 of our response to the NPPF consultation enclosed) has highlighted the further impact that the proposed changes to the planning system are likely to have on wider housing delivery in the medium term. To think that this will have a 'symmetrical' impact on the sector is naïve, as the different funding structures of SME housebuilders who will operate with less cash resources is critical to their ability to withstand any further downturn in the supply of planning consents.

We would ask that your review also considers the impact on the market of environmental legislation as well as the government's previous demand side support and whether either of these distort the market structure through their implementation.

Whilst we note at paragraph 2.2 there is a suggestion that you will consider "planning objectives as well as housebuilding targets both generally and for affordable housing" when undertaking your review. For the reasons noted above, we would ask that the scope of your study is broadened further to consider the impact of planning policy, environmental legislation and government's previous demand side support interventions upon the structure of the housebuilding sector<sup>2</sup>.

#### How the sector, in particular SME housebuilders, is financed

We have noted elsewhere that the All Party Parliamentary Group for SME housebuilders has launched an Inquiry into the difficulties smaller builders have in accessing finance. We believe that the CMA should ensure that it considers the evolution of how housebuilders are financed over the last 3 to 4 decades on the structure of the market. The changing environment for bank debt, mezzanine and equity funding for SME housebuilders, together with an understanding of how the funding structure of volume housebuilders has evolved would, we believe, be useful in seeking a full understanding of how the market operates. Bearing in mind the OFT market study was published in 2008 during the midst of the global financial crisis (GFC), we feel a review of how financing has evolved post-GFC is required to understand its impact on the SME sector.

In addition, similarly, we believe an understanding of how Affordable Housing delivery is funded is necessary to understand market structure evolution in this important sub-sector.

#### Resourcing of Local Planning Authority Planning Departments and Related Disciplines

We do not believe that a review into the housebuilding market can be undertaken without an analysis of the impact of the under resourcing of the very departments that are responsible for determining planning applications of all kinds (outline, full, reserved matters, discharge of conditions et al). These skills shortages extend to other disciplines such as ecologists,

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<sup>2</sup> We note at 2.38 you refer to the Lichfields 'start to finish' report. We have enclosed a copy of research undertaken in November 2021 for the LPDF and HBF by Lichfields "Feeding the Pipeline: Assessing how many permissions are needed for housebuilders to increase the supply of homes"

highways engineers, landscape architects, urban designers and many of the statutory consultees on whom local authorities depend. Our members would be delighted to provide examples of the delays caused as a result. Again, these delays have a far greater impact on SME housebuilders (and many of our members) as they have financial structures which do not benefit from significant cash balances or committed working capital facilities which others in the industry might benefit from.

#### The Impact of utilities infrastructure / providers on the sector

At paragraph 2.12 you correctly highlight certain pre-commencement agreements, with the likes of Highways Authorities, that may be necessary before on-site works can begin. We believe the CMA should give some consideration to the industry's dependency on timely delivery by the utilities sector in particular water, wastewater and electricity. In many parts of the country, the utilities infrastructure requires substantial reinforcement / upgrade works to enable development. This can not only be a substantial cost but in certain instances can cause significant delays to housing delivery. Again the cashflow implications of delay or increased costs are particularly felt by SME housebuilders.

#### Cumulative Impacts

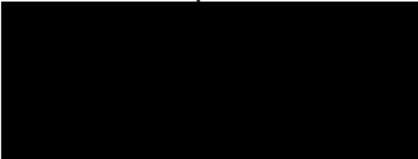
We would highlight that there is a cumulative impact of our points on policy, regulation, financing, costs and delays and this falls disproportionately on SME housebuilders.

The LPDF is very keen to engage with the CMA to address some of the mischaracterisations of the role of the land promotion sector which we feel occur in the Statement of Scope and we would re-emphasise that we do not believe that you will be able to reach a conclusion on appropriate measures, if any, to address a perceived problem without a consideration of the matters highlighted in our letter.

We trust you find our comments on the Statement of Scope helpful and constructive and we and our members, many of whom are themselves small and medium sized businesses, look forward to assisting you with your market study over the forthcoming period.

Please feel free to contact me [redacted] or our Policy Director [redacted] at your convenience to discuss these issues in greater detail.

Yours faithfully



Paul Brocklehurst  
Chairman  
[redacted]