

20 March 2023

Competition and Markets Authority
The Cabot
25 Cabot Square
London
E14 4QZ
United Kingdom

Dear Sir / Madam,

Housebuilding Market Study

I am pleased to enclose Peel L&P's response to the Competition and Market Authority (CMA) study into the Housebuilding Market which was launched on 27 February 2023. The Peel Group operates across the UK but with a focus in the North of England, where we have delivered some of the UK's most transformative and exciting developments.

This letter provides Peel L&P's concerns about the scope of the study, and also provides our views about operation of the Housebuilding Market in response to the questions asked by the CMA. Our views reflect the approach to housebuilding undertaken by our businesses including that of our homebuilder Northstone¹ and our Build To Rent company Letta. An overview of Peel L&P, Northstone and Letta is provided at Appendix 1.

The remainder of this letter provides Peel L&P's response to a number of the questions identified by the study. Where Peel L&P does not have any comments, the question is excluded from our response.

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

No, we consider that the structure and operation of the planning system in England, and national planning policy for housebuilding, must be part of the focus for the study, without which the Study would not take account of the single largest market constraint.

We do however welcome the CMA's market study, as homebuilding is an intrinsic part of how the housing market works, and it is evident that the housing market is currently not functioning in a way which enables all people to meet their housing needs. It is essential that the study recognises that through the building of affordable housing, starter homes, properties for downsizing and family housing, and homes for older people with care needs, the existing stock is vacated and 'freed up' for households to move into, thus keeping the housing market moving. Identifying and building homes to meet growing needs within the market where they arise enables families and communities to stay within the same areas which is critical for community cohesion. The movement also helps to keep the market as a whole stable.

¹ <https://northstone.co.uk/>

Moreover, homebuilding is now more than ever a mechanism for meeting other needs within communities. New development provides substantial funding towards and often directly delivers new infrastructure including transport improvements, schools, health facilities, open space and community facilities such as village halls, shops and allotments. These needs arise as a result of population growth and often already exist even before new homes are provided; new homebuilding provides an opportunity for the market to use some of the value of new development to deliver these community benefits often without government intervention or funding.

We appreciate the recognition within the CMA's statement of scope that planning is a key stage within housing delivery; however, the scope does not propose to examine the connection between 'securing a site with planning potential' and the function and operation of the planning system. It makes clear that "...*fundamental aspects of the planning regime or government policy...*" (paragraph 1.13) are outside of the scope of the study. Peel strongly disagrees with this scope and considers its omission would result in the Study being deeply flawed.

The current planning regime and how it has been affected by changing Government policy over the last 10 years is absolutely fundamental to the operation of the housing market and is a key obstacle to delivering more homes, creating competition and enabling innovation. We consider that no study of the housebuilding market is complete unless it fully considers the constraints posed by the planning system and Government policy, including the proposed revisions to the NPPF². We therefore request that the study also includes a review of how the planning system functions and how this has been affected by Government policy.

New homes cannot be provided unless there is the land available to build on. CPRE estimated that there is enough brownfield land in England for 1.2 million homes³. Even if all of this land was deliverable immediately – which would require very substantial amounts of public subsidy⁴ – it would only provide enough homes for four years' worth of needs (at 300,000 homes per annum), and it would not come close to addressing the backlog of 4.3 million homes⁵. New sources of land supply are needed. However, the planning system simply does not provide sufficient land at a sufficient rate to enable the delivery of even the minimum number of homes needed across Great Britain.

The Government has repeatedly set out an ambition to meet the need for 300,000 homes per annum by the mid 2020's, but the number of new homes provided has peaked at c.240,000 new homes in 2018/19 but has started to decline since then. This is partly due to the events of the Covid-19 pandemic and more recently due to the stagnation of the economy, but also – as we outline in response to other questions below – because of the resource pressures on local authorities as they continue to deal with the effects of over a decade of financial austerity, and ongoing difficulties with plan-making and the resultant shortage of new sources of land supply.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1126647/NPPF_July_2021_-_showing_proposed_changes.pdf

³ <https://www.cpre.org.uk/wp-content/uploads/2022/12/State-of-Brownfield-2022-FINAL-FORMATTED-15-12-2022.pdf>

⁴ Around a third of brownfield sites in Greater Manchester – representing around 50,000 new homes – are identified as being unviable even without the cost of affordable housing and other policies, like the Future Homes Standard and Building Safety Levy.

⁵ [The housebuilding crisis: The UK's 4 million missing homes | Centre for Cities](#)

The shortage of land that is allocated or consented for development is at the heart of a lot of the issues we are currently facing as a country. Reduced amounts of allocated or consented land increase the cost and landowner expectations, creates unhealthy competition and prevents innovation. This often results in smaller developers being unable to access the market and reduced residual value to provide affordable housing or other supporting infrastructure. An increase in the supply of developable land would help ease overheating markets.

The planning system could boost the supply of land for residential development, but it is currently restricting supply and adding uncertainty. Navigating the planning system is a lengthy process which is already full of risk; it takes many years to prepare a Local Plan which allocates land for development and there is no certainty that land will be allocated until Plans are adopted. There are many examples of sites allocated within a Local Plan refused at planning committee against officer recommendations as a result of political pressure to resist new homes (and subsequently approved at appeal). A land allocation or an outline planning permission no longer de-risks a site, as there are numerous instances where Reserved Matters applications have been refused without proper planning justification⁶. The time taken to secure planning permission is lengthening due in part to the politicisation of the system and changing Government policy, and also because of the significant underfunding of Local Authorities which creates resource and skill shortages. These issues are a barrier mostly for smaller developers who are reliant on greater certainty and lower risk to secure bank funding and deliver projects with tighter budgets.

This situation will be very significantly worsened by the proposed revisions to NPPF which are focussed on reducing housing supply. These changes will have the following unintended consequences:

- Stalled plan-making – whilst the revisions seek to incentivise plan-making, they may have the opposite effect. The uncertainty has caused many Local Plans to be paused or abandoned, and many more will follow suit in the coming weeks and months. Cash-strapped authorities facing large budget deficits as a result of a decade of austerity may simply choose not to invest in a Local Plan, particularly given that the new NPPF does not require them to meet housing needs. This will further reduce the amount of land in overheated markets.
- Discouraging SME investment – the anti-growth nature of the proposed revisions to the NPPF and the extremely constrained land supply that will result will disincentivise investment particularly by SME homebuilders. It may strengthen the market share of the country's largest homebuilders who have greater financial resources and discourage innovation by newer smaller entrants to the market.

Our representations to the Government's recent consultation on the proposed changes to the NPPF set out in more detail our views in this respect and should be taken into account as part of our evidence to the CMA's study.

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 where you consider:

a. The housebuilding market is working well, and explain what factors are driving this in each area;

⁶ Peel can provide examples if that would be useful to the CMA.

Wigan is an LPA that is aiming to meet its identified needs. The local authority (Wigan Metropolitan Borough Council) has recognised that this can only be delivered through the provision of a range and choice of sites to the market, including a balance of both brownfield and sustainably located greenfield sites, and has subsequently supported the Greater Manchester Combined Authority (GMCA) in the preparation and examination of the Places for Everyone plan for Greater Manchester.

As an authority they have worked proactively with housebuilders to deliver the best scheme for the area. It secures additional resources through the use of Planning Performance Agreements, progresses planning applications in a timely manner, takes a pragmatic approach to enable new development to be implemented quickly whilst meeting local policy requirements, and encourages innovation by new housebuilders.

b. The housebuilding market is not working well, and explain what factors are driving this in each area;

Greater Manchester is an example of a housing market which has been constrained for a significant length of time. The area faces significant demand as England's second economic area, but is tightly constrained including by very tight Green Belt boundaries, and subsequently there is a dearth of suitable and available sites on which new homes can be delivered. The majority of recent housing delivery, including that funded by the public sector, has been private city centre apartments which have produced little affordable or family housing. This situation has resulted in the house prices in Manchester having risen more than any UK city in the last 20 years⁷.

The Greater Manchester Combined Authority (GMCA) has recognised that to ease the market and meet the unmet needs of the population there is a need to release land for housing from the Green Belt. However, the plan commenced in 2014, has been reduced in ambition at each stage of production, and is still yet to be adopted almost a decade after it was commenced. The submission version of the Greater Manchester "Places for Everyone" plan does include additional land allocations, but only enough for around 2.7 additional years of supply. Once this land has been released from the Green Belt it should result in an increase in the number of homes being built in the market and it is critically important that this occurs. However, more will need to be done to address needs over the longer term.

c. There is a high degree of concentration in housebuilding activity;

There is nowhere in the North West where there is a high degree of concentration in housebuilding activity. Manchester City Centre is currently experiencing a boom in building apartments; however, this is supported by both public funding and foreign investors, and the homes provided are mainly built to rent apartments with the renters being predominantly transient, and the majority of new schemes do not deliver affordable housing. It is important for other housing needs to be met through the delivery of affordable housing and family homes.

d. There is a significant under-delivery of housing relative to local need;

Research undertaken by Centre for Cities has identified that Britain has a severe housing crisis, with the average house costing more than ten times the average salary. The reason for this is that there is a backlog of 4.3 million homes missing from the national housing market, reflecting a long-term failure to provide enough new homes across the country⁸. It is therefore clear that the whole of UK

⁷ <https://www.manchestereveningnews.co.uk/news/property/house-prices-manchester-gone-up-24048111>

⁸ <https://www.centreforcities.org/publication/the-housebuilding-crisis/>

housing market is suffering from significant under delivery and the issues that this causes for the population.

e. LPAs are more or less proactive in the planning conditions they impose, particularly in relation to affordable housing;

Many local authorities have outdated affordable housing requirements, which were established in Local Plans which have long since expired but which have not been reviewed. For example, Bolton Metropolitan Borough Council's Core Strategy was adopted in 2011 and identifies an affordable housing requirement of 35%. However, this Core Strategy is out-of-date and the affordable housing target was established in relation to a very different supply of land and it often not now viable to achieve, particularly on brownfield land. Despite this, the Council continues to seek it, requiring the preparation and examination of extensive viability work.

f. small and medium housebuilders are more prevalent compared to other areas.

4) How can competition in this market be strengthened?

As referenced within the response to Question 2 above, the shortage of suitable and available land for development to meet needs is a major constraint. The shortage of available development sites means that there is significant competition amongst housebuilders to acquire such land, particularly where the land benefits from an extant planning permission. This in turn has driven up the cost of land to very substantial levels, which is affordable principally to larger housebuilders. SME developers – which operate to lower margins and which have smaller financial reserves and more stringent lending criteria – struggle to complete in this market.

A substantial number of draft Plans have been put on hold or abandoned as a result of changes to Government policy.

The shortage of development land opportunities is largely caused by delays to Local Plan making. As referenced in response to question two, the reforms to the planning system being introduced by the Levelling Up and Regeneration Bill (LURB), and exacerbated by the proposed amendments to the NPPF, has caused the delays and withdrawals of a substantial number of Local Plans. This situation is unlikely to ease in the short-term given the timescales for the introduction of the LURB; it is likely to be the late 2020's or early 2030's before up-to-date Local Plans is in place across England. Urgent action and a stable policy environment are critical to encourage Local Authorities to adopt and review Local Plans which identify and allocate land for development. This could be achieved through increased funding to Local Planning departments, and/or the loss of public funding and relaxed planning controls to Local Authorities where Local Plans are not up to date.

The importance of the planning system allocating sufficient land in the right places to meet needs cannot be emphasised enough. This is critical to meeting housing needs for this generation and generations to come. It would also create greater competition in the market by providing a range and choice of sites with a degree of certainty and lower planning risk, which would help SMEs thrive and encourage innovation.

5) How can the functioning of the market be improved?

The answers provided in response to Questions 2 and 4 above would assist the functioning of the market. To enable this, it is important to make sure Local Planning Authorities are appropriately funded and resourced.

It is also important that the Government provides certainty to the market as referenced in response to Question 2, the current changes to the NPPF have caused Local Plans to stall and encourage local authorities to reduce the level of housebuilding which they are planning for in future years. This will have long reaching implications for the way the market functions for generations to come.

There is also a real and increasing issue in the supply of materials to build housing at the volume and speeds required for the market, this is a position which has been exacerbated by Brexit and the crisis in Ukraine and has resulted in increased costs. This uncertainty and increase in cost are more difficult for SMEs to overcome as they have limited capital and funding to absorb these costs or have the buying power to be able to buy these products in bulk.

There is a real shortage of skilled labourers to build houses, which has worsened over the last five to ten years. As well as this there is a growing issue around the level of skilled labour and technology to meet the rapidly increasing building regulations and the desire to move towards net zero carbon. An example of this would be a move towards fitting ground source heat pumps into new housing at scale. There is a limited supply of companies creating this technology and skilled tradesmen to fit and maintain this equipment. To support this change and keep housebuilding happening at an increased rate, the government needs to invest in upskilling the workforce and providing funding to companies who are creating this technology to be able to deliver this at the scale needed.

7) Have any of the following aspects changed over time? If so, how and why? a. The role of land promoters and land agents in transactions. b. The propensity for land promoters and land agents to be used as part of securing planning permission and land transactions. c. The structure of the market for land promoters and land agents.

Land promoters undertake a critical role in securing a supply of deliverable development land to the homebuilding industry. Promoting land for allocation in a Local Plan and securing planning permission for it takes many years. For example, the preparation of the emerging strategic plan for Greater Manchester – Places for Everyone – has been in preparation since 2014 and is not likely to be adopted until the early part of 2024, such that it will have taken a decade to prepare. Land promotion therefore carries substantial risk and requires substantial financial resources. SME housebuilders rarely have the resources required, such that land promoters are critical in carrying the associated risk and cost. Even among the larger house-builders, very few have the resources and commitment needed for promoting sites, relying on land promoters or proactive landowners to bring ‘oven-ready’ sites to them with allocations/outline permissions and a suite of technical and other information that allowed them to bid and invest.

The business model of land promoters and large developers allows them to take on sites which are more challenging, are inherently risky and may take a long time to obtain outline planning permission. Land promoters have become more prominent in recent years due to the increased cost, risk and the length of time it is taking to get planning permission.

Land Promoters which are also developers, such as Peel L&P, then take the role of ‘master developer’, taking responsibility for delivering strategic infrastructure within a site (e.g. highways, utilities, community facilities such as schools) and are able to dispose of smaller development parcels on a de-risked basis to homebuilders including SMEs. Without Land Promoters many SMEs would not be able to sustain a business in the current housebuilding market, as they are less able to purchase land which does not benefit from permission given the risks listed above and within response to Question 2. It is extremely costly to secure sites which have sufficient ‘certainty’ for investors or lenders to provide funding. Northstone, our homebuilding business, would not be a

viable business in the current housing market without Peel L&Ps financial support and the supply of deliverable development land which Northstone has been able to purchase.

The lack of suitable and available sites in the system currently also means that volume housebuilders are unlikely to dispose of parts of larger schemes without benefitting from a land swap, as they need the land to sustain their business model beyond the short-term. Land swaps are something SMEs are rarely unable to undertake due to their sites being typically smaller in capacity, and subsequently this further increases the importance of Land Promoters in the market.

8) Have any of the following aspects changed significantly over time? If so, how and why?

a. Time and cost for developments to go through different stages of the planning process.

As is evidenced in the response to Questions 2 and 4 above, both the time and cost for development to go through the different stages of the planning process have lengthened in the last ten years. The introduction of localism has increased political involvement in the planning system without streamlining the system which has lengthened the process and added uncertainty and delay. Many years of austerity has also reduced local authority resources and skills.

The plan-making process and decision-making elements of the planning system are both taking longer, despite changes purported to speed them up. As the response to Question 2 explains, changes to the planning system have caused delays, though these may be unintentional they are extremely impactful and have long lasting effects. For example, the standard method for calculating housing needs was introduced in 2018, changed in 2020, and is now proposed to be amended again by the proposed revisions to the NPPF. These regular changes in the starting point for Local Plan-making have caused repeatedly delays.

Despite regular changes to planning policy, there is little concerted action by Government to resolve major policy constraints to building, such as nutrient neutrality⁹, and subsequently there have been significant impacts to the market in affected areas.

Many of the changes to the system occur when there is a change in housing minister. There have been 15 housing ministers since 2010, and six in the last year alone. This has meant there is little consistency in the message and policy-making, and subsequently increased uncertainty in the market. These rapid changes in housing minister show a clear lack of importance by the Government to understand the housebuilding market and planning system, and the role it plays in meeting the needs of existing and future generations.

b. Likelihood of success in securing planning permission.

As evidenced in the response to Question 2, positive planning outcomes are more unlikely than ever, even where the principle of development on a site has been established. For example, Peel secured planning permission for a championship-grade golf resort and associated residential development at Hulton Park in Bolton in 2020, following a call-in inquiry and approval from the Secretary of State. However, a revised scheme for an enhanced golf resort was refused by the local authority in 2022. Peel successfully appealed the refusal reason, but this delayed the project and incurred significant cost for both Peel and the Council. The planning Inspector awarded costs against the Council on the basis of its unreasonable behaviour, despite no such award having been sought by Peel.

⁹ <https://www.hbf.co.uk/news/new-report-finds-natural-england-significantly-overestimates-impact-new-housing-development-nutrient-pollution/>

The system is affected not only by regular changes in policy and an unstable political environment but also by court rulings. The recent Hillside Vs Snowdonia judgement has meant that many consented and partially built out schemes are now not considered to have consent¹⁰. This is causing further delays and uncertainty for housebuilders, and an increased workload for already stretched Local Authorities.

c. Propensity for developers to negotiate s106 requirements to reduce affordable housing requirements.

It is important to understand the process of negotiating a s106 agreement. When the viability of a scheme is disputed, evidence is provided by the applicant and independently assessed by a Local Authority appointed valuer. The independent valuer reviews the evidence provided and reaches a judgement on development viability. The valuers appointed by Councils are in our experience often not RICS accredited which can lead to different interpretations of viability. There may be some negotiation over the costs and values included, which again can add delay to the process; however, the planning permission can only be granted when a position has been agreed by both parties.

This process ensures that a reduction on the policy mandated affordable housing position only occurs when a scheme is not viably able to deliver it and such a reduction is accepted by the valuer and the decision-maker. Many housebuilders are not seeking a reduction in the affordable housing provision on site but there are few sites which are able to viably deliver it in weaker market areas. This position is worsening as there is an increased request to deliver infrastructure improvements such as transport, drainage and ecology and a focus on brownfield schemes which require expensive land remediation. To increase the delivery of affordable housing there is a need to provide a greater number of viable development sites and to provide alternative funding solutions which can support infrastructure delivery and regeneration on more constrained sites, freeing up value for affordable housing provision.

This is clear in Greater Manchester, where apartment schemes on brownfield sites in the city centre have not delivered affordable housing¹¹. Conversely Peel L&P is bringing forward planning applications on draft allocations in the Places for Everyone plan – which has been in preparation for almost a decade – which are capable of delivering between 25% and 50% affordable housing provision (through a combination of delivery on site and financial contributions for off-site schemes).

d. Propensity for developers to be successful in negotiating s106 requirements to reduce affordable housing requirements.

It is not correct that developers are more successful in reducing affordable housing requirements. This is because of policy changes introduced in 2018 which require viability to be assessed at Local Plan stage and the reduced opportunity for a review again at application stage. Housebuilders must evidence the infrastructure costs and identify the level of affordable housing the site is able to deliver earlier in the process. This has added risk for the developer as an increased amount of technical work and due diligence is now needed when there is very little certainty, this further restricts the types of business able to promote at this point in the process and increases the importance of Land Promoters in the current Market.

¹⁰ <https://www.turley.co.uk/comment/hillside-supreme-court-practical-implications-implementing-multiple-planning-permissions>

¹¹ Around a third of brownfield sites in Greater Manchester – representing around 50,000 new homes – are identified as being unviable even without the cost of affordable housing and other policies, like the Future Homes Standard and Building Safety Levy.

It is rare that developers seek to reduce affordable housing provision. Where this does take place, evidence on development value and costs is independently assessed and the maximum amount of affordable housing provision is provided. S106 Agreements can also require that viability is reviewed whilst development is underway and when it is completed, such that any increases in housing prices results in additional affordable housing being provided.

9) How do the aspects referred to in questions 7 and 8 vary (if at all) by:

a. Size of development the application is for?

The size of the development makes little difference in terms of the aspects listed in Questions 7 and 8 as the system and risks remain broadly the same. The fact that these burdens fall upon smaller sites as well as larger ones can render them less viable and able to deliver affordable housing.

b. Size or identity of applicant (eg small developer, large developer, land promoter)?

The response to Questions 2 and 4 above, has explained the difficulty for smaller developers to be able to fund a scheme through the entire planning process. Due to their smaller financial resources and lower tolerance to planning risk, they are more reliant on acquiring sites which have fewer planning constraints including those which benefit from planning permission. This in turn places a degree of reliance on Land Promoters to shoulder the risk associated with progressing land through the planning system.

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

As already mentioned within the response to Questions 2 and 4 above the main barriers are the lack of suitable and available sites which can deliver. As referenced in question 4, the way to overcome this hurdle without funding is to allocate a greater range and choice of land, including land which will be able to viably deliver affordable housing.

Our country needs a balanced approach to growth, where regeneration and growth are delivered as part of a holistic strategy. This is essential to ensure that we provide both the amount and range of new homes needed, and to leverage the value from greenfield development to invest in affordable housing and local infrastructure. This is only possible with a responsive planning system, with a homebuilding industry working closely in partnership with Government and local authorities, and with an adequate supply of both greenfield and brownfield sites.

11) Please comment on the extent to which each of the following may currently be problematic, and how (if at all) each has changed over time:

a. Non-adoption of roads or other public amenities, and the different ways in which unadopted amenities may be managed (eg by housebuilders, estate management firms, or resident-led companies).

The issue surrounding the non-adoption of roads is that there is not the resource within relevant authorities to get the required agreements in place at reasonable time scales. Housebuilders and developers are subsequently building roads with the risk that they will not get adopted. Once said roads have been constructed, there is little incentive for housebuilders to pursue adoption with under-resourced and over stretched authorities and subsequently many roads remain unadopted.

Though the Government issued the Manual for Streets guidance¹² in 2007 there is still a reluctance for many Local Authorities to adopt roads which comply with these standards due to the higher associated maintenance costs. This is leading to a lack of innovation for housebuilders as it is more likely that schemes will be adopted where they primarily consist of typical black-topped tarmac roads. Our homebuilder Northstone is taking a Manual for Streets approach to road design, but it has had to spend a significant amount of time with local authorities to identify the benefits of this approach and persuade them to adopt.

As Local Authorities have been subject to significant budget cuts the ability for adoption of this newly created infrastructure is now not feasible for many, as the long-term maintenance becomes a financial burden which many cannot afford.

b. Estate charges, and their materiality. Estate charges are an important mechanism to create and maintain in perpetuity new open spaces, community facilities and infrastructure. The infrastructure provided needs a funding scheme for its maintenance over the long-term. Developers are unable to do this in perpetuity without reducing other benefits (such as affordable housing) which are provided through new development. As a consequence, developers create management companies for the infrastructure; in our experience these are typically 'not for profit' organisations, which are auditable by a RICS qualified professional and are usually at least in part-controlled by a resident's association.

c. Restrictions and/or obligations placed on freeholders via deeds of covenant.

Peel L&P and Northstone undertake freehold sales without deeds of covenant. The business culture has changed in the North West and it has responded, with most housebuilders selling via freehold. This is therefore no longer the issue that it was several years ago.

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? Do these issues differ depending on the size of the developer?

Developers have two choices when acquiring land. Either they:

- Acquire land with no planning status, and either promote the allocation of the site through the Local Plan process or apply for planning permission. The responses above to Questions 2 and 4 have identified the significant time, cost and risks associated with securing land for development through the planning system. In particular, the financial pressures faced by local authorities mean that they are under-resourced and under-skilled, such that Local Plans and planning applications are progressing much more slowly. The increased politicisation of planning decisions also means that many local authorities are seeking to suppress housing delivery, either by reducing housing requirements and land allocations in Local Plans, and/or by refusing a greater proportion of planning applications.
- Acquire land with which has been de-risked to some degree, either as a result of it having planning permission or a land allocation. In such circumstances, the cost of de-risking the land has likely been undertaken by another party, typically by a land promoters, and subsequently the land is likely to be more expensive to buy and there is often high

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1072722/Essex_Manual_for_Streets_Redacted.pdf

competition. This is increasingly the case where Local Authorities have plans that are out of date and/or emerging plans are paused.

There is subsequently a significant challenge to developers of all size in identifying suitable and available sites for development and predicting when these will be able to be delivered.

b. What issues (if any) do landowners face in finding purchasers of land for development and how do they navigate these?

As referenced within the response to Question 3d, the housing market is extremely constrained with a significant number of businesses looking to purchase sites. However, as explained within the response to Question 2 and 4 above, the uncertainty in the market limits the types of sites certain businesses are willing to acquire. SMEs are unlikely to purchase sites with a high degree of planning risk (i.e. those with no planning status), whereas larger developers and landowners require sites of scale to be able to outweigh the planning risks.

Navigating the planning risks can cause issues when negotiating agreements with landowners as there is inherent uncertainty around when and if sites will receive a viable planning permission.

13) As regards charges made to freehold owners on residential estates:

a. How transparent are estate charges and covenants (including how they may change over time) to prospective house buyers on freehold estates at all stages up to the point of sale?

b. What influence (if any) do homeowners have over the companies managing their estates?

c. Post-sale, what safeguards exist to ensure the quality of the management service or that the estate charges applied are fair, reasonable, and transparent?

d. Are freeholders' rights (including to redress) in relation to estate management services and charges, and how covenants are applied, adequate? If not, what are the key gaps?

The response to these questions is provided within the response to Question 11a and b. **15) What are the key factors or objectives LPAs need to balance in taking decisions on housebuilding, and what drives these requirements? To what extent (if any) do these factors conflict, either with each other or with housebuilders' objectives?**

Local Planning Authorities must balance a significant number of factors including planning policy, environmental factors, site constraints, statutory consultee comments, design requirements, viability and, increasingly, the political persuasion of the planning committee Members. As referenced in response to Questions 2 and 4, this balancing exercise is being undertaken by Local Authorities which are underfunded, and therefore under-resourced and under-skilled.

Even when sites are policy compliant and securing officer recommendations for approval, there are numerous occasions where a site can be refused for non-planning reasons at committee by local Councillors, under pressure from local residents who are keen to resist new homebuilding in their areas. Often the developer's only option is to then to appeal that refusal, which takes up significant amounts of Planning Officer time and resource, as well as resources at the Planning Inspectorate and the developer, and further delaying the site from providing much needed new homes. This can have consequences to Local Authorities meeting and maintain their 5-year housing land supply, meeting the needs of the borough, delivering community benefits, and in some cases even cost them significantly.

16) Are there differences in the bargaining power between LPAs and developers when negotiating with each other? If so, what are the key differences and why do they arise?

Local Planning Authorities are the decision maker, if developers want to progress sites quickly and avoid appeals, which most do, they must comply with the policy and requirements of the Local Planning Authority. However, as explained in the response to Question 16 there are many occasions where officer recommendations are ignored by Councillors and the months or years of negotiation between a developer and a Council is rendered redundant.

17) Where s106 agreements are negotiated after the award of outline planning permission, what are the implications for a) LPAs and b) developers, compared with negotiations before outline planning permission is awarded? Please explain with reference to costs, benefits, and any other outcomes.

Respectfully, the question here does not reflect the way the system works. If a S106 is required, it must be negotiated and agreed before an outline planning permission is issued. The heads of terms of the agreement and the nature of the planning obligations to be captured therein must be agreed before the application is determined by the Planning Committee, such that the Committee Members can take it into account when making their decision. Therefore, until the s106 has been signed the decision notice is not issued and there is not a valid planning permission.

Applications can receive a 'resolution to grant subject to S106' at committee the agreement of the S106 is therefore dependant on negotiation. The way by which S106 viability cases are negotiated are explained further in response to questions 9 and 10.

18) How and when are decisions made about the ownership and management of public amenities on freehold estates, including whether they are adopted? What are typically the key factors in such decisions? What are the key barriers to adoption? Where relevant, please indicate in your response how the above may differ among: a. LPAs, b. developers, c. house buyers

As explained within the response to Question 11a, LPAs are often not able to adopt and subsequently manage public amenities on freehold estates due to their limited financial, staffing and skills shortages. Adoption of land and amenities with limited profit is an ongoing cost and liability for under-funded and under resourced authorities. As explained in 11b, ongoing maintenance is also not an option for developers in perpetuity either, as this would require advance funding and would be an added burden to development schemes which are required to deliver increasing amounts of infrastructure.

It is on this basis that a developer will set up a management company funded by estate charges, these are auditable companies, which should be transparent in their making and often are handed to resident's associations at the relevant trigger point (i.e., full occupation of a site).

19) Do any of the participants in the market (including but not limited to housebuilders, land agents, and land promoters) have market power? If so, what drives this and how (if at all) do they exploit it?

The parties listed above comprise the majority of the housing market. The level of market power they each have is dependent on the site, its location and how the market is performing at that point in time. Responses to questions 2 and 4 have outlined how all of these parties interact with the market.

20) What factors influence the size of land banks held by developers?

Housebuilders are accused of 'land banking', which typically relates to obtaining planning permission for new homes and then choosing not to develop these sites. As the HBF report *Permission to Land*¹³ (published May 2014) explains why the financial incentives for developers are heavily weighted towards actually developing land. It highlights how previous independent investigations have concluded that house builders do not 'land bank'. Land owned by developers and promoters which is undeveloped is either being prepared for development, being actively promoted or managed as an agricultural estate, is awaiting an opportunity to be promoted and in a few small cases has stalled or been identified as unviable.

Peel L&P has a land estate but it does not 'land bank'. Very little of the estate has any planning status. We actively engage with the plan-making system to achieve land allocations, and the land is managed until that time, often being the subject of agricultural tenancies. Where land has achieved planning permission we work to bring it forward immediately with our homebuilder Northstone or others. The only sites which for which we have secured planning permission and which have been slow to deliver are complex regeneration schemes using brownfield land in urban areas, which need significant financial investment to bring forward.

21) Have any of the following aspects changed significantly over time? If so, how and why?

- a. The concentration of housebuilding at local level, in particular whether concentration is high in specific local areas.**
- b. The size of land banks held by developers and differences between developers in this respect.**
- c. The rate at which new properties are built-out.**
- d. The propensity for land with planning permission not to be built-out.**

The response to Question 20 identifies that the assumptions made by developers 'land banks' are incorrect. The undeveloped land owned by developers represents a pipeline of sites at varying stages within the planning system.

22) What are the key factors that determine the incentive and ability for developers to build-out new sites at a certain rate?

The build-out rates for sites are firstly determined most significantly by the market – i.e. by the extent of demand from purchasers and their ability to access mortgage financing. Build out rates are also influenced by planning and site constraints, and how long it takes to resolve these, and also by the ability of the developer to fund or get funding for the development, which has been increasingly difficult principally for brownfield regeneration schemes (because demand and therefore development values are typically lower).

The existence of more sites with more planning permissions, able to be built out by more developers offering different products, would help increase competitive and boost build out rates in local areas.

23) What differences (if any) are there between small, medium and large developers in:

- a. The types of developments they develop (eg types of housing provided).**
- b. The type of land they develop on (eg size of site, propensity to use greenfield vs brownfield sites, urban vs rural).**

¹³ HBF *Permissions to Land: Busting the myths about house builders and 'land banking'* – Published May 2014.

Ultimately there is very little differentiation between the tenure and land type developed by small, medium, and large developers. There are, however, differences in the size of the sites and the level of planning risk they are carrying, as identified in response to Question 2 and 4. There is also often very little difference in the type and quality of the product being provided. This is because to build at scale and acquire materials at scale there is a real need to standardise the products being delivered to reduce cost.

This is increasingly difficult for smaller and medium sized businesses where they do not have the market power to buy products at scale and subsequently have higher build costs. They therefore often prioritise smaller sites in urban areas, which are typically more costly to build due to the land remediation costs.

Large developers such as Peel are involved in many types of schemes in different areas, as outlined in the introduction to our response. Income from housing development on greenfield land can be used to support the delivery of urban regeneration schemes in lower value areas. Inability to bring forward one type of development undermines our ability to invest in others.

25) What are the key challenges for small and medium developers in: a. Securing sites for development? b. Securing planning permission? c. Building-out sites?

The key challenges faced by small and medium developers is clearly outlined within responses to Questions 2,4, 5,7, 8, 9, 12 and 14. Ultimately the lack of suitable land for development, the high planning risk, cost of developing and lack of materials and skilled labour means there are funding issues for small and medium sized developers.

There are very few small and medium sized developers that can compete in the market as it is currently functioning and those that can are financially backed by larger companies. Without this backing the companies would not be viable in the current market.

26) What differences (if any) exist between the developments built by large, medium and small builders, eg in terms of quality of housing built, speed of build, diversity of housing built?

As identified in the response in Question 24 there is very little difference in the type and quality of the product being provided. This is because to build at scale and acquire materials at scale there is a real need to standardise the products being delivered to reduce cost.

There is also little incentive for innovation and different design at scale as this is a subjective matter which requires more time and information to explain to case officers, local people and councillors.

For there to be greater levels of design and innovation within the housebuilding industry there needs to be greater incentives provided to homebuilders who deliver this. Every home Northstone have delivered has exceeded building regulations by a significant degree, and looked to deliver housing which will reduce the cost of living for their residents. This is being achieved alongside all the other planning burdens and expectations placed on them by LPAs.

Conclusion

There are approaches that Government can adopt to maintain and even increase the rate of homebuilding, whilst taking the pressure of those local areas that have been under the most pressure. These are outlined in our representations to the proposed NPPF changes which we have submitted alongside this letter. We urge the CMA and subsequently the Government to take time to properly consider the content of this representation.

We would welcome a discussion about the way forward and would be happy to explain our concerns and ideas in more detail should that be helpful.

Yours sincerely

Phil Wilson

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Chief Executive, Northstone

Appendix 1: Introduction to Peel L&P, Northstone and Letta

Peel L&P

The Peel Group operates across the UK but with a focus in the North of England, where we have delivered some of the UK's most transformative and exciting developments. We created MediaCity¹⁴ to bring the BBC to the North, started a trailblazing project to give homeless people their own front door at Manchester's Embassy Village, and are helping to decarbonise industry and generate low carbon energy at Protos¹⁵ through our Natural Resources and Energy (Peel NRE) business¹⁶. We deliver new economic developments across the logistics, industrial, health and lifestyle sectors. We are responding to the Government's policy for biodiversity net gain by establishing a bio bank to restore 100 acres of former landfill in Boothstown to the west of Greater Manchester, as well as in other locations.

As part of The Peel Group, Peel L&P strives to make a positive impact on people's lives, and we are proud of our legacy. Promoting sustainable development is at the heart of what we do, and we take our responsibilities to the environment seriously. Our people are passionate about the communities we work in, and we value our close partnerships with local groups and charities.

Northstone and Letta

Peel L&P established its innovative SME homebuilder Northstone in 2018. It aims to deliver on the Government's objective to improve the 'beauty' and sustainability of new homes and ensure that they suit the needs of people who will live in them. Northstone thinks deeply about its homes, how people live in them and how to lessen their impact on the planet. Its mission is to challenge outdated perceptions of new build homes. It delivers design-led, sustainable communities that set a new bar for high quality homes in stunning surroundings.

Northstone homes are designed and finished the same, regardless of how they are sold or rented. Their energy performance is beyond the requirements of Building Regulations, delivering large energy and cost savings¹⁷. All Northstone homes are rated EPC B or above, meaning they also qualify for green mortgages – relatively new mortgage products that offer special incentives and rates for properties that are more environmentally friendly.

With the aim of encouraging interaction between neighbours and the local community, Northstone focuses on pedestrian-led streets with wider pavements, reduced cars parked on roads and nature trails help to create a greater sense of community. Northstone's whole ethos is about creating a sustainable, lasting legacy within the communities they create.

Northstone built 26 new homes in its first year developing on a Peel L&P site in Bolton. It will grow this to the delivery of 173 homes in the current financial year, with a Business Plan to deliver over 400 homes annually 3 years from now. It delivers high numbers of affordable homes in collaboration with Registered and Housing Providers such as Trafford Housing Trust, Torus and Bolton at Home. It is now providing multi-generational housing and homes for families with dependents, including

¹⁴ <https://peellandp.co.uk/what-we-do/regeneration/mediacity/>

¹⁵ <https://peellandp.co.uk/what-we-do/commercial/protos/>

¹⁶ <https://peellandp.co.uk/what-we-do/natural-resources-and-energy/peel-nre/>

¹⁷ <https://hub.northstone.co.uk/why-an-energy-efficient-new-build-could-save-you-over-3000-a-year-on-your-energy-bill>

homes designed for wheelchair users with extra space, wider doors, downstairs bedrooms, and wet rooms.

Peel built on the success of Northstone by establishing Letta in 2022. Letta has been established in the emerging managed private rented sector and provides new homes for rent. Its homes are the same as those provided by Northstone but provide a route into a new home for people who cannot afford to buy.

A Business Plan for sustainable growth and regeneration

Peel L&P is helping to revitalise some of the nation's most deprived urban areas by bringing vacant brownfield sites back into use, primarily in the North of England. It owns and acts as master developer for several key regeneration schemes across the UK, working with other developers and investors to create vibrant new communities with a mix of homes, retail, leisure and commercial and employment space. For example, our urban development schemes at Liverpool Waters¹⁸ and Wirral Waters¹⁹ are transforming run-down waterfront and inner-urban destinations into mixed-use sustainable communities.

Peel L&P also works closely with local authorities to promote the sustainable development of greenfield land to meet essential housing and other needs around some of our core cities. For example, it has worked closely with authorities in Greater Manchester to identify several opportunities for new development in sustainable locations at the urban edge, using 'lower grade' land which is well-connected to public transport and able to deliver new community and transport infrastructure.

Peel L&P takes a master-developer approach to residential development. It delivers strategic infrastructure such as roads and utilities and works with other homebuilders as well as Northstone to build the new homes.

Our business strategy – the delivery of brownfield regeneration and sustainable urban growth – allows investment to be facilitated and recycled, ensuring a balanced approach to meeting the full range of housing and other needs.

Peel is signed up to the United Nations Sustainable Development Goals and is at the forefront of sustainable design and development, ensuring its projects achieve net gain for our urban and natural environments²⁰.

¹⁸ <https://peellandp.co.uk/news-and-views/news/liverpool-waters-will-create-13bn-in-public-benefits-support-local-health-and-wellbeing-and-the-city-region-s-zero-carbon-pledge/>

¹⁹ <https://peellandp.co.uk/what-we-do/regeneration/peel-waters/wirral-waters/>

²⁰ <https://peellandp.co.uk/media/5222/peel-l-and-p-sustainability-and-esg-report-for-the-year-ending-31st-march-2022.pdf>