South Gloucestershire Council response to the Competition and Markets Authority (CMA) Housebuilding Market Study

Questions relate to the Statement of Scope:

	Question	Comment
General questions		
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?	We do not agree with the scope of the market study. It should be noted that Scotland has a separate planning system to England and Wales. So, there will not be a like for like comparison of Planning Systems. The study should therefore not be for the UK.
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?	Some elements of the scope are not found in South Gloucestershire. For example; in 2.11 Some developers submit an outline application but others will submit a full application across the whole site. This often happens on smaller sites that do not require phasing. The 2nd bullet point is not always typical in South Gloucestershire as well. Often viability assessments are submitted with planning applications and negotiated as part of the planning application approval. It may therefore take longer for the application to be considered as these negotiations can sometimes become difficult with different considerations of BLV in accordance with RICS guidance and national planning policy. In 2.17-2.18 the question of management companies and their charges for the maintenance and management of public open space etc should be fully reviewed, especially in terms of management companies offering value for money. In 2.23 (d) investigating the reliance of large sites/housebuilders to deliver local plans and the effect of diminishing LA's bargaining powers in relation to affordable housing is supported – especially where large developments have significant infrastructure requirements which developers frequently use in viability arguments to negotiate down affordable housing.
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	There is an error with the assumption in e). Affordable housing is achieved through s106 obligations, not planning conditions.

	at where you consider: a. The housebuilding market is working well, and explain what factors are driving this in each area; b. The housebuilding market is not working well, and explain what factors are driving this in each area; c. There is a high degree of concentration in housebuilding activity; d. There is a significant under-delivery of housing relative to local need; e. LPAs are more or less proactive in the planning conditions they impose, particularly in relation to affordable housing; f. Small and medium housebuilders are more prevalent compared to other areas.	In South Gloucestershire, we are proactive in the delivery of affordable housing as we have regularly delivered a large amount of social rent over the last 5 years (live tables on affordable housing supply). Having HomesWest; our RP partnership, is a very strong contributor to this, as well as having a well-trained, proactive enabling team.
4	How can competition in this market be strengthened?	Once a local plan gets to the call for sites stage, it is often the case that a lot of the sites are subject to option agreements with large scale developers making it difficult for SME's to acquire land. Large scale developers then often develop land slowly to maintain market values, rather than at pace to deliver housing.
5	How can the functioning of the market be improved?	Unable to answer
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.	Unable to answer
The operation of the market		
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 tend to be involved in the speculative sites and prefer to use a unilateral agreement rather than a s.106 agreement with the Council. This has not changes much over time.

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. b. Likelihood of success in securing planning permission. c. Propensity for developers to negotiate s106 requirements to reduce affordable housing requirements. d. Propensity for developers to be successful in negotiating s106 requirements to reduce affordable housing requirements.	On the larger sites, developers will have the outline and then reserved matters applications for the different parcels. An outline application can take up to a year to deal with, with another 6 months for a reserved matters application to be approved. It can take up to 3 years from the submission of an application until the developer starts on site. 85% of applications are approved. Developers will always try to negotiate less than policy affordable housing terms to improve viability, even if marginal, through changes to tenure, the on-site location of affordable housing, unit sizes etc. Where applications are speculative, they will usually agree to all affordable housing requirements. Since viability has been introduced to national planning policy in response to the downturn of the market in 2008, affordable housing has more frequently been negotiated down from policy requirements. Even in times when the housing market is buoyant, viability can continue to be an issue, particularly on large scale developments with significant infrastructure requirements. South Gloucestershire Council takes a robust position in defending its policy position and will only accept a reduction in the affordable housing contribution where a viability assessment justifies it, in accordance with its planning policy.
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? b. Size or identity of applicant (eg small developer, large developer, land promoter)?	Larger strategic sites (120+) can often have viability stated as an issue resulting often in loss of affordable housing. When the NPPF introduced a change in threshold where affordable housing can only be sought on sites above 10 units, this impacted on the ability to deliver affordable housing in rural developments which are often smaller.
10	What are the main barriers (if any), to the provision of affordable housing for (a) LPAs and (b) developers	The main barriers to the provision of affordable housing are viability and availability of funding. As grant rates do not equate to the developers cost per affordable housing unit, if affordable housing is reduced due to viability, it is not often possible to use funding to improve the quantum

		of affordable housing from the negotiated reduced position back to the policy requirement.
11	In relation to freehold estates: 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). b. Estate charges, and their materiality. c. Restrictions and/or obligations placed on freeholders via deeds of covenant.	The use of management companies is preferred by developers and causes issues for councils, particularly when residents consider the management companies are not doing the job well. The charges are often expensive and cause issues with service charges for affordable housing. South Gloucestershire Council caps the service charge in our affordable housing s.106 requirements to ensure the units remain affordable. Management charges could cause affordability issues with breaching LHA caps. Lastly, estate charges are viewed as double taxation by local residents, with residents complaining to the council who have to refer the complaint back to the management company.
Constraints on buyers' choice		
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? b. What issues (if any) do landowners face in finding purchasers of land for development and how do they navigate these? c. Have any issues described above changed over time? If so, how and why?	Unable to answer this question
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?	As the developer normally secures the management agency then there is little opportunity for the homeowner to influence the choice of company. Anecdotal evidence is that charges are not transparent to buyers.

	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	
Market interactions		
14	14.How do land promoters and land agents compete to secure contracts with (a) land owners and (b) developers (or vice versa)?	Unable to answer.
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?	Unable to answer.
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?	Where there is an up-to-date local plan, the LPA has a strong negotiating position. LPAs have the option of refusing planning applications if they do not meet policy requirements. Although this can be tested at appeal by the developer. The risk to either party is the potential cost of going to appeal but also to the developer the cost of delay, which together may be a greater cost than meeting policy requirements. Developers will also use influence on politicians to push applications through.
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.	Most s.106 agreements are negotiated before the outline planning permission is granted. However, with a site that has an extant planning permission, if a developer submits a new planning application, it is much harder for an LPA to negotiate its policy requirements as the sanction of refusing permission if policy is not met is no longer available.
18	How and when are decisions made about the ownership and management of public amenities on freehold estates, including whether they are adopted? What	The decision about ownership and management of public amenities and freehold estates is discussed during the course of the planning application process. This Council will adopt public open space however the developer has

	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.	the choice through legislation of what they may wish to do. The key barrier to adoption is cost both to the Council and to the developer.
Exploitation of market power		
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 volume housebuilders have a strong position in the market and can exploit this in terms of pricing of housing units. Volume builders often take option agreements on land in the early development of a local plan enabling them to control when that land becomes available for delivery. This gives them a lot of market power in both housing delivery and in maintaining house prices and affordability.
20	What factors influence the size of land banks held by developers?	The state of the economy, and the need for houses in an area influences the size of land banks held by developers. Volume housebuilders tend to favour the acquisition of greenfield sites over brownfield making regen more difficult to achieve.
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	In general it is accepted that the current build out rate is 1 house per week on a site. Higher build out rates are achieved through the construction of flats. On allocated sites planning permissions are built out. The economy is the largest effect on all these aspects. If there is a downturn, build rate often slows. Using modular or panelised construction can improve build rates, is often a higher quality than building regs but is also more costly to deliver.
22	What are the key factors that determine the incentive and ability for developers to build-out new sites at a certain rate?	On allocated sites the build out rates can be higher when there are more than 2 volume house builders, to encourage sales and occupations in a shorter timeframe.
Barriers to entry and expansion		
23	What differences (if any) are there between small, medium and large developers in:	Volume house builders will provide a range of housing types and will use all types of land where they can get a planning permission.

	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).	They also build different house-types but tend to use a standard design that is previously costed and repeated with different external treatment. Volume builders tend to build on larger greenfield sites. SME builders tend to build on smaller infill sites but tend to still be greenfield.
24	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 main issue is probably acquiring land as volume housebuilders acquire option agreements early in the local plan process.
25	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?	It significantly depends on the actual builder. Both volume and SME's exist that can deliver better quality of housing, and all are capable of achieving this. It depends on their particular business model and aspiration on profit. Quality tends to be better with smaller companies who do not always focus on the build out rate being so quick.