

## **Crest Nicholson's response to the CMA's Update Report and Consultation on a Market Investigation Reference**

**18 September 2023**

### **1. Introduction**

- 1.1 We set out below Crest Nicholson's response to the CMA's Update Report and Consultation on a Market Investigation Reference published on 25 August 2023 ("**Update Report**") in relation to the CMA's housebuilding market study ("**Market Study**").
- 1.2 Crest Nicholson welcomes this opportunity to continue to engage proactively with the CMA's Market Study. This response is intended to be read alongside Crest Nicholson's previous contributions to that Market Study.
- 1.3 In addition to providing responses to the questions for consultation specified in the CMA's Update Report, the CMA has requested views on the extent to which recommendations to government may be capable of addressing the features that the CMA identified at paragraphs 3.11 (Land banking) and 3.17 (Estate Management Services) and any specific proposals relating to such recommendations. Crest Nicholson has set out its responses to those respective sections at items 2 and 3 below.

### **2. *Do you agree with the CMA's reasons for suspecting that there may be features of the land and housebuilding markets leading to competition issues in the supply of houses?***

***Based on representations and information received so far in the market study process set out in paragraphs 2.23 to 2.44, we consider that we will be likely to have reasonable grounds to suspect that there may be a feature or combination of features of a market or markets in the UK which prevents, restricts or distorts competition for the following reasons:***

***a) Restrictions on the availability of developable land as a result of volume housebuilders holding large landbanks, and whether this may act as a barrier to entry, particularly for small and medium sized housebuilders.***

- 2.1 Crest Nicholson's view is that landbanks of 'volume' housebuilders will have limited impact on entry by small and medium-sized ("**SME**") housebuilders. This is because SME housebuilders tend to target different land opportunities to large housebuilders, focusing on less capital-intensive and more readily-developable site opportunities. SME developers tend not to participate in long-term strategic land promotion due to the time it takes to promote land through the local plan process together with the risk associated with unforeseen delays or the general jeopardy of obtaining planning approvals. This encourages SME developers to focus resources on immediate land opportunities.
- 2.2 Larger housebuilders target larger development opportunities that will generally accommodate at least 80 units. When considering strategic land opportunities, again larger housebuilders will target land that will accommodate larger developments. When delivering schemes of scale it is typical for considerable access arrangements, infrastructure works, and S106 obligations, to be required. Such development burdens push the breakeven point back in the program and require larger balance sheets to manage the cost of debt and development risk. When considering longer-term strategic projects it is usual for larger projects to involve multiple land owners which increases the complexity and resource required to enter an agreement. Securing, promoting, and developing sites of scale is a capital-intensive business model, involving considerable resource over a long period of time to:

- a) Research, identify and negotiate the purchase of (or option(s) over) parcels of appropriate land, often through land searches, Local Plan searches and direct approach of (potentially multiple) land owners.
  - b) Plan and agree with Local Authorities (and other government agencies) wider significant infrastructure improvements to support the additional housing, which requires up-front capital expenditure before any returns from the site can be achieved, such as infrastructure network upgrades / reinforcement works (energy supply, drainage and junction improvements), contributions to infrastructure networks and public services (schools, medical care, etc.).
  - c) Focus on multiple different sites simultaneously, to adequately mitigate the risk of insufficient land supply because of unpredictable development control outcomes caused by inefficiency and uncertainty in the planning process (see paragraph 2.7).
- 2.3 SME housebuilders tend to target smaller shorter-term "infill" opportunities of between 2 and 8 acres. By contrast to larger sites, such sites tend to be less time and capital-intensive, and therefore carry less risk as:
- b) Opportunities are typically identified by SME developers, agents and promoters and tend to be more readily-developable via simple design solutions; and
  - b) The sites generally do not require major or sub-major supporting infrastructure works (which require significant upfront capital outlay), as they tend to already sit within, or immediately abut, towns and villages.
- 2.4 This distinction is highlighted in the Home Builders Federation March 2023 response to the CMA's Statement of Scope in relation to the Market Study (the "**HBF Response**")<sup>1</sup>:
- "Generally, few small developers will actively pursue development opportunities for large-scale apartment buildings as the upfront capital costs and the timescales for return on investments make financing such schemes expensive and typically unfeasible. Very large sites with significant infrastructure requirements that may need to be financed upfront will deter most smaller firms too."* (Response to Question 23)
- "By virtue of their size and limited resources, SMEs are more likely to pursue smaller sites and those with some form of planning status (allocation, consent)."* (Response to Question 24)
- 2.5 Accordingly, since SME housebuilders focus on sites of a smaller scale, landbanks of volume/large housebuilders do not act as a barrier to SME housebuilders. In fact, successful development by large housebuilders of their landbanks (and associated infrastructure and public service improvements) often creates the smaller land/infill opportunities of tomorrow for the benefit of SME housebuilders.
- 2.6 By far the more pressing barrier to entry for SME housebuilders is the failure of the planning system to ensure availability of sites suitable for SME housebuilders, as articulated in the HBF Response:
- "[The National Planning Policy Framework ("**NPPF**") sets out that local planning authorities should identify land to accommodate at least 10% of their housing requirement on sites no larger than one hectare; unless it can be shown, through the preparation of relevant plan policies, that there are strong reasons why this 10% target cannot be achieved. However, in practice this is largely accommodated in the windfall component of future supply and not on sites specifically allocated for residential*

<sup>1</sup> [https://assets.publishing.service.gov.uk/media/647df58c103ca60013039982/Home\\_Builders\\_Federation.pdf](https://assets.publishing.service.gov.uk/media/647df58c103ca60013039982/Home_Builders_Federation.pdf)

*development. The windfall component is usually predicated on historic rates of windfall development projected forward with reference to sites in [the Strategic Housing Land Availability Assessment ("SHLAA")] that have been assessed as potentially developable. Such an assessment in a SHLAA is not a firm enough basis for a SME builder to invest in bring a site forward.*

*Indeed, a lack of availability of small sites is regularly cited by SME developers as a hindrance to their growth. In 2022, HBF conducted its third consecutive SME developer survey in conjunction with Close Brothers Property Finance and Travis Perkins. Of the 220 respondents (91% completion rate), 91% said that land availability was a barrier to growth. Of these, 52% said it was a major barrier to growth, up from 47% in 2021 and 32% in 2020. As such, one of the report's key recommendations asked Government to 'bring forward a greater number of small sites in Local Development Plans'.*

*This challenge, and the responsibility central Government has in addressing it, has been acknowledged by [the Department for Levelling Up, Housing and Communities] which, in its 2022 consultation on proposed changes to the NPPF, stated:*

*"We have heard views that these existing policies are not effective enough in supporting the government's housing objectives, and that they should be strengthened to support development on small sites, especially those that will deliver high levels of affordable housing.... The government is therefore inviting comments on whether paragraph 69 of the existing Framework could be strengthened to encourage greater use of small sites, particularly in urban areas, to speed up the delivery of housing (including affordable housing), give greater confidence and certainty to SME builders and diversify the house building market".*

*HBF agrees that the Paragraph 69 could and should be strengthened and in our response to the Government's NPPF consultation, we called for the DLUHC to set out an expectation that LPAs be able to demonstrate specifically and explicitly the location of the land that will accommodate at least 10% of their housing requirement.*

*These sites, no larger than one hectare, should be identified in such a way as to effectively establish the principle of development is established in the same way as any other local plan allocations." (response to Question 24)*

- 2.7 Additionally, developments in the approach of successive UK Governments to housing and planning policy over the last 45 years have created inefficiency and uncertainty in the system, meaning that ever-larger landbanks are required in order to spread associated risks. This has disproportionately impacted SME housebuilders, who do not have the capital to hold landbanks of sufficient scale.<sup>2</sup>
- a) The new planning regime introduced from 1991 was the first step in adding significant complexity, and with it delay, to the development control process meaning that housebuilders no longer had reasonable certainty of land supply, predictable development control outcomes, or simple design solutions. These risks and hurdles began to exclude start-ups and SMEs, who did not have sufficient capital to overcome these challenges.
  - b) Land can be seen as a raw material necessary for the development process. Landbanks are simply a funnel. As the macro supply reduced and the development control and technical regime became less predictable, the funnel simply continued to widen at the top in order to squeeze through sufficient fully permissioned land supply at the bottom. Smaller housebuilders do not have the capital needed to widen their funnels (of smaller sites they would want to develop) to offset the risk. As a result, a smaller housebuilder with a thinner

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<sup>2</sup> For more detail, Crest Nicholson refers the CMA to Crest Nicholson's previous submissions to the Market Study.

land supply was only ever one or two 'bad' or delayed planning decisions away from running out of liquidity and going out of business.

- 2.8 This means that while developing larger sites is an efficient model for delivering the UK's housing needs (bringing together multiple parcels of land, and saving the burden on public bodies that would be required if the same land were developed as individual parcels), such sites are only economically viable for volume housebuilders, who have the capital and expertise to build a landbank of sufficient scale to spread the associated commercial risks.
- 2.9 Accordingly, while Crest Nicholson agrees that there are barriers to entry, particularly for SME housebuilders, the root cause of this is not in the landbanks of volume housebuilders, but in the failure to make suitable land available to SME housebuilders through Local Plans and the planning system. This failure would be best met through reform of the planning system rather than a market investigation into the landbanks of volume housebuilders.
- b) Concentration in certain local markets through the control of a significant proportion of developable land by a small number of housebuilders, which if evidenced, may lead to poor outcomes for purchasers of new homes and for the housing market at large, including lower quality or less diverse new homes, and slower build-out rates.**
- 2.10 Crest Nicholson doubts the extent to which the CMA would identify that there exists concentration of landbanks in local markets controlled by a small number of housebuilders that give rise to poor outcomes for consumers.
- 2.11 In Crest Nicholson's experience, in order to protect landowners, agents typically seek to ensure that the housebuilder securing land does not have other competing land within the immediate vicinity. This vetting is done as part of the procurement process and is sometimes followed into legal agreements in the form of a contractual non-compete clause. The effect of this is to ensure competition between housebuilders within that locality and to avoid any incentive for the housebuilder to hold back development of one site in favour of another (which would be counter to the interests of a landowner whose site might be held back).
- 2.12 More generally on build-out rates:
- a) Given the unpredictability of the planning system, large developers promote land through the local plan making process as quickly as possible, as there is otherwise a risk of the option period expiring. In addition, developers are often contractually required to promote land through the planning process to achieve a planning consent as swiftly as possible.
- b) Crest Nicholson employs a fast asset turn business model and the Return on Capital Investment metric is seen as one of the most important by shareholders. As such, the efficiency in the process of buying land (typically at an eight figure sum), investing (typically a seven figure sum) to obtain a planning permission, and then the building and selling of houses is of the utmost importance. This business model then requires Crest Nicholson to reinvest the profit into further projects. This business model does not reward the inefficient use of land, nor does it encourage the 'hedging' of future land value increases as any such increase would not realise the level of profit that could be generated by development. Consequently, Crest Nicholson has no incentive to hold on to land that can be developed.
- c) We note that in its Update Report, the CMA recognised that the Letwin Review found that land banking by major housebuilders does not negatively impact the rate of delivery of new homes, and instead could be expected to accelerate the build out rate of developments.<sup>3</sup> Crest Nicholson concurs with that finding.
- c) The extent to which land banks compound the negative impacts of any lack of transparency as to the ownership (and control via options) of land. A lack of**

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<sup>3</sup> Paragraph 2.31

**transparency may hinder small and medium sized housebuilders from identifying and securing suitable land for development and make it more difficult for them to appraise the nature of competition in a given local area. This effect is likely to be more pronounced the more land banking occurs**

- 2.13 As explained in more detail in paragraphs 2.1 to 2.4, SME housebuilders typically look for opportunities for smaller sites. These opportunities are typically brought to market actively through promoters and agents and the landowners directly. The transparency of availability of the land that SME housebuilders will be looking to acquire is good.
- 2.14 To the extent that an SME housebuilder would want to identify opportunities in, ownership of, or options over land that is not being directly marketed, the SME could employ resource to investigate opportunities through Land Registry and Local Plan searches (which would reveal ownership, options and planning status) and through direct approach of landowners. This is not a technically difficult exercise and neither would it be prohibitively resource-intensive when applied, as it would be by an SME housebuilder on a single-parcel basis (by contrast to the more extensive work that would be involved to identify a multiple-parcel, larger site).
- 2.15 Crest Nicholson would also highlight that, while a substantial amount of land that comes through the local planning process is controlled by promoters and agents, the CMA's initial findings in the Update Report are that sales made by land agents were relatively evenly split between sales to the largest 11 housebuilders, sales to other housebuilders and sales to non-housebuilders<sup>4</sup> and that agents and promoters do not appear to privilege large housebuilders over SME housebuilders,<sup>5</sup> suggesting that promoters and agents do not disproportionately favour large housebuilders.

3. ***Do you agree with the CMA's reasons for suspecting that there may be features of the land and housebuilding markets leading to competition issues in the supply of houses and estate management services?***

***Based on the information we have obtained and analysed to date, as set out in Section 2, we consider that we will be likely to have reasonable grounds for suspecting that the following feature or combination of features of a market or markets in the UK prevents, restricts or distorts competition for the following reasons:***

**b) Lack of transparency for consumers in relation to material aspects of the way in which a newly built estate will be managed, including the actual costs that will be involved, the obligations of house buyers and consequences of the involvement of an estate management company.**

- 3.1 Crest Nicholson implemented the New Homes Quality Code ("**NHQ Code**")<sup>6</sup> on 7 February 2023. The NHQ Code includes a statement of principles (the core principles) which sets out the main principles which registered developers agree to follow to benefit their customers. Principle number 6 is Transparency:

***"Transparency: provide clear and accurate information about buying the new home, including tenure and any costs the customer may have to pay in the future, such as ground rents and service charges."***

This obliges registered developers to ensure that buyers and their legal advisers are aware of anticipated costs and expenses, including:

***"any additional costs that the developer knows or expects will arise directly from the sale. This includes management fees (for example, to maintain the landscaping,***

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<sup>4</sup> Paragraph 2.108

<sup>5</sup> Paragraph 37

<sup>6</sup> <https://www.nhq.org.uk/resource/new-homes-quality-code-published.html>

*highways that the local authority is not responsible for, and so on), event fees and other charges. This information should bring to the customer's attention any service charges that may increase or be charged in the future as more facilities become available or sinking fund charges that may be introduced for repairs or maintenance. If the developer does not know the actual value of costs or charges, they should give the customer a schedule of costs without including the values."*

- 3.2 The NHQ Code requires registered developers make consumers aware of the costs up-front, before reservation, with a 14-day cooling off period if a consumer changes their mind.
- 3.3 Crest Nicholson implements the NHQ Code with full vigour and commitment, implementing policies and processes to ensure it is fully embedded within the customer's purchase journey, and going above and beyond the requirements of the NHQ Code in some areas.<sup>7</sup> It is fundamental to Crest Nicholson to ensure that its customers are satisfied with their purchases on an ongoing basis.
- 3.4 That said, there are constraints on the extent to which housebuilders can foresee and control future estate management costs. For example:
- a) It is not within the gift of housebuilders to impose price caps on the costs of managing an estate once management of the estate passes to the residents' management company ("**RMC**"). Rather, the majority of the estate management charge comprises the actual costs incurred for managing the estate. These services, provided by third parties, are generally tendered and reflect market rates which can fluctuate over time due to market factors.
  - b) Accordingly, some managing agents have raised concern around forecasting costs so far ahead, given that they depend on factors such as availability of supply and services, changes in legislation and inflation.
  - c) The management agent's fee, which is applied in addition to the actual costs of managing the estate, will be determined by the level of competition between managing agents.
- 3.5 Crest Nicholson also supplies customers with an information guide before reservation which explains the role and responsibilities of the RMC and managing agent, along with the obligations of house buyers.
- 3.6 Crest Nicholson considers it is most able to impact on-going estate management and ensure residents can ultimately control it by appointing a high-quality and reputable managing agent on terms as favourable as possible before passing over management to the RMC. This puts residents in a strong position to make future decisions in relation to the estate by managing the contract with the agent and if necessary, terminating it and seeking alternate providers.
- b) Significant market power conferred to estate management companies by housebuilders through the process they use, and have used, for the appointment of estate management companies.***
- 3.7 Crest Nicholson's preference would be that common estate infrastructure for all elements of the site would be routinely adopted by Local Authorities *provided* it could be demonstrated that Local Authorities are sufficiently resourced, they can commit to service level agreements for frequency and standard of maintenance and that they can be held accountable for ensuring that the fees (whether legal, consultancy or commuted sums) for future maintenance are fair and reasonable. Under the present system, however, adoption requirements and costs differ depending on Local Authority (who often are unable to adopt all elements of the site) and can

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<sup>7</sup> The CMA is referred to Crest Nicholson's previous submissions to the Market Study for more detail on how it implements the NHQ Code

be costly in terms of legal and consultancy fees. Commuted sums also differ by Local Authority and can affect the commercial viability of a development. Under current resource constraints, Local Authorities may actively seek to avoid adoption (and/or certain elements thereof), or it can be an extremely prolonged process, leading to long delays to the development of a site. This means that either it can often be more cost-effective and efficient for the infrastructure to be managed privately, or at least certain elements of the site have to be managed privately due to the Local Authority's refusal to adopt the same.

- 3.8 If common areas of land on a development are not adopted by the Local Authority, a management company will be appointed to manage those common areas once the site is complete. This is because few developers are equipped to maintain long-term interests in new developments, blocks or estates, nor is that commonly (including for Crest Nicholson) part of the business model.<sup>8</sup>
- 3.9 The proportion of Crest Nicholson sites with estate management, rather than Local Authority adoption, has steadily increased over the past 10 years, with the RMC approach now the prevailing approach. In some circumstances (absent a uniform approach to adoption across the UK) there can be benefits to this approach, including that:
- a) Residents have more control over how the amenity is managed and maintained.
  - b) The quality and frequency of maintenance is often better.
  - c) It is uncommon for all landscaped areas on a new development to be adopted (even when large public open spaces are proposed for adoption), and ensuring all areas are maintained by the same party can help minimise any differences in the standards of maintenance and avoids potential confusion for residents when establishing who to contact with any issues.
  - d) Communication between residents and estate management companies is often more direct, with faster response times, than when communicating with Local Authorities.
  - e) The handover process is generally faster and more streamlined, ensuring residents have a degree of control earlier.
- 3.10 In its Update Report, the CMA makes the distinction between RMCs and embedded management companies ("**embedded MCs**"). Crest Nicholson now uses a RMC model rather than an embedded MC model. Crest Nicholson considers that a properly structured RMC arrangement avoids the concerns and issues that may arise under alternative (non-Local Authority) approaches, including by:
- a) Ensuring the estate management agent is initially appointed following a formal selection process, selecting from a number of companies by reference to whether they have sufficient resources for the scheme complexity, whether they have experienced and qualified property managers and how experienced they are in similar schemes. Quality of the managing agent, along with a budget that represents value for money (but not necessarily the lowest fee), are the two key factors in the selection. The agent should also be regulated by Association of Residential Managing Agents ("**ARMA**") and preferably also qualified with the Institute of Residential Property Management.
  - b) Empowering the residents (as Directors of the RMC) to terminate and switch estate management provider if they are not satisfied with the cost or quality of the work done by the existing agent (see paragraphs 3.14 to 3.15 below).

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<sup>8</sup> It would not be feasible for housebuilders to retain responsibility for estate management after the site has been completed; this would entail housebuilders developing estate management activities that would soon grow to exceed their core housebuilding business.

- 3.11 Crest Nicholson selects and appoints the initial management agent and agrees the fees and service levels. Crest Nicholson has every interest in ensuring those service levels are met in order to ensure customer satisfaction and to avoid adverse publicity and long-term reputational consequences, as highlighted in the HBF Response, in response to Question 18.<sup>9</sup>
- 3.12 Freehold homeowners become directors of the estate management company when Crest Nicholson steps away from a site, i.e. once all plots have been sold. This means that estate management companies for each Crest Nicholson site are then directly controlled by the freehold residents of that site, who become responsible for reviewing the appointment of estate management agents that carry out any estate management works.
- 3.13 Accordingly, Crest Nicholson takes steps to ensure that the initial managing agent appointment is made in the best interests of its customers and that those customers are afforded the ability to switch agents in the future. In the absence of the willingness and resourcing of Local Authorities to adopt estate infrastructure in a timely and efficient manner, Crest Nicholson considers empowering residents in this way to be the preferred approach.

**c) High barriers for consumers to switch estate management companies.**

- 3.14 At Crest Nicholson RMC-model sites, Crest Nicholson now seeks to agree terms such that RMC's are free to serve notice on estate management agents and appoint an alternative agent if they are not satisfied with the quality of their service.
- 3.15 The RMC directors can readily identify alternative management through the website of the ARMA<sup>10</sup>, where freeholders can search for AMRA-approved estate management agents.
- 3.16 However, Crest Nicholson recognises that the level of confidence and knowledge of RMC directors can vary and Crest Nicholson believes that they could benefit from access to impartial advice and training resources from a public body on the RMC's rights and the process for switching managing agents.

**d) Inadequate rights for freeholders facing unsatisfactory freehold management arrangements, for example: no legal right to manage, require the removal of a management company or challenge the reasonableness of fees; no ombudsman; potential exposure to disproportionate sanctions under the Law of Property Act 1925 and lack of redress should such sanctions be wrongfully imposed.**

- 3.17 As explained above, Crest Nicholson now seeks to agree terms such that RMCs can terminate a contract with their estate management agent, and switch to a new agent.
- 3.18 If freeholders wanted to take further action against an estate management agent, there is also recourse for estate management companies to seek damages and/or other remedies if the actions of an agent breaches contract or civil law.
- 3.19 Crest Nicholson's plot documents restrict managing agent fees to a reasonable fee having regard to the market value of those services to be supplied in considering, administering and processing the relevant consent sought, and subject to any statutory requirements or UK Government guidance issued in respect of the amount or extent of such fee in force from time to time.
- 3.20 Crest Nicholson's management agreement also caps managing agent fees until such time as they are otherwise agreed (or required to be reduced by any statutory requirements or UK Government guidance issued from time to time) to ensure they are not increased without

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<sup>9</sup> [https://assets.publishing.service.gov.uk/media/647df58c103ca60013039982/Home\\_Builders\\_Federation.pdf](https://assets.publishing.service.gov.uk/media/647df58c103ca60013039982/Home_Builders_Federation.pdf) p45

<sup>10</sup> <https://arma.org.uk/>



appropriate consultation. The agreement also provides that such fees must equally be reasonable having regard to the market value of those services to be supplied in considering, administering and processing the relevant consent sought, and subject to any statutory requirements or UK Government guidance issued from time to time as above.

3.21 However, Crest Nicholson recognises that practice and performance may not be consistent across the industry. The CMA might therefore consider whether estate management agents should become a regulated service to provide greater protection for consumers and uphold standards. Equally, Crest Nicholson would be supportive of formalising the RMC approach (as opposed to the embedded MC model), on a legislative basis.

4. **Are there any reasons why a market investigation reference may not be the most appropriate outcome of the market study? If so, please elaborate by reference to the criteria set out in paragraph 3.20, and in particular:**

- a) **Suitability of the use of the CMA's order making powers, given the issues that may exist in these markets**
- b) **Alternative possible solutions, drawing out, if appropriate, long-term solutions and measures to mitigate the issues the CMA has identified in the short-term**
- c) **Views on likelihood of alternative solutions being implemented and what factors may increase their likely success**

#### **Land banks**

4.1 Crest Nicholson believes that the housebuilding market could function more effectively. However, Crest Nicholson is firmly of the view that the primary solution is legislative changes to the planning system.

4.2 A market investigation focussed upon landbanks of housebuilders would be a missed opportunity to tackle the underlying short and long-term causes of challenges in the planning system underpinning the housebuilding market.

4.3 The focus of the CMA should be on the approach of (and incentives for) Local Planning Authorities to make and maintain up-to-date Local Plans that clearly identify developable land that can be acted upon by all sizes of housebuilder, including SMEs and new entrants.

4.4 Those Local Plans then need to be supported by a planning system that is aligned with the objective to build the houses in the plan, and resourcing to enable housebuilders to be able to commit capital confident of consistency of approach and timing for that process (and that timing being sufficiently fast).

4.5 As described above at paragraph 2.7, the increasing size of landbanks (the funnel required to remain commercially viable in the face of planning uncertainty and complexity) are a symptom of these underlying failings:

- a) Both the planning and consenting process for consented land are slow and uncertain.
  - (i) The length of time from a planning submission to a consent being granted can be 5 years on average; and
  - (ii) The full planning process can take up to 8-10 years on average.
- b) The longer the delay between securing land and building, and the greater the uncertainty around whether planning will be consented at all, the more a housebuilder needs to build a supply of sites to maintain commercial viability.

c) SME housebuilders are to a considerable degree beneficiaries of successful deployment of larger scale projects, which create the smaller infill opportunities.

4.6 In summary, to the extent the market does not operate smoothly, that is largely because of the legislative and political approach that has been adopted. The actions of large developers are reactive to the context they find themselves in.

### **Estate Management**

4.7 Crest Nicholson would support a move back towards routine public adoption of estate infrastructure provided this is on the basis of UK-wide standard service-level agreements to bring greater certainty and efficiency to the adoption process. However, current economic conditions suggest that it is unlikely that Local Authorities will receive the additional funding necessary to make such an approach workable. Outside of Local Authority adoption, Crest Nicholson supports formalisation of the RMC approach to estate management, putting control in the hands of residents. To focus on housebuilders without addressing the underlying drivers would risk undermining any solutions the CMA might alight upon.

4.8 Planning and regulatory changes due to take effect this year and in the coming years will see new housing schemes continue to increase the amount of shared spaces and facilities on sites, particularly the Biodiversity Net Gain requirements imposed by the Environment Act 2021 (i.e. making it mandatory for all new planning applications made in England to ensure that the development results in a minimum 10% gain in biodiversity). In this context, Crest Nicholson considers that the CMA should examine the Local Authority and National Government's wider role in rectifying any market failures that the CMA is exploring as part of its Market Study.

4.9 In Crest Nicholson's view, historic issues of transparency and information for consumers around estate management have been significantly resolved by the introduction of the NHQ Code, but residents would benefit from regulation on caps to managing agent fees and director-residents of RMCs might benefit from public support with understanding their director roles, including the powers they have to switch providers when management agents underperform.

### **Summary**

4.10 In summary, Crest Nicholson strongly advocates for a healthy, effective housebuilding market, delivering high-quality houses at competitive prices in the right locations. This requires fair opportunity for, and effective competition between, all sizes of housebuilder.

4.11 However, the solution to current failings in the UK housing provision generally lies in regulatory change, rather than penalising or restricting the activities of the larger housebuilders. In particular, to achieve the best outcomes for consumers, Crest Nicholson believes that the focus of the CMA should be on improving the efficiency and certainty of the structure of the planning system. To enable the sector to deliver the Government's target of building 300,000 new homes every year, it needs public policy, resourcing and planning to be aligned with that ambition.