

# Planning and Land Banks Working Papers

Joint overview summary

15 November 2023



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# Summary

## Background

1. The CMA launched a market study into housebuilding on 28 February 2023, beginning a piece of work that can last up to one year. At launch we published a Statement of Scope, explaining the issues and concerns relating to the new homes market in England, Scotland and Wales that we intended to investigate. We then published an update report on 27 August 2023, setting out our initial thinking and consulting on making a market investigation reference in relation to two areas: the private management of public amenities on new-build estates and land banks.
2. We also said that we would publish working papers, setting out our thinking on three key areas, in the autumn. The first of these, concerning the private management of public amenities on new-build estates, was published on 3 November 2023. We are today publishing the other two, which relate to the planning system and land banks, respectively. This summary document provides an overview of the two papers we are publishing today, explains the linkages we see between the two areas, and describes how these papers fit into our wider programme of work as we move towards our final report.
3. The GB housebuilding market in recent decades has been characterised by a number of sub-optimal market outcomes. Our wider study is considering a range of market outcomes. However, given that everyone needs a place to live, and that housing is the single biggest expenditure faced by most consumers, two market outcomes are particularly concerning:
  - (a) The number of new homes that have been delivered by the market has been below the assessed level of need, expressed in government targets and other officially-endorsed assessments – not enough homes are being built; and
  - (b) The homes are not being built where people want to live, ie the under-delivery of housing has been especially concentrated in areas of high demand.
4. In a well-functioning market, a situation of under-supply accompanied by fast-rising prices would typically be, at most, a temporary situation, as the increasing prices would attract more supply to the market, which in turn would dampen (and potentially reverse) price increases. In the English, Scottish and Welsh housebuilding markets, however, this has not happened, and these sub-optimal market outcomes have become persistent features of the market. Indeed, far from experiencing entry and expansion, there has been a decline in the number of small

and medium-sized enterprises (SMEs) participating in the market, and their collective share of market output.

5. A key part of our market study, therefore, is to investigate why these persistently poor market outcomes have arisen. Typically, there are three broad areas that we would consider in seeking to explain this sort of market outcome.
  - (a) First, despite increasing house prices, profit levels for building houses may be too low to attract more supply to the market, due to increasing costs to supply.
  - (b) Second, and separate to the profitability of housebuilders we are considering as part of our market study, market participants may be taking steps that limit supply in the market, particularly where this allows them to maintain higher prices and profits. This may be particularly the case where firms individually or collectively have market power, and may mean those wishing to enter the market, or expand within it, are prevented from doing so.
  - (c) Third, firms may face barriers to entering or expanding, which taken together prevent the market as a whole from expanding supply sufficiently to address the ongoing under-supply. Possible barriers to entry and expansion include things like limited availability of appropriately skilled labour, materials or access to finance, as well as regulatory and policy barriers, particularly the planning system.
6. Across our market study we are examining evidence to test the extent to which different explanations falling into these three categories can help us make sense of the way the new-build housebuilding market is working. The working papers that we have published today each cover an important potential explanation falling into the latter two categories. Taken together, the areas covered in the working papers will play a key role in determining our findings on the central question of what is causing the persistent under-delivery of housing in GB against government targets and other government-endorsed assessments of housing need.

## **Land banks working paper**

7. Our working paper on land banks considers an issue that has been claimed by some to represent a tool by which large housebuilders can influence market outcomes in their favour.
8. Land banks are portfolios of land that are held by certain types of public or private organisations. In the context of our market study, we are considering land held by housebuilders that is intended for residential housing development. Such land is classed as either 'short-term' - land that has some form of planning permission - or 'long-term' - land that does not yet have planning permission.

9. Holding land banks ensures a housebuilder has a forward pipeline of sites that have, or are likely to have, planning permission and are ready to build on when needed. A housebuilder's land bank influences and is influenced by a number of strategic choices, including their plans for growth, their efforts to increase profitability and expectations for future developments in the land and housebuilding markets. Housebuilders have also highlighted the planning system as an important driver of the need to hold land banks.
10. However, a number of stakeholders have voiced concerns, both prior to us commencing this market study and in the course of our engagement during the study, around the impact of housebuilders' land banks on the way the housebuilding market functions.
11. We are exploring a number of potential concerns in relation to land banks and their impact on the housebuilding market, including:
  - (a) Whether the widespread practice of holding land in land banks reduces the availability of developable land, and whether this may act as a barrier to entry or expansion;
  - (b) Whether there is concentration in certain local markets through the control of a significant proportion of developable land by a small number of housebuilders;
  - (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.
12. In our working paper, we set out the analysis we have carried out so far to investigate the size and makeup of the overall land banks held by the 11 largest housebuilders (covering a significant proportion of recent housebuilding activity and present across England, Scotland and Wales). Our analysis suggests that, as of 2022, the 11 largest housebuilders together own or control land equivalent to c.1.17m plots across England, Scotland and Wales. The quantum of land in long-term land banks is equivalent to c.658,000 plots, while the short-term land bank is smaller, at c.522,000 plots. We find in most local authority planning areas, several of these housebuilders are present – for example, in 230 LAs, at least three of these large housebuilders own or control short-term land.
13. We also set out our methodology for investigating whether there are local markets with levels of local concentration that may raise concerns. Applying this methodology to every local planning authority area in GB, we have identified 26 local areas where we wish to probe further.
14. We are inviting views from stakeholders on the approach and emerging findings set out in the working paper by 6 December and we will be having further

structured engagement with key industry participants. We will consider carefully all feedback we receive as we move towards our final report.

15. The evidence and analysis set out in this working paper does not, however, constitute the full range of work we are doing to consider the issue of land banks in the housebuilding market. We will bring this work together with other analytical strands in our final report, where we will give our overall view on:
  - (a) The extent to which the size and composition of land banks may be having adverse effects on market outcomes (in particular, the number and location of new houses being built);
  - (b) What is driving any problematic behaviour in relation to land banks; and
  - (c) What, if anything, needs to be done to address this.
16. As noted above, if we do find that land banks are having negative effects on outcomes in the market, one of the areas we will need to consider is the extent to which the nature of the planning system incentivises housebuilders to hold land banks of a particular size and make-up. In order to focus on the best ways to overcome any problems that land banks may be causing, it will be crucial to get a clear understanding of whether, and to what extent, behaviour around land banks is driven by companies seeking to deliberately manipulate market outcomes versus being a rational response to external circumstances, such as the nature and operation of the planning system.

## **Planning working paper**





17. In the second working paper we are publishing today, we consider the role of the planning system. The purpose of the planning system is to manage the amount and type of development that can take place to ensure that the need for housebuilding (and other forms of construction) is appropriately balanced with the preservation and promotion of other societal goals, such as environmental protection and the impact on existing local residents of the potential loss of amenity from new building. As such, it prevents, by design, some development that would have taken place, if the planning system did not exist. Given the role of the wider societal goals it seeks to protect, the planning system plays a fundamental role in attempting to deliver these societal outcomes.
18. Given the persistence of poor market outcomes, it is necessary to consider whether the design and operation of the planning system could be reformed in a way that would better support the aggregate level of housebuilding that policymakers are seeking to achieve whilst aligning with other societal goals. In particular, if having considered the other potential explanations for persistently low supply of new homes set out above, we conclude that applying all appropriate

actions to address any problems we see would still not lead to an acceptable level of housebuilding aligned with where the need for new homes is greatest, then it may be necessary for the UK government and devolved administrations in Scotland and Wales either to make changes to the planning system to achieve these, or accept that they will continue to remain unachieved, with the impact of this compounding over time.

19. As part of our market study, we have been exploring the planning system to:
  - (a) Assess the extent to which different aspects of the planning system are influencing outcomes in the housebuilding market;
  - (b) Map the landscape of policy options that could be pursued with the aim of supporting improved market outcomes; and
  - (c) Set out the wider policy trade-offs that pursuing these options would entail.
20. The planning working paper we are publishing today sets out our emerging thinking on the impact of the planning system on housebuilding market outcomes, and potential options for reforming it in ways that may improve market outcomes. The purpose of this working paper is to present our thinking in relation to these issues and seek views from stakeholders in relation to the accuracy and comprehensiveness of our analysis, including whether we have accurately reflected the distinct situations in England, Scotland, and Wales.
21. Many aspects of the design and operation of the planning system are the result of trade-offs being made with other important objectives, including decisions around the nature of environmental protections, societal and aesthetic considerations about the availability of green space across England, Scotland and Wales, the extent to which local views are taken into account and the allocation of public funding, all of which are outside the CMA's focus on markets. We are not, therefore, proposing to make specific recommendations on how these trade-offs ought to be determined. These decisions are rightly for elected representatives to determine via the political process.
22. Our intention has been instead to gather and analyse evidence about the housebuilding market which will enable us to map the range of policy options that could be considered to reform the planning system in support of better market outcomes. Our aim in doing so is to provide policymakers with a stronger understanding of the range and likely market outcomes of the different policy options open to them in this space, rather than to advocate for any of these options in particular. If we were to identify any options for improving the planning system that did not involve any significant trade-off with wider objectives, we would of course consider whether it would be appropriate to make firm recommendations in relation to them.



23. In the working paper, we first provide evidence noting that the GB housebuilding market has consistently failed to deliver sufficient housing – and sufficient planning approvals to deliver sufficient housing – to meet government targets and other government-endorsed assessments of housing need. We then go on to set out three key emerging concerns with the planning system which may be limiting its ability to support the level of new housing that policymakers believe is needed:
- (a) Lack of predictability;
  - (b) Cost, length and complexity of the planning process; and
  - (c) Insufficient clarity of incentives.
24. We consider each of these in turn, before considering how any problems in the planning system may be having a disproportionate impact on SME housebuilders.
25. In the final section of the working paper, we set out our emerging thinking on how we could map the policy options that could be taken to address the potential emerging concerns we see in relation to the planning system though, as noted above, we do not seek to make recommendations where doing so would involve making significant trade-offs with wider policy objectives that are beyond the CMA's remit. An outline of our initial policy mapping is set out below.

		Principles			
Options		Predictability	Efficiency	Incentives	Level playing field for SMEs
Short-term	 <b>Support for SMEs</b> Greater government & LPA support to SMEs to navigate the planning process		✓		✓
	 <b>Planning fees</b> Planning fees set to cover costs and hypothecated for planning departments	✓	✓	✓	
Medium-term	 <b>Defined consultees</b> LPAs only <u>have to</u> consult with defined consultees		✓		
	 <b>Consultee deadline</b> LPAs only required to consider statutory consultees' views if on time	✓	✓		
Long-term	 <b>Objective target setting</b> National housebuilding target set in an effective way that better reflects need		✓	✓	
	 <b>Local plan enforcement</b> LPAs monitored so local plans are up to date and accurately reflect the national target	✓		✓	✓
	 <b>Rules-based system</b> Streamlined planning with a more rules-based system and reduced discretionary decision-making	✓	✓		✓

26. We are seeking views from stakeholders on our analysis of the issues relevant to the planning system's impacts on housebuilding market outcomes, and the completeness, impact and feasibility of the options we set out in our policy mapping.

## Moving towards our final report

27. Taken together, the two working papers published today set out to examine two potential sources of explanations for a central question: why does the housebuilding market consistently deliver fewer houses than policymakers assess are needed? In the final report, we will bring together all our analysis to give our best answer to this question, as well as the implications that this answer has for the best approach to addressing it.

28. More broadly, in our final report:
- (a) We will set out our conclusions on how well the market for new-build housing is working for consumers, considering the quantity and location of new-build housing, the quality of that housing and the level of profits being earned by housebuilders, as well as related consumer issues such as estate management arrangements;
  - (b) Where we see problems in the outputs the market is delivering, we will give our view on the causes of these negative outcomes;
  - (c) Finally, we will offer our views on what steps should or could be taken to tackle these drivers of negative market outcomes, including confirming whether or not we will proceed with making a market investigation reference.
29. We will publish our final report by the statutory deadline of 27 February 2024.