

Summary of CMA market study final report into housebuilding Scotland summary

26 February 2024

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The Competition and Markets Authority has excluded from this published version of the market study report information which it considers should be excluded having regard to the three considerations set out in section 244 of the Enterprise Act 2002 (specified information: considerations relevant to disclosure). The omissions are indicated by [X]. [Some numbers have been replaced by a range. These are shown in square brackets.] [Non-sensitive wording is also indicated in square brackets]

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Summary

Background

1. The CMA launched its housebuilding market study on 28 February 2023. In our Statement of Scope, we set out that the study would consider the supply of new homes to consumers in England, Scotland and Wales. Given differences in the structure and functioning of the housebuilding sector in Northern Ireland (NI), we considered that NI was unlikely to face the same market or supply-side issues as the rest of the UK; we therefore excluded NI from the scope of the market study.
2. We followed this with an update report in August 2023, and working papers on each of the private management of public amenities on housing estates, land banks, and planning, in November 2023. We are now publishing our final report. This document provides a summary of that report, with a specific focus on Scotland.
3. Housebuilding has, in some form, been at the forefront of UK government policy since the end of the Second World War and has been closely scrutinised in numerous research papers and reviews by academics and others. While government policy, both at the GB level and - since devolution - at the Scottish Government level, has been an important driver of the availability of adequate housing, the economic environment, demographics and other factors have had a large influence on market outcomes. However, across Great Britain the amount of housing built has been below government targets and assessments of need, and this under-delivery has contributed to increasing pressures on affordability.
4. The Secretary of State for the Department of Levelling Up, Housing and Communities (DLUHC) wrote to the CMA in 2022 supporting a study into the housebuilding sector, highlighting the importance of ensuring that the housebuilding market is working in the best interests of consumers. The CMA received further calls from members of parliament and industry bodies to carry out a review of the market.
5. Taking these views into account, and applying our prioritisation principles, the CMA Board decided that it would be timely to launch a market study into housebuilding in England, Scotland, and Wales.
6. While we have excluded Northern Ireland from the scope of our study, we note that many of the lessons learned in relation to Great Britain may be of relevance, and we would be happy to explore these further with NI policymakers.

Market study approach

7. In the market study we have first examined the overall nature of the market, including the factors that determine what homes are built, the key players in the market, and the market shares of private housebuilders.
8. We have then considered the outcomes being produced by the housing market and where they may be falling short of what we would expect to see if the market was working well. This includes the quantity and affordability of housing being produced, the profitability of housebuilders and the wider experiences of purchasers of new homes.
9. Where we have found problems in the market, we have then examined the potential drivers of problems in the market. This includes the nature of the planning system, the operation of the land market, and the incentives and behaviour of housebuilders. This has allowed us to identify areas where action is required to rectify the problems we have identified.
10. Finally, we have set out a range of actions to address these. These fall into three broad categories:
 - Where the problems fall clearly within the operation of the market we offer firm recommendations to the Scottish Government for actions it should take to address these.
 - Where there are complex interactions with wider policy aims, which are not for the CMA to resolve – as is the case with the planning system – we offer options for the Scottish Government to consider.
 - Where there are more fundamental actions that policymakers could take that would affect housing market outcomes, but these have wider implications beyond the scope of this study, we note how the Scottish Government may wish to take these interactions into account, but do not offer recommendations or set out specific policy options.
11. Where we have made recommendations to the UK government that cover the whole of Great Britain, we have recommended that this is taken forward in consultation with the Welsh Government and the Scottish Government.
12. While high-level housing market outcomes – particularly the quantity of housing built and its affordability – are heavily affected by wider factors (eg interest rates or demographic change), the measures we set out would, if adopted, support the housebuilding market in Scotland working more effectively to deliver good outcomes, regardless of the external circumstances.

13. In the remainder of this executive summary, we set out the high-level findings of our study.

Market overview

14. Housebuilding in Scotland involves developers identifying a desired location, acquiring land, and navigating a legislative and regulatory framework in order to construct a home and bring it to market.
15. The majority of new homes in Scotland are delivered through the ‘speculative model’ of housebuilding (over 50% in 2021-22), whereby housebuilders buy land in advance of the construction and sale of homes, for profit, and without knowing the final price at which they will sell the homes.
16. More than a third of homes in Scotland, meanwhile, are built on an affordable housing basis (c.45% in 2021-22), meaning they are sold or rented at a discount to market price. The construction of these homes is typically either funded and procured by a public body, local government, or registered housing provider, or provided by housebuilders via planning obligations. Scotland builds a higher proportion of affordable housing, compared to speculative housing, compared to England.
17. The largest 11 housebuilders provide a significant proportion of new homes built in Great Britain (around 40% in 2021-22), operating mainly, but not exclusively, through the speculative model. Large housebuilders develop a range of sites, whether greenfield or brownfield, rural or urban, with a wide geographic spread, although they tend to focus on larger developments.
18. Our analysis suggests there are currently thousands of SME housebuilders in England, Scotland, and Wales, who according to our data are building in excess of 50,000 houses in total each year. SME housebuilders also cover a range of sites but tend to focus on smaller developments. The number of SME housebuilders is reported to have fallen significantly since the late 1980s.
19. Landowners, intermediaries who support transactions between landowners and housebuilders, providers of warranties for new homes, and estate management companies also play an important role in the market.
20. Housing policy is a devolved matter. The Scottish Government has policy responsibility for the range of areas within housing policy in Scotland.
21. Local government plays an important role, with Local Planning Authorities (LPAs) leading planning activities and decisions in local areas and, in some cases, bringing forward social housing.

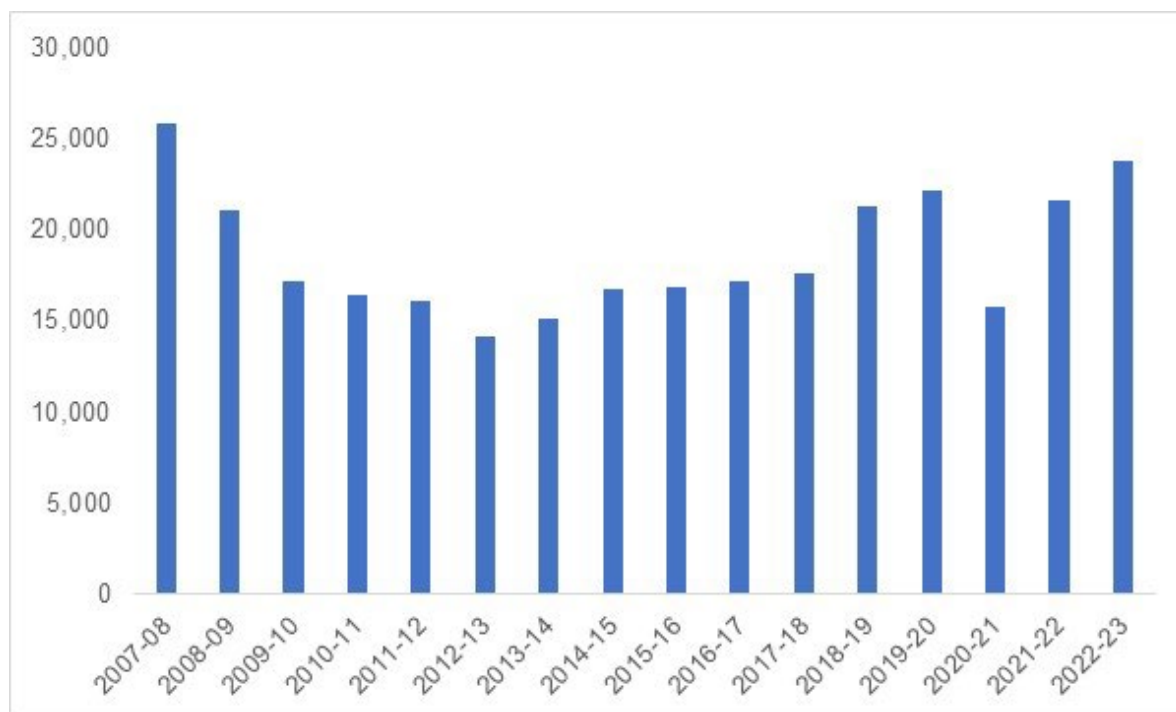
Market outcomes

22. Overall, the housebuilding market is not delivering well for consumers and has consistently failed to do so over successive decades. During our study we have seen a number of areas where outcomes are falling well short of what we would expect if the market were working well.

Supply of new homes

23. Most importantly, too few houses are being built, especially in the areas in which they are most needed, which is having a negative effect on affordability.
24. The Scottish Government has not set out a national, all-tenure housebuilding target. However, LPAs must set out their Local Housing Land Requirement for the area they cover, which is expected to exceed the 10-year Minimum All Tenure Housing Land Requirement (MATHLR). The sum of the MATHLR targets set out in Annex E of the National Planning Framework 4 equates to land for 20,000 homes per year.¹

Figure 1 New homes built in Scotland 2007-08 to 2022-23



Source: [Housing statistics quarterly update: new housebuilding and affordable housing supply - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/housing-statistics-quarterly-update/new-housebuilding-and-affordable-housing-supply/pages/10.aspx)

25. As Figure 1, above, shows, in Scotland, it has taken some time for the level of new build completions to return to close to pre-2008 levels (which exceeded 25,000) and are still somewhat short of this at 21,000 in 2021-22. While in some recent years levels of completions have been just above 20,000, over a 10-year period

¹ National Planning Framework 4 - gov.scot (www.gov.scot)

(2012-13 to 2021-22) completions were below this, averaging approximately 17,800.

26. However, we note that Scotland has come closer to meeting its implied target levels than England and Wales in recent years. Below the national level there is important variation. Within Scotland, over the last 5 years, in 7 out of 33 LPAs (21%) housing completions were equivalent to 75% or less of their MATHLR assessment of local need, while in 18 LPAs (55%) housing completions were in excess of 100% of this. The LPAs scoring below 75% included the most densely populated conurbations in Scotland – Edinburgh and Glasgow.²

Housebuilder profitability

27. Given the largest housebuilders operating in Scotland have operations across GB, we have assessed their profitability at the GB-level. We have found that the profitability of the 11 largest housebuilders has been generally higher than we would expect in a well-functioning market during those periods outside the Global Financial Crisis and its immediate aftermath. Profits in the period from 2013 to 2019 were particularly high. However, we do not take this to indicate that intervention is required to tackle this level of profitability directly, because:

- The housing market is highly cyclical and impacted by external factors, including the wider economic climate.
- Profitability during the 2010s is likely to have been boosted by supportive economic circumstances and temporary factors that are no longer in evidence, in particular a prolonged period of low interest rates and the Help to Buy schemes' support for first-time buyers.
- There was significant variation in the performance of individual large housebuilders in our sample.

28. Given the points above, there is a risk that any measures seeking to directly reduce housebuilder profitability may create an additional downward pressure on the number of houses being built, exacerbating the supply problems that have characterised this market over a long period.

Quality and innovation

29. Looking at quality and customer satisfaction, we found that some purchasers of new homes face problems in relation to the prevalence of defects, and the effectiveness with which they are rectified. Although buyers' reported satisfaction is generally high at 8 weeks after legal completion, there is some evidence that

² CMA analysis of data provided by the Scottish Government.

customers' perceptions of the quality of service they had received (or in some cases were still receiving) deteriorated as they lived in their homes for longer. In particular, where consumers experience a greater number of snags or faults it can be more difficult to resolve them, taking weeks or even months. It also appears that there is a small but significant minority experiencing the most serious defects, who are likely to experience significant consumer detriment.

30. Levels of innovation in the industry are lower than we might expect in a dynamic, well-functioning market. Although many of the largest builders have invested in, acquired, or developed their own more innovative production capacity, the dissemination of these new methods continues to happen at a slow pace. Efforts at improving sustainability are primarily driven by expectations of future regulation, rather than industry momentum.

Private management of amenities on housing estates

31. Finally, we have identified significant consumer detriment arising from the private management of public amenities on housing estates. We conclude that, as a result of the proliferation of this model, households face detriment in the form of:
 - the charges they pay,
 - the quality of amenities available to them,
 - the quality of management services they receive,
 - the potential for disproportionate sanctions to be applied for outstanding charges under the Law of Property Act 1925, and
 - the significant efforts that households sometimes have to make to achieve a satisfactory outcome.

We consider that if the status quo is maintained, aggregate detriment is likely to worsen over time.

Drivers of market outcomes

32. We have investigated the key drivers of these poor outcomes in the market and the role of competition. The number of houses being built and their affordability are propelled by two key drivers: the nature and operation of the planning system and the limited amount of housing being built outside the speculative approach (such as affordable housing, self-build, and build-to-rent). The level of build-out rates is an additional factor.
33. Beyond these high-level factors, we find that there is weak competitive pressure in the market to drive consistently high levels of quality and innovation, and to deliver

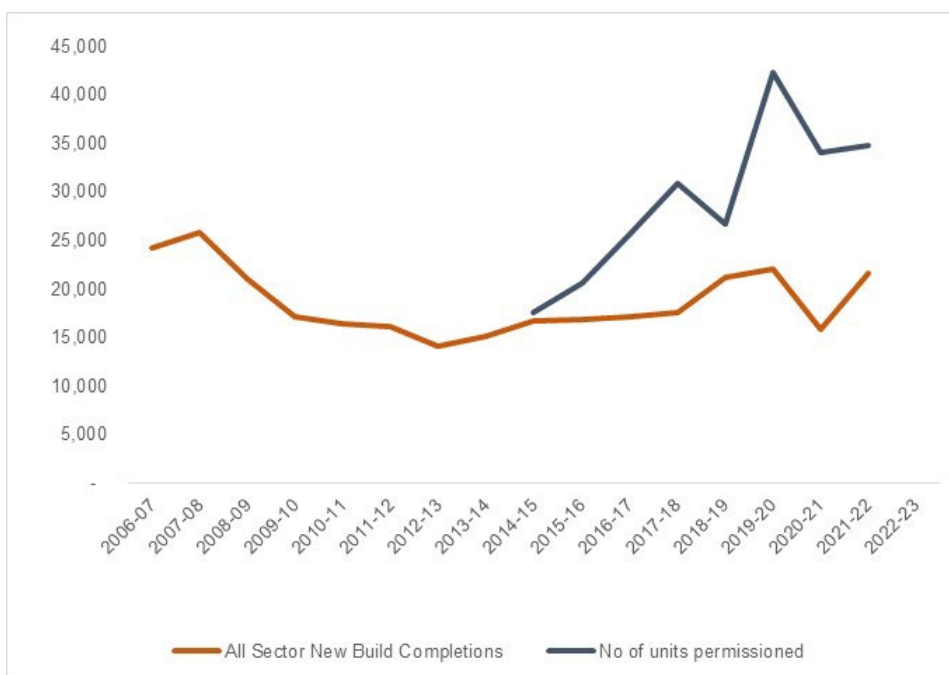
appropriate outcomes from the private management of amenities on new build estates.

34. We set out our reasoning for these findings in the remainder of this section.

Planning

35. A prior condition for building houses is having permission to build them. We have found that the planning system is exerting a significant downward pressure on the overall number of planning permissions being granted across Great Britain. In Scotland, however, the number of homes given planning permission has increased significantly above the level of completions and assessed overall housing need since 2014-15, as can be seen in Figure 2.

Figure 2 New build completions and units given planning permission in Scotland



Sources: [HPL_REPORT_2022_Q3_HG_DRAFT_3.pdf \(hbf.co.uk\)](#); [Housing statistics quarterly update: new housebuilding and affordable housing supply - gov.scot \(www.gov.scot\)](#).

36. Since 2014-15 the average number of homes given planning permission annually was 29,000, significantly in excess of the sum of LPA land supply targets although this varies substantially on a year-by-year basis. If this is sustained, it may feed through into an increased number of housing completions in the coming years.

37. Notwithstanding the relatively strong performance of the Scottish planning system within the GB-context, we have seen evidence of three key concerns with the planning system which we consider are limiting its ability to support the level of housebuilding that policymakers believe is needed:

(a) Lack of predictability;

- (b) Length, cost, and complexity of the planning process; and
- (c) Insufficient clarity, consistency and strength of Local Planning Authority (LPA) targets, objectives, and incentives to meet housing need.

We have also seen evidence that problems in the planning systems may be having a disproportionate impact on SME housebuilders.

- 38. Our planning working paper asked for input on whether there were any issues specific to the Scottish planning system (as opposed to the English and Welsh systems), that would have a particular impact on the cost and length of the planning process. Respondents highlighted lower land values making the impact of costs more prominent, an extended statutory pre-application process and a focus on affordable housing.
- 39. We therefore conclude that the nature and operation of the planning system is a key driver of the under-delivery of new housing.

Land market and land banks

- 40. We have considered the extent to which access to land presents a barrier to delivering new houses, either for specific parties or in general. We have found there is land that is potentially available for development in most areas, although this is more constrained in certain areas such as in major built-up areas like Edinburgh, Glasgow and Aberdeen. However, how much of this land is available on the market at any time will depend on landowners' assessment as to when and if it makes sense to try to sell. While SME housebuilders may face some disadvantages in being able to secure land, we have found that many different types of market participants can get access to land, and a significant proportion of land is made available for purchase via a competitive process.
- 41. We have also considered whether the land banks held by housebuilders distort the market, by making it difficult for others to identify and secure land or allow them to dominate housing delivery in particular areas. We found that in Scotland landbanks held by the 11 largest GB housebuilders totalled 107,000 plots, made up of c.67,000 long-term plots and c.40,000 short-term plots. Given our understanding of the features of the planning system, while large housebuilders hold large amounts of land in absolute terms, they do not appear to hold onto this land without attempting to develop it for an amount of time that is disproportionate. We have also not found there to be widespread market concentration in land holdings in particular LPA areas and therefore it does not appear that a small number of housebuilders will have an unassailable competitive position in particular areas for many years to come.

42. Overall, we do not consider that competition in the land market, or the land banks held by different housebuilders individually or in aggregate either locally or nationally, is significantly distorting competition between housebuilders in delivering houses. While it is likely that the amount of land being held in housebuilders' land banks is above the level we would see in a well-functioning market, this is primarily a symptom of wider problems in the market, mainly driven by the time and uncertainty associated with obtaining planning permission. Artificially reducing the levels of land banks without addressing these underlying drivers would be most likely to have a negative effect on the amount of housing that is being built.
43. However, this does not mean that the market is necessarily achieving good outcomes for consumers. On the contrary, we have concluded that there are limits to how far the competitive process can be expected to deliver good outcomes, given the constraints and incentives faced by builders.

Housebuilders' incentives to supply new homes

44. Housing availability and conditions can influence socially important factors such as health outcomes, educational attainment, and productivity. As such, ensuring there is sufficient housing to meet the needs of the population is an important government priority. However, housing need differs from housing demand. While housing demand is determined by the number of people or organisations willing and financially able to buy a property, either as a home, second home, or investment property, housing need is determined by the amount of housing required for all households to live in accommodation that meets a certain prescribed standard (which irreducibly involves political judgement as to the acceptable standard).
45. Private sector housebuilders are likely to be more focused on building homes to meet demand rather than need, as demand will determine what and how much they can sell. As a consequence, the number of houses that housebuilders are likely to build is likely to:
- (a) Vary according to the business cycle, with housing output strongly correlated with changes in macroeconomic outlook. This contrasts with need, which is likely to be more stable in the short term, although fluctuating in the long term with changes in factors such as population growth and household size and composition.
 - (b) Under-deliver housing relative to the socially desirable level, as the wider benefits of adequate housing are not captured by housebuilders (or other market actors). There may also be a disconnect in the types of homes housebuilders are incentivised to build; housebuilders may have less incentive to provide housing aimed at consumers on low incomes, for

example, even though improving the housing situation of these individuals may have the greatest impact on wider societal benefits.

46. We note that the Scottish Government, in contrast to in England, has a national target for new build affordable homes. During the last parliamentary term (May 2016 to May 2021), the Scottish Government adopted a target of delivering 50,000 affordable homes. It has since adopted a target of delivering 110,000 affordable homes, of which at least 70 per cent will be for social rent and 10 per cent will be in rural and island communities, by 2032. Scotland is also delivering a higher percentage of affordable homes than England (c.40% versus 30%).

Build-out rates and information-sharing

47. In terms of how quickly housing is built and the price at which it is sold, instead of building houses as quickly as possible, a range of evidence shows housebuilders tend to build them at a rate that is consistent with the local absorption rates, ie, the rate at which houses can be sold without needing to reduce their prices.
- (a) The extent to which housebuilders can expand their supply in a local area is inherently limited by the extent to which they can get hold of further land with planning permission in the area. As a result, the effect of lowering their prices is more likely to bring sales forward in time, rather than increase their overall sales over the medium term; therefore, doing this will rarely be a profit-maximising strategy for housebuilders. Given that it is costly for housebuilders to have capital tied up in finished, unsold homes, they are incentivised to control their build-out rate to a level that maintains selling prices.
- (b) Builders' incentives to pursue the strategy of maximising sales prices are reinforced by the way they compete to purchase developable land. Most land is bought under the residual valuation model, meaning that when housebuilders bid for land, they offer a price that is affordable based on their estimate of the value of the homes they can build on it. Given the competition we observe for land, housebuilders must offer the highest possible price to secure it. With all housebuilders subject to the same market forces, this further incentivises housebuilders to build out at a rate that supports high prices, rather than (outside of a housing market downturn) reducing prices to increase the volume they can sell.
48. We have also seen evidence suggesting that some housebuilders may be sharing non-public information on sales prices, incentives, and rates of sale. The sharing of commercially sensitive information has the potential to weaken competition between housebuilders by reducing strategic uncertainty in the market and influencing housebuilders' commercial decisions, including on output or prices. Housebuilders may find it mutually beneficial to share this information because it

helps to provide greater certainty about rivals' current market prices (including any incentives they provide) and sales rates and this potentially could influence the prices at which they bid for land and/or their own decisions about the current levels of pricing, sales rates, and build-out rates.

49. We are concerned that any sharing by housebuilders of non-public information of this kind may have the object or effect of preventing, restricting or distorting competition. While we do not consider this behaviour to be one of the main factors in the persistent under-delivery of the market against government targets and assessed need (and, therefore, in contributing significantly to increasing affordability pressures at a market-wide level), we do consider that it may weaken competition in the market. In light of these concerns, we have decided to launch an investigation into this suspected conduct under the Competition Act 1998.

Quality and innovation

50. Turning to quality outcomes, our consumer research, supported by other evidence, suggests a range of limitations in how far competition drives quality.
- (a) Consumers are limited in the attention they give to quality over other factors, such as location, availability, and price.
 - (b) Consumers only have limited information available on quality when making purchase decisions. In particular, the main information available on a systematic basis across builders is from the Home Builders Federation Star Rating Scheme, which is based on only one "yes/no" indicator from a wider survey and which builders opt-in to sharing.
51. Once a new home has been purchased, consumers are generally able to get housebuilders to resolve issues with their home for two years, after which they are likely to be protected by their warranty. However, housebuilders can be reluctant to resolve problems where this is costly, for example, when there are many issues, or the issues are more serious. We do not consider that redress routes are sufficiently clear and comprehensive to offer effective consumer protection, despite improvements since the OFT's 2008 Housebuilding Market Study.
52. In terms of innovation, our evidence indicates that take-up of modern construction methods has been slow, largely due to high upfront costs, even where these are expected to reduce costs over time, and the need for multiple stakeholders (including local authorities, lenders, and warranty providers) to buy into take-up. The key drivers for innovation in energy efficiency have predominantly been government intervention through regulation, stewardship, and funding rather than competition.

53. These are not issues which can be solved through simply trying to increase the number of housebuilders competing, either in aggregate or at the local level. As we have seen, concentration is already low relative to many other markets, but while we have identified a number of barriers to entry and expansion, it is not obvious that reducing these would fix the issues we have identified: we do not observe systematic differences in the quality provided by housebuilders of different sizes, and while reducing barriers could expand output to some degree, it is unlikely it would expand output to the level required to meet national targets. Small housebuilders are likely to respond to the same incentives in terms of maximising profits and so would not be able to - or necessarily seek to - increase output to socially optimal levels.

Private management of amenities on housing estates

54. We have also observed a growing trend towards private management of public amenities on housing estates. These arrangements often come with inadequate protections for consumers and create significant detriment for households over an extended period. These raise a number of concerns from the perspective of consumers:
- (a) Homebuyers may be poorly informed about important details about those arrangements and their long-term implications.
 - (b) Unadopted amenities may not be constructed to an acceptable quality or may not be maintained to a satisfactory standard by the management company. Homebuyers attempting to resolve issues may face poor levels of customer service. It may also be unclear who is responsible for maintenance.
 - (c) It is often very difficult for residents to switch management companies and, in some cases, there appears to be no feasible way for them to do this.
 - (d) Bills can be large, with a high proportion relating to administration or management fees, and future bills unpredictable and potentially very high as amenities degrade over time.
55. The root cause of detriment for such households is the reduction in levels of adoption, meaning that homeowners end up paying for amenities which are used by the public. This has resulted in a proliferation of private management arrangements in which estate management companies may possess significant market power and face limited competitive constraints to deliver services at a reasonable price or to an acceptable level of quality.

Conclusion

56. In our view, intervention is required to:

- (a) improve quality and redress routes for consumers;
- (b) address the increasing prevalence of private estate management arrangements and the negative effects this can have;
- (c) improve the planning system to counteract the time, expense, and uncertainty associated with negotiating it and the effect this has on the number of planning permissions sought and granted each year; and
- (d) deliver the number of homes required to meet targets which go beyond the level private housebuilders have an incentive to provide.

Addressing the problems we have found

57. We would like to see a housebuilding market that delivers:
- (a) more homes overall, and particularly in the areas of highest demand, in turn reducing pressure on affordability;
 - (b) consistently better outcomes on new build quality, with consumers having an effective route to redress; and
 - (c) reduced detriment to consumers arising from the private management of amenities on new build estates.
58. With these outcomes in mind and in considering how to effectively address the problems we have found, we are conscious of several factors in this market that shape the way in which we, as an independent competition and consumer agency, should seek to support achieving this vision:
- (a) The outcomes of the housing market – the number and location of new homes built, and their affordability – are significantly impacted by factors outside the market itself, including interest rates, levels of household formation and population growth, and levels of household income.
 - (b) One of the main drivers of these outcomes, the planning system, is specifically intended to enable local and national decision-makers to trade off their delivery of new homes against other important policy objectives, many of which are fundamentally a matter for governments.
 - (c) The question of what would constitute acceptable outcomes in this market, set against the wider trade-offs required to get there, reflects wider political choices which is a matter for governments.
59. Taking these factors into account, we intend to address the problems we have found as follows:

- (a) We are making **recommendations to governments** in those areas where we see opportunities to improve market outcomes within the current broad market framework and which do not involve significant trade-offs with other policy objectives which are outside the scope of the CMA's study and which would involve wider political choices, specifically:
- (i) The private management of public amenities on housing estates. We have observed a growing trend towards the private management model and that these arrangements often come with inadequate protection and create significant detriment for consumers. Our recommendations to the Scottish Government are aimed at preventing the proliferation of private management arrangements on new housing estates and providing greater protection to households living under private management arrangements. We also invite the Scottish Government to consider options to support the adoption of public amenities on estates currently under private management arrangements; and
 - (ii) The quality of new homes and the service provided by housebuilders, alongside the ability of consumers to access appropriate redress when this is not satisfactory. We have found concerns with the quality of customer service received by some consumers, and the difficulties some consumers face regarding the customisation of their properties and with resolving snags or faults. Our recommendations to the Scottish Government are aimed at ensuring all housebuilders are held to a consistent set of quality standards, which are met and maintained, and that consumers are able to determine the true price of their new home.
- (b) In relation to the planning systems, we have found that there is a lack of predictability for housebuilders when navigating the system, the process is significantly costly, lengthy and complex, and there are mixed and inconsistent incentives for LPAs to meet housing need. Given the wider policy trade-offs and complexities that are inherent in their design and operation, we do not consider it appropriate for the CMA to make specific recommendations to governments about how those trade-offs should be made. However, given the vital role that the planning systems play in shaping market outcomes, we have set out our **proposed options for consideration** which could reform the planning systems in a way that make them more predictable and less costly, lengthy and complex for housebuilders. In deciding whether to take some or all of these options forward, it will be for the Scottish Government to consider whether the trade-offs with wider policy objectives are worth making, in the context of their overall objectives for the housing market.
- (c) We consider that the proposals we have set out in (a) and (b) above will improve outcomes in the housebuilding market. However, even if

policymakers make the changes we have proposed, the market may still not deliver the quantity of homes, supporting a level of affordability, that policymakers find acceptable. Therefore, we also identify some **more fundamental interventions** that go beyond the way in which the housing market itself works but would have a significant impact on the quantity and affordability of new homes being built. While it is not for the CMA to offer recommendations or specific policy proposals in this space, we highlight them given their relevance to the housebuilding market.

60. Across all of our recommendations and other proposed interventions, we consider it more appropriate for the Scottish Government (alongside the UK and Welsh governments), rather than the CMA, to take these proposals forward, because these proposals will need to be considered in the context of other policy issues and the governments' overall objectives for the housing market.
61. We summarise our proposals in relation to Scotland below. Where we are making recommendations to the Scottish Government specifically, in each case we are also making equivalent recommendations to the UK and Welsh governments.

Summary of proposals - Recommendations to the Scottish Government

Private management of public amenities on housing estates

Preventing the proliferation of private management arrangements on new housing estates

Recommendation 1.1: Common adoptable standards

- We recommend that the Scottish Government implements common adoptable standards for public amenities on new housing estates.

Recommendation 1.2: Mandatory adoption

- We recommend that the Scottish Government implements mandatory adoption of public amenities on new housing estates (outside of minor, well-defined exceptions).

Providing greater protection to households living under private management arrangements

Recommendation 1.3: Enhanced consumer protection measures

- We recommend that the UK government, in consultation with the Welsh Government, and the Scottish Government, introduce enhanced consumer protection measures, underpinned by a robust enforcement regime, for households living under private management arrangements.

Recommendation 1.4: Prohibition of new embedded management arrangements

- We recommend that the Scottish Government prohibits the establishment of new embedded management arrangements.

Recommendation 1.5: Guidance for residents' management companies

- We recommend that the Scottish Government provides guidance to members and directors of residents' management companies to support and enable them in effectively managing the amenities on their housing estates.

Quality of new homes produced and service provided by housebuilders

A single mandatory consumer code and the New Homes Ombudsman Scheme

Recommendation 2.1: A single mandatory consumer code

- We recommend that the UK government, in consultation with the Scottish and Welsh Governments, develops and approves a single mandatory consumer code for all housebuilders operating in GB.

Recommendation 2.2: New Homes Ombudsman Scheme

- We recommend that the UK government, in consultation with the Scottish and Welsh Governments, activates the New Homes Ombudsman Scheme.

Eliminating drip pricing and providing greater clarity to buyers regarding the true cost of their new home

Recommendation 2.3: Prohibition of drip pricing

- We recommend that the UK government, in consultation with the Scottish and Welsh Governments, establishes a specific banned practice on the drip pricing of all mandatory elements of a new home, as well as other charges that are presented as 'optional' but which it is reasonably foreseeable that most consumers would have to pay, even if others could avoid them.

Recommendation 2.4: Disclosure of optional extras

- We recommend that the UK government, in consultation with the Scottish and Welsh Governments, requires that where housebuilders present consumers with genuinely optional extras as a part of the purchasing process, these optional extras and their prices are prominently and fully disclosed alongside the headline price.

Developing an independent single consumer satisfaction survey and publishing key quality metrics

Recommendation 2.5: Single consumer satisfaction survey

- We recommend that the UK government, in consultation with the Scottish and Welsh Governments, requires an independent body to develop, maintain and undertake a single consumer satisfaction survey on the quality of new homes and the service provided by all housebuilders.

Recommendation 2.6: Publishing key quality metrics

- We recommend that the UK government, in consultation with the Scottish and Welsh Governments, requires housebuilders to participate in the survey, display their key quality metrics to consumers, and share this information with an independent body for public dissemination.

Summary of proposals - Options for consideration

Private management of public amenities on housing estates

Adoption of public amenities on housing estates currently under private management

Option 1.1: The Scottish Government should consider options to support the adoption of public amenities on estates currently under private management arrangements.

Reforming the planning systems

The Scottish Government should consider the following options for reforming the planning system.

Reforming the planning system

Option 2.1: More objective and effective use of targets to ensure housing need is met.

Option 2.2: Effective monitoring and enforcement of local plans to encourage housebuilders to bring forward successful planning applications and build new houses.

Option 2.3: Streamlining the planning system to significantly increase the ability of housebuilders to begin work on new projects sooner and bring forward marginal projects which may have previously been non-viable due to the costs of taking them forward.

Improving the planning process

Option 2.4: Clearly defining and rationalising statutory consultees to reduce the delay caused by the statutory consultation process.

Option 2.5: Effective monitoring and enforcement of deadlines for statutory consultees so as not to unnecessarily delay the planning process.

Measures to support reforms to the planning system and process

Option 2.6: Improving LPA capacity and resource by raising planning fees to a cost-reflective level and ringfencing those fees.

Option 2.7: Additional support for SME housebuilders through better guidance, standardised LPA policy and a simpler 'outline' stage of planning permission.

Measures to support a higher build-out rate

Option 2.8: LPAs could require greater diversity of housing tenure for larger sites to be granted planning permission.

Option 2.9: LPAs could be incentivised by governments to increase the number of homes that are delivered through smaller sites.

Option 2.10: LPAs could require housebuilders to increase the diversity of the types of homes they build on larger sites.

62. We consider that our recommendations in respect of the private management of public amenities on housing estates and the quality of new homes produced and service provided by housebuilders, as well as our proposed options for reforming the planning systems, will improve outcomes in the housebuilding market. If our proposals are taken forward by the Scottish Government, we would expect to see the quality of homes increase; a reduction in the prevalence of private estate management arrangements and the resulting detriment for households subject to these arrangements; and more homes built, including in areas of high demand, placing a downward pressure on affordability concerns over the longer term.
63. However, even if policymakers make the changes we have proposed, while this would support improved market outcomes, the market may still fall short of delivering the quantity of homes, supporting a level of affordability, that policymakers find acceptable. This is because:
- (a) market outcomes are heavily influenced by external factors, such as interest rates, mortgage availability, the rate of new household formation, demographic change and the level of household incomes; and
 - (b) market cyclical and the speculative housebuilding model means that private housebuilders do not collectively have the necessary incentives to build houses at the rate required to meet policymakers' objectives.
64. In this situation, it is open to policymakers to deliver change through more fundamental interventions, often with fiscal and policy implications, that go beyond the way in which the market itself works but would have a significant impact on the quality and affordability of new homes being built. While it is not for the CMA to

offer recommendations or specific policy proposals in this space, we have set out these areas of potential intervention, as without them our analysis of this market and the potential outputs it can deliver would remain incomplete.

65. First, as we have noted, under the speculative model of housebuilding, housebuilders that build homes for private sale have an incentive to match, but not exceed, the absorption rate. One way of addressing this would be to encourage non-speculative housebuilding models including self- or custom-build homes. Even with more non-speculative housebuilding, though, it is our view that the private market is unlikely, on its own initiative, to produce sufficient housing to meet optimal housing need once the wider benefits of housing to society are considered. While we have noted the Scottish Government's national target for affordable housing, and the higher proportion of affordable housing being built in Scotland compared to England, this may still be insufficient to meet overall housing need, particularly in periods of cyclical downturn in private housebuilding. The Scottish Government could therefore look to increase their delivery of publicly-funded housing by local authorities or housing associations. These approaches could supplement the absolute number of houses provided by private sector housebuilders, whilst incentivising housebuilders of these types of homes to deliver homes at a faster rate than under the speculative model.
66. Second, if policymakers are concerned that our proposed options to increase the build-out rate through reforming the planning system will not drive a significant increase in housing, the Scottish Government may wish to consider reforming the land market or building on existing measures to further support increasing build-out rates. For instance, the Scottish Government could consider a more active role for the public sector in the purchase and assembly of land for development. Alternatively, across Scotland, expectations of higher build-out rates could be reflected in national planning policy and in local plans, and LPAs could set the build-out rate it expects housebuilders to achieve. The Scottish Government could also consider providing LPAs with greater enforcement powers where housebuilders do not meet the required build-out rate.
67. Third, if the Scottish Government wishes to consider measures to increase demand, it should have regard to the following principles:
 - (a) Stimulating demand without addressing the shortage in supply may cause house prices to rise. Therefore, implementing measures that increase supply would be needed to mitigate the risk that the gains from demand-side interventions accrue primarily to housebuilders and other sellers rather than buyers.
 - (b) Measures that seek to stimulate demand among certain groups of customers reduce the incentives on housebuilders to reduce their prices to attract those customers or to attract other customers. Any intervention should therefore be

carefully designed to target those potential purchasers who would not otherwise be able to purchase a home.

- (c) Schemes that reduce the deposit requirement buyers face will also reduce the equity those buyers have in their home at the time of purchase. This leaves such buyers vulnerable to future mortgage and house price movements, with negative equity more likely.
- (d) Any demand-focused scheme will inevitably be temporary. This means it risks unintended consequences, including creating winners and losers among different groups of house purchasers over time. There is therefore an important temporal aspect to consider when designing such a scheme.

Decision on a market investigation reference

68. On 25 August 2023, as part of our update report, we launched a consultation on a proposal to make a market investigation reference ('consultation on an MIR') based on concerns we had identified in the following two areas:
- (a) weaknesses in the adoption process for roads and public open spaces resulting in responsibility for their maintenance being passed on to private companies that may have significant market power, and
 - (b) the large amount of developable land controlled by the largest housebuilders, which may be hindering the growth of smaller housebuilders.
69. Following consultation, the CMA has decided not to make a reference under section 131 of the Act in relation to the two areas identified on housebuilding land banks and private management of public amenities. We set out our reasons below. For the avoidance of doubt, the CMA has no duty under section 131B of the Act to consult interested parties before making its decision, and the CMA is not inviting comments on its decision.
70. Based on the evidence we have seen over the course of the market study, our conclusion is that a market investigation is not the most effective way to address our concerns about estate management arrangements and charges and improve competition, and thus outcomes, for consumers. Our conclusion is that government action is a more appropriate and comprehensive response to the detriment we have identified.
71. Overall, we do not consider the aggregate size of land banks in themselves present a concern. Rather they are likely to reflect underlying issues in the operation of the market such as the operation of the planning system and incentives driving the speed of build out.

72. The decision not to make a market investigation reference should not in any way be interpreted as the CMA finding no concerns in the sector. Rather, we consider that the concerns we have identified would be better addressed through government action rather than launching a market investigation at this time.

Next steps

73. We recognise that identifying the most effective policy approaches to address the problems in the housing market is a complex matter, with a wide range of factors playing into housing market outcomes and trade-offs needing to be made between important policy objectives.
74. Following publication of our final report, we stand ready to engage with policymakers, housebuilders, and others in Scotland to explain the recommendations, options and wider considerations we have set out, and provide support for their implementation where the Scottish Government decides to act on these.