

CMA Housebuilding Market Study

Response to CMA'S Working Paper on Local Concentration and Land Banks

1. INTRODUCTION

1.1 Bellway welcomes the opportunity to comment on the CMA's local concentration and land banks working paper (the "**Working Paper**").

1.2 In this response, Bellway sets out its views on the CMA's analysis and emerging findings¹. In summary, Bellway wishes to emphasise that:

1.2.1 **It is essential for housebuilders to have land banks comprising short and long term interests:** these are objectively required in order to ensure certainty of supply, certainty of output, and ultimately growth. Without building an adequate land bank, it would simply not be possible for Bellway (or other housebuilders) to run its operations efficiently, ensure business continuity and, once market conditions improve, grow its outputs.

1.2.2 **The planning system contributes significantly to the need for land banks:** the time, complexity, cost and uncertainty involved in obtaining planning permission under the current system mean that a land bank is necessary to mitigate against these factors, which are outside a housebuilder's control.

1.2.3 **Any alleged strategy by housebuilders of growing their land bank to reduce supply / maintain prices in particular areas would not make commercial sense:** as housebuilders receive revenue (and profit) only when houses are sold (not simply by holding land), and as the acquisition of land is highly capital intensive, this would be an expensive and irrational strategy. As a result, housebuilders will generally seek to maximise their output as far as practicable subject to market demand.

1.2.4 **The CMA's findings do not indicate widespread concerns:** there is no evidence of any nationwide land bank concentration or large-scale local concentration. Rather, the CMA has found that that in a large majority of areas a number of housebuilders (including several of the largest 11) are active. This will in fact understate the extent of local competition since smaller and regional housebuilders have the majority share (c.60%) of new house building nationally and, together with landowners, control around 82% of the plots with a planning permission. In short,

¹ Bellway notes that, as explained to the CMA by email on 17 November, it is not possible to fully understand and interpret Appendices A and B of the Working Paper given the volume of redactions. However, it has sought to make comments based on the parts which are visible in the published version.

the largest 11 housebuilders' share of new house building (c.40%) is materially lower than their share of plots with planning permission (c.18%) (see 1.2.5 below). This does not accord with the CMA's theory of harm that it wishes to test. Further, the CMA has only identified 26 local areas out of 387 LPAs (6.7%) in Great Britain for further consideration in the Working Paper, and recognises that there may be legitimate reasons why particular areas may have higher levels of concentration.

- 1.2.5 **In any event, land banks do not constrain the market:** there is sufficient land for any firm (irrespective of size) to compete to identify and secure a contractual right / position to promote land. The CMA's Update Report found that there was sufficient land for development available across the country.² Glenigan has provided information to Bellway which indicates that there are currently around 2.88 million plots in the UK with the benefit of planning permission at any stage. Of these, construction has commenced on sites covering 1.78 million plots (i.e. over 60%). The CMA has found that the largest 11 housebuilders only have a short-term land bank³ of c. 0.522 million plots, which represents a small fraction (i.e. under 20%) of the number of plots with planning permission. This again does not accord with the CMA's theory of harm. The OFT reached a similar view in 2008 that "*The homebuilding industry, which owns a significant landbank, does not appear to systematically hoard land with implementable planning permission; most land of this type is under construction*".⁴ The current evidence shows that this remains the case.
- 1.2.6 **The Working Paper does not establish any link between the concentration analysis and any supposed competition issue in the supply of new houses:** even if land banks *were* to lead to any local concentration issues (which Bellway does not consider to be the case, and is not borne out by the analysis), the Working Paper does not establish whether or how this would in fact lead to reduced supply.
- 1.2.7 **There are a number of concerns in relation to the CMA's methodology:** Bellway has a number of concerns with the CMA's methodology. The CMA should take these into account if and when it seeks to draw conclusions from its analysis, and when considering what weight that can be placed on them.

- 1.3 In order to assist the CMA further in its assessment, Bellway has provided:

² Paragraph 36, CMA's Update Report.

³ To ensure consistency of approach Bellway has throughout this response to the Working Paper adopted the CMA's definitions of short-term land bank and long-term land bank.

⁴ OFT1020, Homebuilding in the UK, A Market Study, September 2008, paragraph 5.91. Please also see paragraph 5.88 – 5.89 which states:

"5.88 Having a stock of land helps a homebuilder cope with fluctuations in the housing market and also helps to reduce risk. Shareholders in those homebuilders that are quoted companies consider having an adequate landbank as an important asset.

5.89 We have not found any evidence to support the view that, at the national level, homebuilders are hoarding a large amount of land with implementable planning permission on which they have not started construction. This suggests competition has not been impaired by homebuilders mothballing permissioned land to create a barrier to entry and artificially raise prices even during the long upturn in the market until 2007. Equally, there is little evidence to suggest that homebuilders have been able to systematically obtain market power at a local level by acquiring planning permissions."

- 1.3.1 context as to the need for housebuilders to hold short- and long-term land banks, and details relating to its own land bank (**Section 2**)
- 1.3.2 its views on the CMA's emerging findings (**Section 3**); and
- 1.3.3 concerns it has identified as regards the CMA's methodology (**Section 4**);

2. THE NECESSITY OF LAND BANKS FOR VOLUME HOUSEBUILDERS

Land banks are critical for ensuring certainty of supply

- 2.1 Certainty of land supply is critical to housing output and to the continuity, efficiency and long-term health of a housebuilder's (such as Bellway's) business. To ensure this certainty, Bellway must maintain an adequate land bank (comprised of both short-term and long-term interests) capable of providing a number of years of supply.
- 2.2 Land purchasing is however high risk, speculative and hugely capital intensive and is therefore not something Bellway takes lightly. A number of factors contribute to these considerations, and to the depth of land bank needed to support output at any one time. In light of this, Bellway agrees with the CMA that it is to be expected that housebuilders' land banks will *"vary over time and between companies according to their future plans for growth (both in aggregate and in different locations), their reading of current and likely future prospects for both the land and housing markets and their approach to managing exposure to risk in changes in market conditions, including through changes in planning policies"*⁵.
- 2.3 Some of the key factors are as follows:
 - 2.3.1 It can take a number of years between identifying a site and the first house being built – research undertaken by Lichfields (cited in the CMA's Planning Working Paper)⁶ puts the average time for build-out at four years. Prior to the planning permission stage, a housebuilder will undertake site identification, carry out a detailed investigation as to its suitability for development, and then agree acquisition terms before securing the land under contract (which, even in the case of a straightforward contract or options agreement, can take at least six months to negotiate, with more extensive / complex sites taking 12 months or more).
 - 2.3.2 It can then take a housebuilder over two years to obtain a full residential development consent under the current planning system, given that: (a) outline planning decisions typically take over a year to obtain in England⁷; and (b) a further 6-12 months may be required in order to secure a "reserved matters" approval.⁸ Once detailed planning permission (DPP) is obtained, a housebuilder will usually have extensive pre-commencement conditions to discharge before substantive development can take place. The rate of planning permissions lapsing or requiring reapplication is also substantial (the Lichfields research estimates the combined total of lapses / reapplications at between 15-20% of all permissions). Due to this, as the CMA correctly notes in the Working Paper, the lag between planning permission being granted and sites being built out means that *"housing delivery*

⁵ Paragraph 2.11, Working Paper.

⁶ Paragraph 4.16-4.17, CMA's Planning Working Paper. See [report](#) undertaken by Lichfields on behalf of the Land Promoters and Developers Federation and the Home Builders Federation.

⁷ Paragraph 1.41/4.110, CMA's Planning Working Paper.

⁸ Bellway notes that a planning permission can be granted: (a) by way of an outline approval with subsequent approval of reserved matters; (b) via a full planning permission; or (c) a hybrid of these.

depends not on the current level of planning permissions, but on the stock of permissions built up over a period of time".

- 2.3.3 As regards long-term land banks, the promotion process (which requires speculative investment of resources by a housebuilder over a long period of time) takes place against a backdrop of uncertainty that a suitable and viable planning permission will be obtained. As set out in the CMA's own analysis at paragraph 3.16 of the Working Paper, only 19% of land held in housebuilders' long-term land banks is allocated within a local planning authority's development plan: this highlights the speculative and inherently risky nature of long-term land banks. For this reason, option periods (being the period granted to a housebuilder in which to seek to secure a viable planning consent) are typically five to ten years in duration. Bellway's view is that long-term land banks should therefore be excluded from any analysis given the inherent risk associated with strategic land, or at the very least, significant caution should be exercised when interpreting results relating to these, or drawing any conclusions based on these.
- 2.3.4 A secure land supply is required to protect against the cyclical nature of the housing market by ensuring that housing can continue to be supplied even in the most challenging of markets. In particular, it is needed to mitigate against deteriorating market conditions (when the ability for a housebuilder to invest in land can be limited, or may be inappropriate commercially), planning delays, and regulatory challenges.
- 2.3.5 The difficulty in securing detailed planning permissions is only likely to increase, due to various headwinds, including the expected impact of the Levelling Up and Regeneration Act 2023 and the emphasis on empowering localism within it. This means that a greater number of sites will be needed in the pipeline to secure future plots for building, as it will become more difficult to convert sites from the long-term and short-term land banks into sites in production.
- 2.3.6 On the other hand, when market conditions are strong and sales rates are higher, this drives a higher completions rate as housebuilders seek to match demand. In these circumstances, housebuilders use their short-term land more quickly and so must replenish this in order to ensure certainty of supply and business continuity. Only once a housebuilder has reached a position where its short-term land bank is adequately supplied to secure business continuity (or any growth plans) can it reduce its land spend for the period of time that this adequacy of supply continues. Given fluctuations in completion rates based on market conditions, a housebuilder must keep constant vigilance of its adequacy of short-term land supply. (In this regard, Bellway was unclear as to the CMA's reference to housebuilders generally trying to avoid having to buy land "*when the land market is 'hot'*": if this is intended to relate to strong market conditions, Bellway disagrees with the statement and would urge the CMA to reconsider this in light of the above commercial reality).
- 2.3.7 An adequate land bank is also required to support Bellway's outlet opening programme and longer term volume growth ambitions. Bellway notes that where certain of its operating divisions have a shorter land bank (i.e. a lower quantity of pipeline land for development), this places particular pressure on parts of its business continuity and growth plans.

Bellway holds land for no longer than necessary to ensure housing supply certainty

- 2.4 The CMA's analysis looks at land bank size based on the number of plots. However, the plot number metric fails to take into account the key factor driving the need for housebuilders to hold land banks, which is the amount of time it would take to build out all of its plots. For this reason, measuring land banks in terms of years is given far more weight by the sector, and

housebuilders report against this metric in order to demonstrate to investors that they have sufficient headroom to deliver both forecast output and growth, and the necessary resilience to withstand market shocks.

2.5 Bellway's average land bank⁹ of DPP plots is approximately three years, and approximately five years if pipeline sites are also included. Bellway considers this land bank length to be prudent and commensurate with the requirements of a volume housebuilding business, particularly taking into account:

2.5.1 the time and complexities involved in identifying, securing, and bringing a site through to build-out and eventual sale;

2.5.2 the need to mitigate risk within its business and to ensure its business plans for the future are robust; and

2.5.3 national policy and local authority housing supply requirements, which focus on five-year land supply.

2.6 Looking back over Bellway's land bank from the last three years, while there has been an increase over time in both: (i) Bellway's spend on land acquisition, and (ii) the number of plots in each of its land bank categories (which has been driven by increased capacity for production as a result of organic growth in its regional divisions during this time), there has been a **fall** in the length of Bellway's land bank in terms of years – meaning that the amount of time it would take Bellway to build out all of the plots held in its land bank has decreased.

2.7 This is clear evidence that Bellway drives volume (i.e. through build-out and sales to customers) and does not hold land in the business for longer than is necessary to ensure supply chain certainty, continuity of production and targeted growth. As noted in Bellway's previous submissions, with very few exceptions, Bellway is actively developing **all** land that it owns which has a viable DPP and where pre-commencement conditions have been discharged.

2.8 Indeed, there is no commercially sensible reason to act otherwise: land banks do not exist to generate land value for housebuilders – they are needed in order to build and sell housing. In this context, large volume housebuilders (which are companies engaged in private enterprise, many of whom are publicly listed) are fully incentivised to convert a land bank into housing completions as quickly as possible in order to generate profits to provide a return for their investors, and to invest in growth (i.e. in land and infrastructure to support future housing supply). This is further explored at Section 3 below.

2.9 In addition, the average size of Bellway's sites containing 'pipeline' plots is 191 plots.¹⁰ Bellway considers this to be a size which is appropriate to support its strategy as a volume housebuilder, and no more. In fact, Bellway's land bank of plots with DPP has reduced from 3.8 years in 2020 to 2.9 years in 2023.

3. **BELLWAY'S VIEWS ON THE CMA'S CONCERNS**

3.1 Bellway welcomes certain points recognised by the CMA in the Working Paper, such as: (a) that the complexities and time constraints associated with the planning regime are a

⁹ This is measured from the point a site is under contract until the final dwelling house is constructed and sold.

¹⁰ As at 31 July 2023.

contributor to the size of land banks; and (b) that there appear to be healthy levels of competition in the vast majority of local areas in Great Britain.

- 3.2 This notwithstanding, Bellway fundamentally disagrees with a number of aspects of the CMA's emerging findings and the way that a number of these have been characterised or presented. These are set out below.

Land banks do not constrain the housing market

- 3.3 The CMA is considering "*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*". This concern is, in Bellway's view, unfounded as:

- (a) Holding land in long-term land banks has the effect in practice of **increasing** the possibility of it becoming land which is capable of development for housing as Bellway has the expertise to promote the land and secure a planning permission. In the case of land which forms part of long-term land banks, the vast majority of such land would never come forward for development in the absence of a housebuilding firm promoting the site through the planning process.

In the absence of a contractual interest in the land via an options agreement, a housebuilder would not incur the expenditure required to secure a planning permission. Once a planning permission is secured and the site is acquired, land moves to the short-term land bank and thereafter, once DPP is obtained and pre-commencement conditions are discharged (which render a DPP implementable), housing can be delivered. Without a housebuilder holding land in a land bank in this way, the land would not move through the process. Both short-term and long-term land banks (and the movement of land from the latter to the former) therefore increase the availability of developable land for housing.

Further, in Bellway's experience, a well-advised landowner will often require positive contractual obligations for the housebuilder to promote a site through the planning process, including submission of a planning application (if deemed appropriate). Once a planning consent has been obtained, the housebuilder only has a fixed (and limited time) within which to negotiate the price with the owner and to exercise its option – which will be significantly shorter than the life of the planning permission obtained. Until such time as an implementable planning permission is obtained, land cannot be considered as developable; by their very nature, long-term land banks do not therefore contain developable land which can be relied on for business continuity purposes.

- (b) As was recognised by the CMA in its Update Report in August,¹¹ there is sufficient land for development in Great Britain. Glenigan has provided information to Bellway which indicates that there are currently around 2.88 million plots in the UK with the benefit of planning permission at any stage. Of these, construction has commenced on sites covering 1.78 million plots. The CMA has found that the largest 11 housebuilders only have a short-term land bank of c. 0.522 million plots, which represents a small fraction (i.e. under 20%) of the number of plots with planning permission.
- (c) Any firm can compete to identify and secure a contractual right / position to promote this land. Bellway would also note that there are large quantities of land owned or controlled by non-housebuilders, such as: (a) organisations with a focus on providing development sites for housing (such as Homes England, who Bellway notes is estimated to be holding

¹¹ Paragraph 36, CMA's Update Report.

enough land to accommodate 279,000 new homes¹²; (b) public sector and institutional landowners; (c) family estates; and (d) promotion companies. Whilst Homes England will be looking to circulate land for housing, other institutional landowners and family estates who may have inherited large areas of land would not have the same drivers to deliver housing and would be much more likely to be incentivised to withhold land supply to maximise receipt on the sale of that land. The CMA should have regard to this in its overall assessment so that it has a clear, coherent and correct picture of land ownership and supply to the market.

- (d) As stated above, Bellway is active on all sites within its short-term land bank which have a viable DPP where all pre-commencement conditions have been discharged.

The weight given to analytical sources is unbalanced

- 3.4 In the CMA's Statement of Scope, the CMA indicated that it did not intend to recreate to any significant extent the work that had already been carried out in respect of the build rates and land banks as set out in the Lichfields Report and Letwin Review.¹³ Bellway considers these to be highly sophisticated and well-regarded pieces of analysis which have looked at the detail of the rationale for land banks and the nuances of build-out rates / absorption rates comprehensively and over a significant period of time.
- 3.5 However, while both the Lichfields and Letwin reports are referenced in the Working Paper, these do not appear to be given adequate reference, or appropriate weight in the CMA's analysis. In particular, the conclusions of the Letwin report – that the major housebuilders' business models depend on generating profits from the sale of housing, not from increases in the value of land, and that interventions aimed at major housebuilders would do little to increase market absorption rates – are glossed over in the Working Paper. The Working Paper also does not make reference to the large number of other well-regarded studies and reports that analyse the strategic necessity for housebuilders to hold land banks to ensure they do not fail.¹⁴ Bellway notes with concern that this shift in terms of the emphasis and approach away from these creditable sources in the Working Paper appears arbitrary and has not been explained or justified.
- 3.6 On the other hand, the Working Paper appears to place more weight on a number of reports containing significantly less comprehensive and lower quality analysis in support of the argument that land is not being developed as quickly as it could be. For example, Bellway notes that the reports referred to in paragraphs 2.14(a) and (b) contain serious weaknesses in methodology (such as by ignoring key metrics around double-counting, and the underlying ownership of the land assets assessed). Similarly, the plot figures cited¹⁵ in the *i* news article noted at paragraph 2.14(c) disregard that implementable planning permission must be obtained, and pre-commencement conditions must be discharged, before a plot is capable of being used by a housebuilder to deliver housing.
- 3.7 While the CMA refers to the Lichfields response to this article,¹⁶ Bellway would point out (and urge the CMA to take account of) the primary conclusion of Lichfields' response, which is not referred to in the Working Paper – that the fact "*there are circa 700K plots in the landbanks of large volume housebuilders "many with permission" is evidence not of cynical land hoarding but what a sensible residential development business would need to maintain in an environment where it takes at minimum 3 – 5 years for a site to move from acquisition,*

¹² <https://www.telegraph.co.uk/business/2023/07/02/michael-gove-housing-agency-accused-land-banking/>

¹³ Paragraph 2.38, CMA's Statement of Scope, Housebuilding Market Study.

¹⁴ For example, see Savills Publication: "*land shortages or landbanking?*", 11 June 2021.

¹⁵ The article in *i* (June 2023) cites figures of 700,000 and more than one million plots (the latter referenced as usable land).

¹⁶ Paragraph 2.16(a), Working Paper.

securing an implementable planning permission, opening it up and then building homes. Analysis in 2021 showed the immediate / implementable land banks were just over three years with a further two years of land not yet implementable but progressing through planning."

- 3.8 Bellway further considers that, while the CMA acknowledges it has not carried out a comprehensive review of international research, the inclusion of brief references to reports on the Australian housing market (referred to at paragraph 2.15 of the Working Paper) lack any relevance to the UK housing market and should not be relied upon as part of the ongoing analysis.

The CMA's emerging findings lack relevance

- 3.9 The CMA's concern as to any supposed land bank concentration by the largest housebuilders is misplaced. The concerns expressed in paragraph 2.13 of the Working Paper pre-suppose that large builders have a profit-incentive to accumulate excessively large land banks (i.e. land banks bigger than those required for efficient operational purposes) in order to reduce the supply of new houses and thereby increase their prices.

- 3.10 This is not the case for a number of reasons:

3.10.1 First, across Great Britain as a whole, the CMA has found that in a large majority of areas, multiple of the largest 11 house builders are active. This will in fact understate the extent of local competition, since smaller house builders have a substantial market share of new house building. Further, the CMA has only provisionally identified 26 local areas (out of 387 LPAS in Great Britain) for further consideration, meaning that it has found no cause for concern in the overwhelming majority of local areas. Further, as the Working Paper has recognised, there may be legitimate reasons why some local areas have a higher level of concentration. For example, Bellway expects that smaller local markets will support fewer housebuilders at any point in time (i.e. fewer homes will typically be built in such areas and there may be fewer housebuilders active in those areas). In short, there is no evidence of any nationwide issue associated with land banks.

3.10.2 Second, the CMA seems to have assumed that: (i) local concentration in terms of new house sales at a point in time is linked to land banks; and (ii) that this concentration is problematic in terms of leading to the reduced supply of new houses. However, the CMA has not considered in the Working Paper the various causal links that would need to be established to sustain this theory of harm:

- (a) The CMA's analysis appears focused on planning permissions and land banks, not the extent to which houses have been put on sale in local areas. Planning permissions and land banks do not automatically translate into sales.
- (b) The theory also presumes that national, regional and local housebuilders would not diversify into being active in areas where demand is high and supply is available, subject to the vagaries of the planning system. However, the CMA's analysis has not shown that such housebuilders cannot acquire their own land banks locally.
- (c) Even if local concentration were linked to land banks, the CMA has not considered in the Working Paper whether this leads to reduced supply:
 - Any such strategy of reducing supply would be costly as housebuilders receive revenue (and profit) only when houses are sold. Excessive land banks, especially when held with outright ownership, would represent an inefficient use of capital since no return is made on the capital invested until finished properties are

sold. Each year of delay would cost housebuilders their weighted average cost of capital, and this cost would compound over time. Even as regards options and land holdings held strategically, these often have significant upfront payments associated with them, and in any event the housebuilder will pay by reference to market value at the time it takes ownership of the site. The CMA should attach considerable weight to this and the evidence available that housebuilders generally seek to maximise their output; and

- This theory of harm presumes that the price of new homes is not constrained by the prices of the much larger existing housing stock, whereas it is the case that the prices of new home are determined by the prices of existing houses which is also the case for consumers' mortgage valuations. (Bellway notes and welcomes the CMA's acknowledgment that new housing prices are constrained by the prices of existing housing stock in its Working Paper on the Private Management of Public Amenities).¹⁷ Housebuilders are therefore not able to simply and unilaterally increase prices of houses without this directly leading to a reduction in sales volumes, given existing homes can be purchased instead.

3.11 In summary, Bellway sees no nexus between the analysis set out in the Working Paper and any competition issue in the supply of new houses.

There are a number of key considerations that must be taken into account when interpreting the analysis (which are missing from the Working Paper)

3.12 When interpreting the emerging findings and the appropriate weight which can be given to them, a proper analysis must have regard to the following:

3.12.1 When considering the total number of plots held in a land bank, it is also important to consider: (a) the average remaining number of plots per site; and (b) the length of time secured by these plots. Where a housebuilder has increased its volume, there will be a corresponding increase in the number of plots held in its short-term land bank, but the length of land bank (in terms of number of years of supply which this secures for the business) will remain much more static over time. Simply looking at the total number of plots held by any one or more housebuilders in isolation would give a skewed view.

3.12.2 Given the high risk nature of plots in a long-term land bank resulting from the reduced prospect of planning permission and unpredictable timescales, such plots should be treated with caution as part of any analysis, with likely issues around statistical robustness, particularly given that this land may not otherwise be developed. Bellway would therefore encourage the CMA, for this reason, to exclude long-term land banks from its analysis.

3.12.3 The CMA should bear in mind that there may be various underlying reasons why any particular site might be held up from development (for example, due to issues relating to the discharge of all pre-commencement conditions, or a site no longer being commercially viable). This might be assessed by reference to the number of

¹⁷ See paragraph 4.38, Working Paper on Private Management of Public Amenities.

sites held by a housebuilder with the benefit of an implementable DPP, which are not currently in the process of development.

- 3.12.4 As regards the 26 areas the CMA is considering in relation to potential local concentration, Bellway notes the following significant factors which should be taken into account as part of any further analysis:
- (a) **Attractiveness to multiple developers in terms of population and Gross Disposable Household Income (“GDHI”):** total GDHI of a local area (i.e. GDHI per capita x population) is an indicator of overall housing demand. Only seven of the areas identified have a total GDHI greater than the average of all UK local authority areas – all bar one of which are in London (the exception being Aberdeenshire). This suggests that with the remaining 19 areas, any apparent concentration of land is simply a result of a lower than average level of housing demand that may not attract multiple large developers for land investment.
 - (b) **Geographical presence/focus of the top 11:** of the 26 areas, a total of 13 are in Scotland (6), London (6) and Wales (1). The Working Paper notes that the top 11 housebuilders are not all represented in these areas in any event. (For example, paragraph 3.13 notes “...with five holding no land in Scotland and four holding no land in Wales. In addition, some of those that do hold land in Wales have relatively low numbers of plots compared to their holdings in English regions or Scotland.”) This will be particularly relevant for the six areas identified in London, given most of the top 11 have reduced their exposure to London in recent years.
 - (c) **Impact of regulatory requirements:** the Working Paper does not consider the impact of regulatory / environmental requirements (such as those related to nutrient neutrality and bio-diversity net gain), which has affected recent land investment in certain regions.

Other inaccuracies in the Working Paper findings

- 3.13 Bellway has identified the following additional inaccuracies in the Working Paper:
- 3.13.1 **Paragraph 2.13(c) of the Working Paper:** This refers to concerns around land ownership not being transparent, with “opaque option agreements”. In Bellway’s experience, interests created under options and promotion agreements (or indeed any form of long-term contract under which a land interest is secured), are protected through a restriction and notice against the registered title at the Land Registry which will include details of the beneficiary, making the identity of the party with the benefit of the option / promotion agreement a matter of public record. Indeed, this is standard conveyancing practice. In relation to short-term land which is owned by the housebuilder, full title details are also a matter of public record at the Land Registry. Bellway therefore does not recognise the concern expressed around transparency and would urge the CMA to invite views on this point more widely before drawing conclusions on this.
 - 3.13.2 **Paragraph 2.6(b):** The manner in which a land bank is defined here is incorrect. The calculation set out in the Working Paper is expressed to be by reference to build-out rates. However, the housebuilding industry measures land bank by calculating the number of years supply of land held, measured by reference to the

number of units completed, taking an average based upon the completions in the prior financial reporting year.

4. CONCERNS RELATING TO THE CMA'S METHODOLOGY

4.1 Bellway notes a number of concerns it has in respect of the CMA's methodology which it will be important for the CMA to have regard to when considering: (i) the conclusions that can be drawn from this analysis; and (ii) the weight that can be placed on them.

4.2 Specifically:

- (a) The Working Paper provides only a static “snapshot” over a short period of time and so ignores the competitive dynamics of housing supply.
- (b) Restricting the focus to the 11 largest housebuilders distorts the measurement of land bank concentration, even amongst housebuilders. This is well illustrated by the fact that, in a number of the geographic areas that the CMA proposes to investigate further, only few of the top 11 housebuilders are present and smaller house builders are active.
- (c) There are also measurement issues associated with:
 - (i) planning permissions as a metric for development activity;
 - (ii) drawing conclusions from small local areas with relatively low levels of new building activity; and
 - (iii) the use of plots as a metric in urban areas.

These are detailed further below:

A snapshot ignores the competitive dynamics of housing supply dynamics

4.3 The supply pipeline for new homes is a dynamic flow. However, the Working Paper methodology treats this as a static stock. At any one point in time (or period), the land bank in any geographical area may appear concentrated but over a period of time a much larger group of builders would be entering and exiting the pipeline.

4.4 By only considering the number of companies owning land banks in any one period while ignoring: (i) those housebuilders active in the same area that are in the process of acquiring land for subsequent periods, and (ii) those that have developed their land banks in past periods, the CMA's methodology will overstate the true level of concentration from a dynamic standpoint. This will not be reflective of the fact that competition is the result of not only the companies currently in the market, but also those who are able to enter in a contestable market. This will be important for the CMA to take into account as it considers and weighs the output of the analysis.

No testing of representativeness against the market economics

4.5 Paragraph 4.6 of the Working Paper explains that the analysis uses: (a) permissions data from 2021-23;¹⁸ and (b) land bank data for calendar 2022.

4.6 Therefore, the data analysis has focused on a Covid-19 recovery period and also one which cannot be regarded as being either an “equilibrium market position” or a typical period. The CMA should take this into account when considering what conclusions can be drawn from the analysis and the weight that can be attached to them.

¹⁸ Whilst some use has been made of planning permission data over consecutive three-year periods (see paragraph 4.7), this data appears to have been used only “*identify if local areas that may or may not be concentrated appear potentially concerning, based on the permissions data*”.

Restricting the focus to the 11 largest housebuilders distorts measurement

- 4.7 Regardless of the market share of housebuilders nationally, in any one market area, smaller regional or local builders may have a proportionately high share of the local land banks. Indeed, it is not unusual for Bellway to compete against smaller regional housebuilders for a particular site within a particular region (some of which are often, in Bellway's experience, of a similar size to a Bellway operating division).
- 4.8 Focusing on only the 11 largest housebuilders and collating data on only development sites of 10 or more units (see e.g. paragraph 3.8 of the Working Paper) distorts the measurement of land bank concentration.
- 4.9 In this context, the CMA indicates¹⁹ that 522,000 plots are under the control of the largest 11 housebuilders in short-term land banks. However, Glenigan has provided information to Bellway which indicates that there are 2.88 million plots in the UK with the benefit of planning permission at any stage²⁰. This would mean there are 82% of plots outside the control of the top 11 housebuilders – with the top 11 housebuilders' share of such plots (18%) being materially lower than their share of housebuilding output (c40%). It will be important to factor this in when assessing the results of the analysis.

Measurement issues

- 4.10 Bellway has identified the following additional potential issues with the measurement methodology of the Working Paper:
- (a) As the CMA itself notes in paragraph 3.8 of the Working Paper, the planning permission data may overstate the number of permissions for large projects not completed by the end of the period (i.e. 2023 Q1). This could overstate planning permissions for large vs. small developers.
 - (b) The Working Paper's methodology will not produce reliable results in small areas. The CMA acknowledges this in paragraph 4.7(c) of the Working Paper.²¹
- 4.11 It is also unclear how the CMA has dealt with large apartment schemes in the unit count. Bellway notes that, by their very nature, an apartment scheme will contain a large number of plots which can take years to build out, which may lead to the data being further skewed.

5. CONCLUDING REMARKS

- 5.1 Bellway would urge the CMA to have regard to the above points as part of its ongoing assessment, to ensure that appropriate and balanced conclusions are drawn. Given the importance that these points are fully understood and taken into account, Bellway would be very happy to discuss any of the above considerations with the CMA in more depth, or to clarify any aspect of the response, should that be helpful.

¹⁹ See paragraph 9 of the Summary above.

²⁰ See paragraph 2 above.

²¹ The CMA notes "If a local area granted only a small number of planning permissions, what may look like 'concentration' could in fact be a feature of a small local market. However, at this stage we have not ruled out areas solely based on this factor."