

**CMA Housebuilding Market Study**  
**Taylor Wimpey PLC's Response to the Local Concentration and Land Banks Working Paper**  
**dated 17 November 2023**

**6 December 2023**

**1. Overview**

- 1.1 Taylor Wimpey PLC (“**TW**”) welcomes the opportunity to provide comments on the Competition and Market Authority (the “**CMA**”) working paper on local concentration and land banks (the “**Working Paper**”).
- 1.2 The CMA has used two different methodologies for assessing concentration in local housing markets (proxied by LPAs<sup>1</sup>) and identified 26 areas as “*potentially concentrated*” to look at more closely (out of a total of 387 LPAs in GB).<sup>2</sup>
- 1.3 TW welcomes a number of the Working Paper’s findings, most notably that the vast majority (361 or c. 93%) of LPAs are not concentrated, and that concentration should be assessed in the wider context of the housebuilding market, such as the local housing requirements, planning and regulatory environment and market conditions.
- 1.4 While TW appreciates that the CMA’s methodologies are intended as initial filters to identify local areas that could be concentrated, TW considers that the CMA’s approach is conservative for various reasons, including the emphasis on the 11 largest housebuilders, the limited time period used for some of the analysis and the exclusion of important contextual factors. TW therefore welcomes the CMA’s proposal to gather further evidence and undertake a more in-depth and holistic assessment of these LPAs.
- 1.5 In this regard, TW provides its perspective on the contextual factors that are important to account for in the CMA’s further assessment, as well as additional evidence which shows that there is no cause for concerns in the local areas shortlisted by the CMA. This evidence shows that there is no structural concentration issue in the housebuilding market, but rather a few LPAs with unique market conditions that may give rise to temporary concentration.

**2. General remarks**

- 2.1 TW welcomes a number of the Working Paper’s findings, in particular that:
  - (A) the vast majority (361 out of 387 in GB, or c. 93%) of LPAs are not concentrated, consistent with the CMA’s prior finding that the new build market has low concentration at the national level (in terms of completions);<sup>3</sup>

---

<sup>1</sup> As noted in the Working Paper, “*LPA and LA areas are largely very similar, the exceptions being LA areas that contain all or part of a National Park. In these areas, the National Parks will have their own LPA. [The CMA] therefore use the LPA area where possible.*”

<sup>2</sup> There are a total of 326 LPAs in England, 36 in Scotland and 25 in Wales.

<sup>3</sup> See, for example, para 2.115 of the CMA’s Update Report and Consultation on a Market Investigation Reference (“**Update Report**”) and para 12 of the Working Paper.

## SLAUGHTER AND MAY

- (B) land banks are essential to housing delivery and housebuilders' business;<sup>4</sup>
- (C) land banks and concentration should be assessed in the wider context of the challenging and unpredictable planning environment;<sup>5</sup> and
- (D) LPAs "*are a relatively crude approximation to local housing markets*", so it will be important to consider constraints from neighbouring areas and whether "concentration" could be driven by local geography and demographics (rather than a lack of competition).<sup>6</sup>

2.2 While TW agrees with these findings, it considers that the CMA's approach is conservative for the reasons set out in section 3 below. TW appreciates that the CMA has not identified any competition issues in any local areas at this stage. Rather, the CMA has simply shortlisted 26 LPAs that appear concentrated under its conservative metrics and is gathering further evidence to undertake a more in-depth assessment of these LPAs. TW agrees that it will be important for the CMA to take a closer look at the individual LPAs identified and welcomes the opportunity to provide further perspective and evidence to assist the CMA.

2.3 In what follows, TW provides its perspective on the important contextual factors to account for in the CMA's further assessment, as well as additional evidence which shows that there is no cause for concerns in the local areas shortlisted by in the Working Paper. As set out in section 4, there is clear evidence that the few shortlisted LPAs are subject to unique external constraints that are beyond housebuilders' control and may give rise to the level of "concentration" that the CMA has observed. TW is confident that, upon further investigation, it will become clear that these areas are subject to a healthy level of competition, and there is no competition concern in respect of the potentially harmful outcomes considered by the CMA, as found in the in the OFT's 2008 market study.<sup>7</sup>

### Why do housebuilders hold land banks?

2.4 The CMA highlights that "*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.*"<sup>8</sup> In TW's experience, the size of its and other housebuilders' land banks is mostly driven by features of the housebuilding market beyond its control.

2.5 The size of a housebuilder's land bank is highly dependent on the broader planning, regulatory and macroeconomic environment it operates in. Once a piece of land has been acquired by a housebuilder (large or small), the land will remain in that housebuilder's development pipeline as it progresses through various ownership, planning and technical stages until it can be built

---

<sup>4</sup> See, for example, the Working Paper, para 2.8.

<sup>5</sup> See, for example, the Working Paper, paras 2.17 and 3.14-3.16.

<sup>6</sup> See, for example, the Working Paper, para 13.

<sup>7</sup> See, for example, 2008 OFT Report, "*Homebuilding in the UK Report, A market study*", September 2008, para 4.57, available at:

[https://webarchive.nationalarchives.gov.uk/ukgwa/20140402142426/http://www.of.gov.uk/shared\\_of/reports/comp\\_policy/oft1020.pdf](https://webarchive.nationalarchives.gov.uk/ukgwa/20140402142426/http://www.of.gov.uk/shared_of/reports/comp_policy/oft1020.pdf) (last accessed on 17 March 2023). The OFT Report states that "*[t]he evidence presented above does not indicate that the homebuilding industry has a significant problem with high levels of market concentration on either a local or national level.*"

<sup>8</sup> See Planning and Land Banks Working Papers Joint Overview Summary, paragraph 16.

## SLAUGHTER AND MAY

out and sold. As such, land bank behaviour is in a large part driven by external circumstances that impact planning and build-out timeframes (e.g., LPA funding or market absorption rates).

2.6 This means that the size of land banks may need to increase as (i) the planning timelines increase and (ii) build periods are extended due to enhanced building regulations and specification. Indeed, planning timescales have become increasingly protracted and uncertain across the UK in recent years.<sup>9</sup> This is noted by the CMA itself in, for example:

(A) the Working Paper, which notes that *“15-20% of major planning applications are rejected in England (and around 10% of all applications are rejected in Scotland) (...) only 19% of all long-term plots are allocated in an LPA’s local plan, implying the majority face uncertainty as to whether planning permission will be granted.”*<sup>10</sup>

(B) the CMA’s working paper on planning (the **“Planning Working Paper”**), which notes that *“in 2009 around 50% [of decisions on major planning applications] were made within the statutory 13-week period, this had fallen to just over 10% in 2021”*.<sup>11</sup>

2.7 The size of land banks and level of concentration in a local area will also be an artefact of land ownership, market absorption, availability of deliverable sites relative to the overall housing requirements in that area and the local authority’s approach to land allocation in Local Plans.

(A) As landowners tend to sell an entire piece of land to a single entity (say, a housebuilder), the sale or transfer of a major site could temporarily increase a housebuilder’s market share and the degree of local concentration during its development period. In other words, what appears to be “concentration” is merely a reflection of the existing structure of landownership in the area, rather than any strategic or abusive behaviour on the part of the entity that has won the site. Moreover, on some of its larger sites, [REDACTED].<sup>12</sup>

(B) Local concentration levels will also vary with market absorption and availability of commercially deliverable land in the local market. For example, a local market will naturally appear more concentrated when a greater proportion of land is assigned to social/affordable housing (so less land is available for other uses), or when market absorption slows down (so land is “exiting” from housebuilders’ land banks less quickly). As discussed in section 3 below, these issues are amplified when looking at shorter time periods or only at a subset of the market, as the CMA does in some of its analysis.

(C) TW understands that some LPAs will focus on larger strategic sites in order to support housing delivery for their Local Plans, whereas some LPAs may take a more fragmented approach and focus on several, more dispersed smaller sites. The LPA’s

---

<sup>9</sup> See TW’s response to the Planning Working Paper, para 1.2 for a summary of the factors contributing to this increase in delays and uncertainty in the planning process.

<sup>10</sup> See, for example, the Working Paper, para 3.16.

<sup>11</sup> See, for example, the Planning Working Paper, para 1.41.

<sup>12</sup> [REDACTED] Additionally, TW is working with Dorchester Living on behalf of the Defence Infrastructure Organisation on Prince Park, Hampshire in order to unlock this former public land and build residential housing units on it. See <https://www.taylorwimpey.co.uk/new-homes/stafford/the-laurels-at-burleyfields> and <https://www.taylorwimpey.co.uk/land-and-planning/case-studies/prince-park>.

## SLAUGHTER AND MAY

decision on the size and number of sites it allocates will heavily impact the subsequent concentration of the land market and market outcomes.<sup>13</sup>

2.8 Consistent with this, housebuilders such as TW do not have the incentive to “hoard” land. To the contrary, housebuilders have strong economic and contractual incentives to develop land into properties as quickly as possible.

- (A) Given their business model, housebuilders’ incentives are to build and sell houses as quickly as possible. Any land that they have acquired would sit heavily on their balance sheets until houses are built and sold. Moreover, most major housebuilders (including TW) mainly rely on equity financing, and their share prices are driven by their return on capital employed (“**ROCE**”). A strategy of “hoarding” land would reduce their ROCE and valuation, with no guarantee of a corresponding benefit in terms of increased house prices.
- (B) Housebuilders are price takers and so have little to gain from “hoarding” land. The pricing of new builds is effectively constrained by the existing housing stock, which makes up the vast majority of the UK residential property market (c. 85% in FY2022). The housing market is unconcentrated in terms of both completions (i.e., current housing supply) and planning permissions (i.e., future housing supply). The 11 largest housebuilders together account for only c. 40% of the new homes built in 2022, as per the CMA’s own analysis.<sup>14</sup> A recent paper by Professor McAllister and others also finds that across the UK, only “35% of strategic sites with outline planning permission were under the control of housebuilders”.<sup>15</sup> Therefore, housebuilders do not have the ability to influence market prices and so have no incentive to hold out land in order to raise prices.
- (C) Housebuilders are often contractually obliged and incentivised not to “hoard” land. Notably, c. 56% of the 11 largest housebuilders’ land pipeline (64% for TW) is long-term or strategic land, most of which is not owned by housebuilders but controlled via option agreements.<sup>16</sup> In TW’s experience, these option agreements commonly include contractual obligations on TW itself to progress land (which it has yet to purchase and own) through the planning process in a timely manner. This is achieved through various contractual mechanisms which incentivise, or even prescriptively outline the steps for, TW to progress the property through the planning system. These potentially onerous obligations on TW reflect the competitive nature of the market and the imperative for TW to be able to demonstrate to landowners that it is well placed to quickly and effectively achieve planning permission.
- (D) A strategy of “hoarding” land in the hope that prices may increase in the future is likely to be extremely costly and risky, particularly considering the cyclical nature of the sector, as demonstrated by the current market climate and the changing regulatory environment. This is especially the case for strategic land for which the housebuilders

---

<sup>13</sup> See TW’s response to the Planning Working Paper, para 1.2.

<sup>14</sup> See the Working Paper, para 3.2.

<sup>15</sup> See McAllister, P., Shepherd, E. and Wyatt, P. “An exploration of the role and significance of specialist land promoters in the housing land development market in the UK”, August 2022, Journal of Property Research, p4. Available at: <https://www.tandfonline.com/doi/pdf/10.1080/09599916.2022.2114927>. This study only considered sites with 100 units or more and relies on data from Glenigan for the period from June 2018 to June 2019.

<sup>16</sup> In terms of plots of land, calculated based on figures from the Working Paper, para 9.

tend to have an option to purchase at a future date (often 5-15 years from signing in TW's experience, reflecting the time taken to promote a site through the Local Plan process, for the site to be allocated in the Local Plan cycle and for planning permission to be achieved). Such agreements give housebuilders the option to purchase the site at a discount to the prevailing market value in exchange for taking on the risk and cost of advancing the site through the planning process. This means that if prices were to increase over this time, the housebuilder would ultimately have to pay more for the land.<sup>17</sup>

- (E) The availability of developable land, as the CMA has found in its Update Report, also effectively limits any incentive to “hoard” land.<sup>18</sup> Ultimately, in a market where there is no shortage of the relevant input upstream (i.e., developable land), it is not a rational strategy for the suppliers to hold onto the input in the hope of raising prices. The fact that there is sufficient land for development therefore means that housebuilders cannot “hoard” enough land to drive up prices downstream.

- 2.9 Given the lack of incentive for housebuilders to “hoard” land, it is no surprise that the CMA has found that there is low concentration both nationally and in the vast majority (93%) of LPAs.<sup>19</sup>

Do land banks reduce the availability of developable land and act as a barrier to entry (especially for SME housebuilders)?

- 2.10 The Working Paper has left open the potential concern over “[w]hether 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, particularly for small and medium sized housebuilders”.<sup>20</sup>

- 2.11 TW does not agree with the suggestion that land banks might operate as a barrier to entry for SME housebuilders. This is for several reasons:

- (A) There is sufficient developable land at the local level, as will be demonstrated in section 3 below. This is also the case at the national level, as per the CMA's findings in its Update Report that there is “*sufficient land available for development*” and “*national shares of supply do not appear to be concerning in themselves*”.<sup>21,22</sup> This means that large housebuilders' land banks do not “crowd out” land available to other suppliers (including but not limited to SME housebuilders).

- (B) Consistent with this and the CMA's findings in the Working Paper, the holding of land in GB is highly fragmented. TW, for example, only accounts for less than 4% of all land allocated in adopted Local Plans in England.<sup>23</sup> TW faces fierce competition for land

---

<sup>17</sup> See, for example, Professor McAllister's CMA Update Report and Consultation Submission at [https://assets.publishing.service.gov.uk/media/65427e4a1f1a6000d360c1c/Professor\\_Pat\\_McAllister\\_-\\_Publication\\_Version.pdf](https://assets.publishing.service.gov.uk/media/65427e4a1f1a6000d360c1c/Professor_Pat_McAllister_-_Publication_Version.pdf).

<sup>18</sup> See the CMA's Update Report, Executive Summary para 36; this is in line with the finding of many third-party studies such as the Letwin Report.

<sup>19</sup> See, for example, para 2.115 of the CMA's Update Report and para 12 of the Working Paper.

<sup>20</sup> See the Working Paper, para 1.1(a).

<sup>21</sup> See the CMA's Update Report, Executive Summary para 36.

<sup>22</sup> See the CMA's Update Report, Executive Summary para 39.

<sup>23</sup> In 2020, c. 2.7 million dwellings were allocated in adopted Local Plans across England (according to the survey of Local Government Association (LGA) available at <https://www.local.gov.uk/publications/local-plan-housing-allocations-survey->

from a wide range of players, including various other housebuilders, land promoters, land developers, investors, housing associations and the public sector. Notably, there has been significant growth of land promoters in the strategic land segment in the last 10-20 years, as noted in TW's and others' responses to the CMA's Statement of Scope ("**SoS**").<sup>24</sup> In addition, many non-residential land users are now capable of paying more for land than housebuilders in many areas of the country, which has further intensified the competition for land.

- (C) In TW's view, the primary barrier to entry for SMEs is the significant cost and uncertainty associated with the current planning regime.<sup>25</sup> This is also in line with the findings of many third-party studies cited in the Working Paper, which identify that land banks are "*a symptom of another issue – most commonly either concerns over the functioning of the planning system or regarding the incentives of housebuilders to build out sites expeditiously*".<sup>26</sup> Notwithstanding this, in many local areas (including those shortlisted in the Working Paper) there is evidence of successful entry or expansion by SMEs, as set out in in section 4 below.

### Is there a lack of transparency over land ownership?

- 2.12 The Working Paper has also left open the question of whether "*land banks compound the negative impacts of any lack of transparency as to the ownership (and control via options) of land*".<sup>27</sup>
- 2.13 Land ownership (by housebuilders or others) is generally transparent in GB. Information on housebuilders' landholdings (including land controlled via options) is publicly available. All of TW's option agreements are registered on title with the Land Registry. There is also publicly available data on planning permissions and landholdings from local authorities and commercial data providers such as Glenigan (which the Working Paper itself has relied on).
- 2.14 Transparency of land ownership will be further increased by changes envisaged under Part 11 of the *Levelling-up and Regeneration Act 2023*. This should further alleviate any transparency-related concerns the CMA may have.

## **3. Comments on the CMA's methodologies for assessing local concentration**

- 3.1 TW appreciates that there are inherent difficulties in defining the boundaries of local housing markets and in designing any methodology for assessing local concentration. TW also

---

[research-report](#)). In that year, TW controlled less than 95,332 units of allocated land across the UK (including both the allocated portion of its strategic land pipeline and its entire short-term land pipeline, the latter comprising some land that is not allocated), including units in Scotland and Wales. This means that, even based on a conservative approach, TW only controlled less than 4% of all allocated land in England. Moreover, TW was seeking to progress through the planning process on the vast majority of its allocated land – out of the 95,332 units of allocated strategic and short-term land controlled by TW, 87% of units have received some form of planning and fall within TW's short-term land, and most of the remaining 13% have commenced pre-planning work and planning applications despite being in the strategic land pipeline.

<sup>24</sup> See, for example, Land Promoters & Developers Federation's CMA Update Report and Consultation Submission at [https://assets.publishing.service.gov.uk/media/647df5dc103ca60013039983/Land\\_Promoters\\_and\\_Developers\\_Federation.pdf](https://assets.publishing.service.gov.uk/media/647df5dc103ca60013039983/Land_Promoters_and_Developers_Federation.pdf); Home Builders Federation's CMA Update Report and Consultation Submission at [https://assets.publishing.service.gov.uk/media/647df58c103ca60013039982/A\\_Home\\_Builders\\_Federation.pdf](https://assets.publishing.service.gov.uk/media/647df58c103ca60013039982/A_Home_Builders_Federation.pdf).

<sup>25</sup> See TW's response to the Planning Working Paper, section 2.

<sup>26</sup> See the Working Paper, para 2.17.

<sup>27</sup> See the Working Paper, para 1.1(c).



## SLAUGHTER AND MAY

appreciates that the CMA's methodologies are intended as initial filters to identify local areas that warrant a closer look. In this context, TW considers the approach the CMA has taken to be largely sensible, albeit conservative. It will be important, as the CMA itself recognises, to undertake a more in-depth and holistic assessment of the local areas identified by the CMA. This is particularly important considering the conservative nature of the CMA's analysis and the need to consider other important drivers of market outcomes in those local areas.

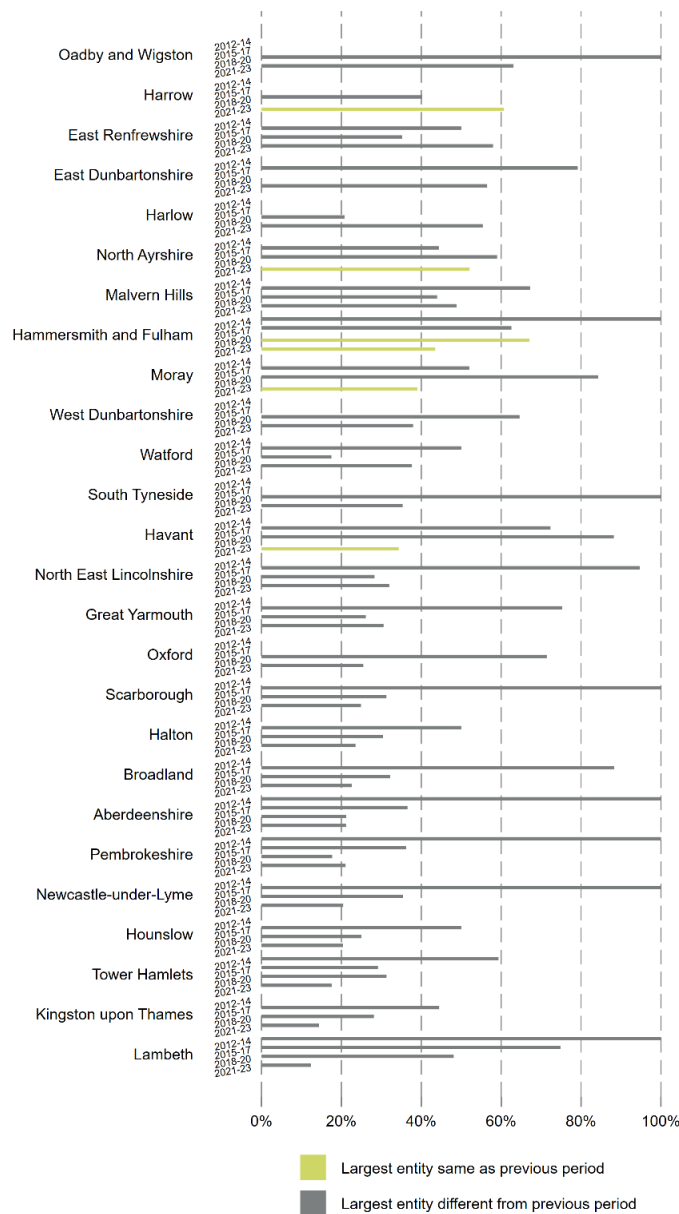
- 3.2 TW considers that the following points should be reflected in the CMA's further analysis into the level of competition and market outcomes in these "*potentially concentrated*" LPAs.
- 3.3 First, **the size of land bank and local concentration should be assessed against the wider context of the local housing market.** It will be important to consider factors including (but not limited to) the housing need, planning and regulatory environment, housing allocations and the timing of the Local Plan, land availability and market absorption rate in that locality. These are important drivers of the size and location of land banks as well as the level of concentration in the local market, as explained in section 2 above.
- 3.4 Second, **it will also be important to assess concentration over a longer time horizon rather than focussing on any particular year(s)**, for the following reasons.
- (A) As housing developments are lumpy, "concentration" in a given year may simply reflect a housebuilder acquiring or achieving planning permission on an unusually big site (or a small number of bigger sites). This "concentration" is likely to be transient by nature in that it is in the housebuilder's interest to build and sell houses quickly to recoup the capital it has invested in acquiring and developing the land, as explained in section 2 above. As an example, in February 2021, TW acquired an option agreement for Big Rackheath, a large site with 4,000 units located in Broadland. This would drive up TW's strategic land share, which could however be quickly eroded over the years as this site gets built out and exits its land pipeline. Currently, the site and the local authority area are impacted by Nutrient Neutrality requirements, which has resulted in delays in progressing planning on this site (and other sites in this LPA) and may give rise to temporary concentration until these issues are resolved.
- (B) Local concentration can be particularly transitory in areas with low housing need, where fewer planning permissions are granted each year.
- (C) In line with this, data from Glenigan (which the CMA has also relied on) shows that concentration in planning permissions can be highly transitory. Figure 1 below illustrates the share of the largest entity progressing planning in each of the 26 potentially concentrated LPAs shortlisted by the CMA, split by the year in which they were granted; the green bars pertain to instances where the same entity (e.g., a housebuilder, a land promoter) has the highest share for two consecutive three-year periods, whereas the grey bars pertain to instances where the largest entity in a given three-year period differs from the one from the previous period. This figure illustrates the transitory nature of any observed "concentration" in two respects:
- (i) The shares vary significantly from one period to another. In the LPAs where a single entity seems to have a high share of planning approvals (over 50%) in a

## SLAUGHTER AND MAY

given period, this does not generally last for more than two consecutive three-year periods.

- (ii) All the 26 LPAs have predominantly grey bars, which means that, in most cases, a single entity does not have the highest share in two consecutive periods. This highlights that one firm rarely holds a persistently large share of planning approvals over a significant period of time.

**Figure 1: Share of planning permissions of the largest entity progressing planning in the 26 potentially concentrated LPAs, by year granted<sup>28</sup>**



<sup>28</sup> Glenigan holds data on planning permissions achieved by a range of firms, including large or small housebuilders, promoters, public sector agencies and non-housing firms. TW has used this data to calculate the share of planning approvals granted to various entities (including large housebuilders, SME housebuilders, land promoters, investors, public



## SLAUGHTER AND MAY

Source: Glenigan data on planning approvals, excluding projects completed by Q1 2023

- (A) A high “concentration” level may be driven by planning delays from the local authorities and the Local Plan cycle, as opposed to any competition issues. As noted in the Planning Working Paper, these external delays are common and fall outside of any housebuilders’ control.<sup>29</sup> For example, TW’s promotion of land in one Local Plan cycle can often take 5-10 years or even longer if TW is not successful in securing an allocation during a given Local Plan cycle. As noted in the Planning Working Paper, fewer than 40% of LPAs in England had an up-to-date Local Plan as of May 2021.<sup>30</sup> This will significantly delay TW’s development timeline (and therefore “inflate” the size of its land pipeline) despite its best efforts to progress land as quickly as possible.
- 3.5 Third, **whilst the Working Paper focusses on the number of plots, TW considers it important to also assess the size and nature of the sites in the areas with higher concentration.** In TW’s experience, larger sites are commonly subject to longer and/or more uncertain planning and delivery timelines than smaller sites for many reasons. For example, in some local areas there are Local Plan requirements to build out a larger site in phases, and/or to deliver infrastructure upfront before a certain number of units can be built.
- 3.6 Fourth, **TW disagrees with the Working Paper’s generalisation that local housing market areas are “likely smaller than LPA/LA areas”.**<sup>31</sup> TW considers that local housing market areas can be broader than LPA/LA areas, for many reasons. Most notably:
- (A) Housing market boundaries are determined by the geography, commute and migration patterns and connectivity of a local area (and its surrounding areas). For example, the Department for Communities and Local Government has sought to define housing market areas primarily on these bases. It has thereby identified a total of 280 local housing market areas in England (as opposed to 326 LPAs) and found that “[m]any housing market areas cover more than one local authority”.<sup>32</sup>
- (B) Local housing market boundaries may have widened since the Covid-19 pandemic, which has led to significant shifts in homebuyer behaviour, including greater demand for space and interest in moving out of London.<sup>33</sup> A recent survey by Savills, for example, finds that around 17% of respondents expect to widen their property search

---

bodies and private corporations progressing planning applications) on new-build, private housing projects with 10 or more units that have not yet completed construction as of Q1 2023. This includes only approvals on detailed, outline and reserved matters planning applications. The entity/entities responsible for planning are identified by the ‘Client’ recorded in Glenigan. Where there are multiple ‘Clients’ recorded, the units on that project are split equally across clients. In some periods there are no data, because Glenigan did not record any planning approvals in that period on sites that had not yet been completed by Q1 2023 – this is especially likely in earlier periods. The only LPA where a period with no data follows a period with data is East Dunbartonshire.

<sup>29</sup> See the Planning Working Paper, para 4.66 et seq., for evidence that the lack of an up-to-date local plan can cause uncertainty, delays and negative outcomes. See the Planning Working Paper, para 4.113, for the causes of planning delays, as identified by the CMA.

<sup>30</sup> See the Planning Working Paper, para 1.35(c).

<sup>31</sup> See the Working Paper, para 4.2.

<sup>32</sup> See Department for Communities and Local Government, “Housing market areas and regional spatial geographies: Geography of housing market areas in England - paper A”, p27, available at: <https://assets.publishing.service.gov.uk/media/5a7901cbcd915d0422067106/1775485.pdf>.

<sup>33</sup> See BBC News, “How Covid has changed where we want to live”, available at: <https://www.bbc.co.uk/news/business-56359865>.

geographically.<sup>34</sup> This means that local housing markets may no longer be confined to traditional commute and migration patterns.

- (C) TW itself has 22 regional Business Units (“**BU**s”) across the UK, each operating as its own business at the local level. Each BU covers much broader local markets than LPA/LA boundaries. Each BU produces and monitors its own land strategy and sales across multiple LPAs/LAs and targets a wide range of housing types at various price levels.

### 3.7 **With respect to Method 1, there are several points TW would like to draw to the attention of the CMA.**

- (A) Method 1 mainly relies on the information on planning permissions collated by Glenigan, which is likely to overstate larger housebuilders’ competitive position for various reasons (some of which are acknowledged in the Working Paper itself).<sup>35</sup>
  - (i) First, Glenigan primarily collects data on sites with at least 10 units and so understates the overall number of planning permissions in each LPA (i.e., the market size considered by the CMA). This could also downplay the true competitive position of smaller entities (e.g., SMEs).
  - (ii) Second, the CMA’s analysis focusses on planning permissions granted but not yet built out by 2023Q1, and since larger sites take longer to obtain planning and build out, they are more likely to remain in Glenigan than smaller sites. As large housebuilders tend to have larger sites, this can overstate their competitive position, especially in the earlier years (when there are fewer sites that have not been built out by 2023Q1).
  - (iii) Finally, the CMA’s analysis overlooks sites/plots completed before 2023Q1 which comprise the stock of existing housing that will constrain any sites/plots that are coming out of the development pipeline.
- (B) The time period considered in the first step of Method 1 (2021-2023) may not be representative given the unusual market conditions over this period. For example, there has been heightened uncertainty and planning delays during Covid-19, and a short-lived uptick in the volume of planning permissions granted post-Covid as local authorities addressed their backlog of planning applications.<sup>36</sup> In many of the LPAs shortlisted by the Working Paper, the shift to remote working means exacerbated planning delays, which in turn have led to a planning backlog due to a combination of factors such as: (i) a lack of availability of LPA officers; (ii) a shift in method of contact (from phone to online), further slowing communications; and (iii) delayed Local Plans

---

<sup>34</sup> See Savills News, “New Savills research shows changing buyer demand and increasing interest for Cardiff development”, available at: <https://www.savills.co.uk/insight-and-opinion/savills-news/300988-0/new-savills-research-shows-changing-buyer-demand-and-increasing-interest-for-cardiff-development>.

<sup>35</sup> See, for example, the Working Paper, para 3.8.

<sup>36</sup> See, for example, Urbanist Architecture, “Current facts & figures about growing planning application delays [2023]”, available at: <https://urbanistarchitecture.co.uk/recent-planning-application-delays/> and Lichfields, “Business as (un)usual – how is the planning system holding up?”, available at: <https://lichfields.uk/blog/2020/april/27/business-as-un-usual-how-is-the-planning-system-holding-up/>.

(see section 4 for examples).<sup>37</sup> Moreover, the timeframe considered (2021-2023) is quite short and so can be skewed by phased planning applications on very large sites. It will therefore be more appropriate to consider a longer timeframe (as the CMA has sought to do in the second step of Method 1).

- (C) Method 1 does not assess the size of the large housebuilders' land banks against appropriate benchmarks such as the local housing need (as is done in Method 2).

### 3.8 **With respect to Method 2, there are also a few important points that TW considers should be reflected in the CMA's further assessment.**

- (A) Method 2 primarily focusses on the 11 largest housebuilders which together account for merely c. 40% of new homes built in 2022, according to the CMA's own analysis.<sup>38</sup> This method overlooks the strong competition they face in acquiring and developing land from other types of competitors, such as regional housebuilders, land promoters and the public sector (e.g., Homes England).
- (B) Method 2 is mainly based on one year of data (i.e., 2022) which is not adequate or representative for the reasons explained above.
- (C) As part of Method 2, the Working Paper expresses a potential concern that large housebuilders holding land banks in excess of local housing need implies that other suppliers may be "crowded out".<sup>39</sup> TW considers this unlikely for several reasons.
  - (i) First, land banks (especially strategic land) are not "oven-ready" but subject to substantial external delays and risks, as explained above and noted by the CMA.<sup>40</sup> Not all sites/units in land banks can successfully progress through planning and delivery.
  - (ii) Second, crowding out could only occur if there was insufficient developable land available in the local housing market (which may be broader than a given LPA) to meet the housing need. This is unlikely to be the case – 11 out of the 15 LPAs identified in Method 2 were able to demonstrate at least 5 years of land supply relative to housing need, based on the latest available assessment by the LPA.<sup>41</sup>

---

<sup>37</sup> Delays in Local Plan adoption have been very common. As noted by the CMA, less than 40% of LPAs had an up-to-date Local Plan in May 2021 - see the Planning Working Paper, para 1.35(c).

<sup>38</sup> See the Working Paper, para 3.2.

<sup>39</sup> See for example, the Working Paper, para 4.14.

<sup>40</sup> See for example, the Working Paper, paras 3.14-3.16.

<sup>41</sup> The 11 LPAs out of the 15 identified in Method 2 which demonstrate 5 or more years of housing supply relative to housing need are: Aberdeenshire, Tower Hamlets, North East Lincolnshire, Hounslow, Watford, Lambeth, Scarborough, Broadland, North Ayrshire, Oxford and Newcastle-under-Lyme (after including student accommodation). This is based on the latest publicly available assessment of land supply that TW was able to find (e.g., Local Plan, separate Land Availability Assessment or Housing Land Supply Update, Local Authority Monitoring Report) on the relevant local authority's website or TW's own knowledge. While TW agrees with the CMA's policy proposal that housing requirements and targets in LPAs' Local Plans should be set in a way that more accurately reflects housing need (see TW's response to the Planning Working Paper para 3.1 et seq.), in the absence of a more accurate housebuilding target, these are used as a readily available and comparable proxy for housing need.

- (iii) Finally, many LPAs have net housing delivery well in excess of their local need (as set out in section 4 below). It is evidently still possible to deliver additional housing, even in areas where housing need is already met, and any “excess delivery” is more likely to benefit than harm consumers.

**4. Supplementary evidence on the 26 potentially concentrated LPAs shortlisted in the Working Paper**

- 4.1 TW appreciates that the CMA has not identified any competition issues in any local areas at this stage. Rather, the CMA has simply shortlisted 26 LPAs that appear potentially concentrated under its conservative metrics and is gathering further evidence to look at these LPAs more closely.
- 4.2 To assist in the CMA’s further assessment, TW provides supplementary evidence to demonstrate that the 26 shortlisted LPAs are subject to effective competition, and that any “concentration” observed is a result of external and often unique circumstances as opposed to any competition issues. TW is confident that, upon further assessment, it will be clear that there is no competition concern in respect of the potentially harmful outcomes considered by the CMA.
- 4.3 As explained above, what looks like “concentration” may be an artefact of a host of external factors outside of housebuilders’ control. A clear example of such factors is planning delays and rejections, which delay (or even prevent) sites from being developed and exiting out of a land bank. Ultimately, it is the local authorities, not housebuilders (whether large or small), that decide which land is allocated for residential development and which planning applications to accept or reject, which in turn determines the level of concentration in the market and the rate at which new housing can be delivered.
- 4.4 Planning issues are increasingly common, and many of the 26 shortlisted LPAs have seen substantial delays in the planning process. As per the CMA’s own analysis, across the largest housebuilders “only 19% of all long-term plots are allocated in an LPA’s local plan, implying the majority face uncertainty as to whether planning permission will be granted”.<sup>42</sup> Many of the shortlisted LPAs are subject to significant delays from Local Plan allocation and planning. In Table 1 below, TW has identified examples of such delays that it has experienced or is aware of, which may have artificially inflated the level of concentration observed.

**Table 1: Examples of Local Plan adoption and planning delays in the shortlisted LPAs**

LPA	Examples of planning delays
Halton	Four of the greenfield allocations in the Local Plan were held in the system for over 16 months before being progressed to Committee. TW has faced delays in responses from Technical Consultees, especially National Highways, regarding capacity concerns for motorway junctions 6 and 7 of the M62. <sup>43</sup>
Havant	The Planning Inspector found that the draft Local Plan was not sound and recommended it be withdrawn and resubmitted. Havant Borough Council later

<sup>42</sup> See the Working Paper, para 3.16.

<sup>43</sup> This is in line with the Working Paper’s finding that there were fewer than 5 planning applications approved in Halton in each of the three-year periods from 2012-2023 that the CMA considered. See the Working Paper, Appendix A.

## SLAUGHTER AND MAY

LPA	Examples of planning delays
	withdrew the draft Local Plan. Consequently, the last adopted Local Plan was in 2011. <sup>44</sup>
Newcastle-under-Lyme	This LPA recently spent considerable time on a joint Local Plan with Stoke on Trent which was not submitted for examination, resulting in delays in adoption of a Local Plan in this LPA. Consequently, the last adopted Local Plan was in 2009 and was last updated in 2010. <sup>45</sup>
Oadby & Wigston	Nearby LPAs have agreed to share the unmet need from Leicester City via a Statement of Common Ground. This has delayed Oadby & Wigston progressing their new Local Plan by 9 months due to delays in other LPAs signing this Statement of Common Ground agreement.
Tower Hamlets	Political instability has caused a large number of planning applications to be delayed or refused. For instance, only 5% of major planning decisions in this LPA were made within the statutory time period of 13 weeks in the last two years. <sup>46</sup>
South Tyneside	Local Plan was last updated in 2010. <sup>47</sup>
All LPAs in Scotland	All LPAs across Scotland have to prepare a new style Local Plan by c. 2028. The Scottish Government has issued no interim planning legislation alongside the publication of NPF4 and removal of the presumption, which significantly limits the number of new planning applications that can be positively progressed until the housing land pipeline is established through allocations in new adopted development plans. New allocations in these LPAs will not start to deliver homes until 2028 at the earliest.

Source: TW and public sources

4.5 With regards to England, the Working Paper has shortlisted 19 LPAs in total, but many of these have experienced longer delays than the national average. This is illustrated in Figure 2 below, which presents the proportion of major planning decisions made within the statutory timeline (i.e., 13 weeks) across all the LPAs in England, and where the 19 shortlisted LPAs (indicated in red) sit within the overall distribution.

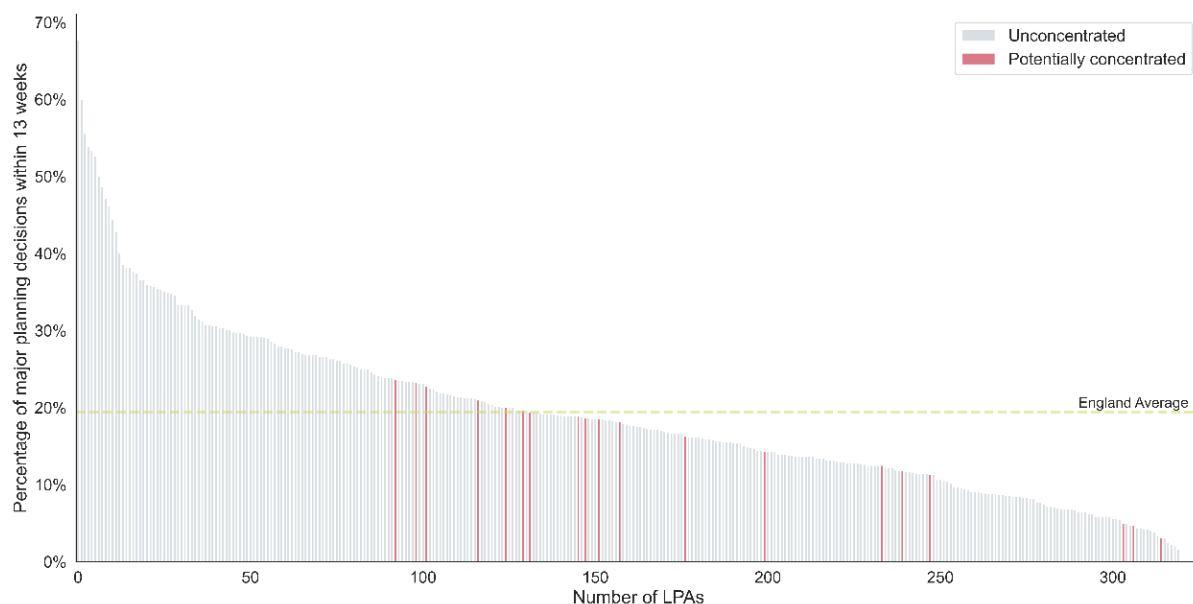
<sup>44</sup> See Planning Inspectorate, Local Plan: monitoring progress, 'Plans containing strategic policies', available at <https://www.gov.uk/government/publications/local-plan-monitoring-progress/plans-containing-strategic-policies>.

<sup>45</sup> See footnote 44.

<sup>46</sup> DLUHC, 'Table P151a: District planning authorities' performance – speed of major planning decisions', available at: [https://assets.publishing.service.gov.uk/media/64f75000a78c5f000d88712f/Table\\_P151\\_Final\\_.ods](https://assets.publishing.service.gov.uk/media/64f75000a78c5f000d88712f/Table_P151_Final_.ods).

<sup>47</sup> See footnote 44.

**Figure 2: Percentage of major planning decisions within statutory timeframe across LPAs in England (24 months to end of June 2023)<sup>48</sup>**



Source: DLUHC, 'Table P151a: District planning authorities' performance – speed of major planning decisions', available at: [https://assets.publishing.service.gov.uk/media/64f75000a78c5f000d88712f/Table\\_P151\\_Final\\_.ods](https://assets.publishing.service.gov.uk/media/64f75000a78c5f000d88712f/Table_P151_Final_.ods).

4.6 In addition to planning delays, there are other exogenous circumstantial factors that have given rise to the observed “concentration” in many of the 26 shortlisted LPAs, which should be taken into account in the CMA’s further assessment. In particular:

(A) The majority of the 26 shortlisted LPAs are remote, rural and/or small local areas with lower housing need (the main exception being the 6 London boroughs, which will be discussed separately below). For instance, 25 (or 96%) of these 26 LPAs are among the bottom 50% of all LPAs in GB in terms of land area and/or population.<sup>49</sup> In Malvern Hills, for example, a significant portion of land is allocated for agricultural use and the Malvern Hills AONB, and so cannot be used for residential development. Greenbelt and Nutrient Neutrality requirements have also been holding back housing developments in Oxford, Halton, Broadland and Great Yarmouth. Nevertheless, these areas also tend to have lower residential housing need, so housing delivery is still often sufficient to meet this need (as shown in Figure 3 below). Therefore, any “concentration” that the CMA has observed is largely a reflection of the geographical and demographic make-up of the LPA, rather than any competition issues.

(B) Major regeneration zones and redevelopment projects can artificially increase concentration. This is likely the case in Hammersmith and Fulham, Harrow, Lambeth,

<sup>48</sup> 12 out of the 19 shortlisted LPAs in England have lower-than-average planning performance in terms of the percentage of major planning decisions made within 13 weeks. These are: Great Yarmouth, Halton, Hammersmith and Fulham, Harlow, Harrow, Havant, Kingston upon Thames, North East Lincolnshire, Oadby and Wigston, Scarborough, Tower Hamlets and Watford. Hounslow is also only less than 0.1% higher than the UK average.

<sup>49</sup> Based on ONS, ‘Estimates of the population for the UK, England, Wales, Scotland and Northern Ireland’, mid-2021 edition, available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalesscotlandandnorthernireland>; ONS, ‘Standard Area Measurements for Administrative Areas in the United Kingdom’, Dec 2022 edition, available at: <https://geoportal.statistics.gov.uk/datasets/235c70d40c494361bd6b0ddaebdf0bad/about>.

## SLAUGHTER AND MAY

Tower Hamlets and Halton. In Halton, there are large regeneration projects in Runcorn, with significant remediation requirements due to former use of sites for the chemicals industry. As a result, sites in Halton can be more costly and slower to come forward.<sup>50</sup> In Harrow, there are three redevelopment sites (i.e., Byron Quarter, Peel Road and Poets Corner) for c.1,500 units.

- (C) Exceptionally large landowners and/or land sales can also give a false sense of “concentration”. For example, colleges of the Oxford University own a significant amount of land in Oxford, leaving much less available for residential development. In Oadby and Wigston, any “concentration” may be a relic of a large agricultural portfolio sale that took place about a decade ago and so is likely to diminish over time as new land with future development potential has been identified and developed.
- (D) Major new settlements can also give rise to “concentration”. A recent example is the new settlement in Chapelton of Elsick in Aberdeen, which has been allocated in the Aberdeenshire Local Plan for 4,405 homes. There is a strategy in the latest adopted Local Plan to not allocate any sites in Aberdeen to Laurenkirk strategic growth area in order to increase delivery of the new Chapelton settlement.
- (E) 6 of the shortlisted LPAs are London boroughs, where there are strong transportation networks allowing for greater flexibility over location for homebuyers.<sup>51</sup> Moreover, as noted above, many of these LPAs have large estate regeneration projects, which may have led to a higher concentration level, but only temporarily. According to a Lichfields study in September 2021, seven London boroughs had approved more than 5,000 new homes via regeneration projects, including Hammersmith and Fulham, Lambeth and Tower Hamlets which are among the 26 shortlisted LPAs.<sup>52</sup>

4.7 Importantly, there is clear evidence demonstrating that the 26 LPAs shortlisted in the Working Paper are subject to a healthy level of competition and have positive market outcomes, in spite of any apparent “concentration”. As such, there is no cause for competition concerns in the local areas shortlisted by the CMA.

4.8 TW has a land pipeline in [REDACTED] of the 26 shortlisted LPAs.<sup>53</sup> In all of these LPAs, TW faces strong competition for acquiring and developing land from a wide range of competitors – not just the other major housebuilders, but also SME housebuilders, land promoters, the public sector, investors and others. In TW’s experience, certain local areas may be less attractive for some large housebuilders but have fostered prominent regional/local players who have strong local networks and relationships the local authorities. Table 2 below provides a non-exhaustive list of some of the key regional/local competitors that TW competes against in these LPAs.

---

<sup>50</sup> This is in line with the Working Paper’s finding that there were fewer than 5 planning applications approved in Halton in each of the three-year periods from 2012-2023 that the CMA considered. See the Working Paper, Appendix A.

<sup>51</sup> Namely Hammersmith and Fulham, Harrow, Hounslow, Kingston-upon-Thames, Lambeth and Tower Hamlets.

<sup>52</sup> See Lichfields, “Great Estates, Planning for Estate Regeneration in London”, available at: [Estate Regeneration Insight \(lichfields.uk\)](https://www.lichfields.uk).

<sup>53</sup> Based on the data submitted to the CMA in Annex 27.1 of TW’s response to Question 27 of the RFI dated 16 March 2023.



**Table 2: Examples of major regional/local competitors TW faces in the shortlisted LPAs where TW is active (excluding the major housebuilders)**

LPA	Key competitors (excluding the major housebuilders)
Aberdeenshire	Claymore Homes, Churchill Homes, Forbes Homes, Malcolm Allan Housebuilders, Strathcarron Homes. In the new Chapelton settlement (4,045 homes) there are four SMEs building out the site (AJC Homes, Stephen Homes, Snowdrop Developments and Brio Retirement Living).
Broadland	Allison Homes, Denbury, Hopkins Homes, Lovell, Norfolk Homes, Quinn Estates
East Dunbartonshire	Caledonian Properties, Coda Developments, Esk Property, Panacea Homes
East Renfrewshire	AS Homes, Briar Homes, Glasgow City Council, East Renfrewshire Council, Mactaggart & Mickle, Westpoint
Halton	Keepmoat, Peel, Harworth, Hollins Strategic Land and Local Authority
Tower Hamlets	Northern Shell and Canary Wharf Group
North Ayrshire	Hope Homes, Wee House Company, Lynch Homes, Milestone, Westpoint

Source: TW, Glenigan

4.9 In addition, there is clear evidence of SME housebuilders that have successfully entered and/or expanded in the 26 shortlisted LPAs. For example:<sup>54</sup>

- (A) In Aberdeen, the Chapelton new settlement has been allocated in the Local Plan for 4,405 homes. This major new settlement is being built out by a few SMEs such as AJC Homes, Stephen Homes, Snowdrop Developments and Brio Retirement Living.
- (B) In Broadland, Allison Homes entered in April 2021 with a 315-home development approved in this LPA.
- (C) In East Renfrewshire, Dawn Homes entered in June 2022 with a 90-home development approved for detailed planning permission.
- (D) In North Ayrshire, Manse previously had sites in Glasgow, Edinburgh and Aberdeen, but was able to expand into North Ayrshire in August 2022.
- (E) In South Tyneside, Hebburn Riverside Developments was founded in 2018 and achieved planning permission for this project of 448 units in January 2023.

4.10 The 26 shortlisted LPAs also have strong market outcomes, despite any alleged concentration. TW's pricing policies and approach to land acquisition and build-out do not differ between the areas shortlisted by the CMA and those that are not. Moreover, housing delivery in many of the 26 LPAs is clearly sufficient to meet the local housing requirement. The housing requirement in a local area can be proxied by the Housing Delivery Test ("HDT") score, which measures the

<sup>54</sup> Entrants are identified based on Glenigan data (which records the entity/entities responsible for planning as the 'Client') if they achieved planning approval for a new-build, private housing project in the LPA in 2021-2023 but did not receive planning approvals in this LPA in the years 2012-2020. This was then cross-checked using public sources to the extent possible.

## SLAUGHTER AND MAY

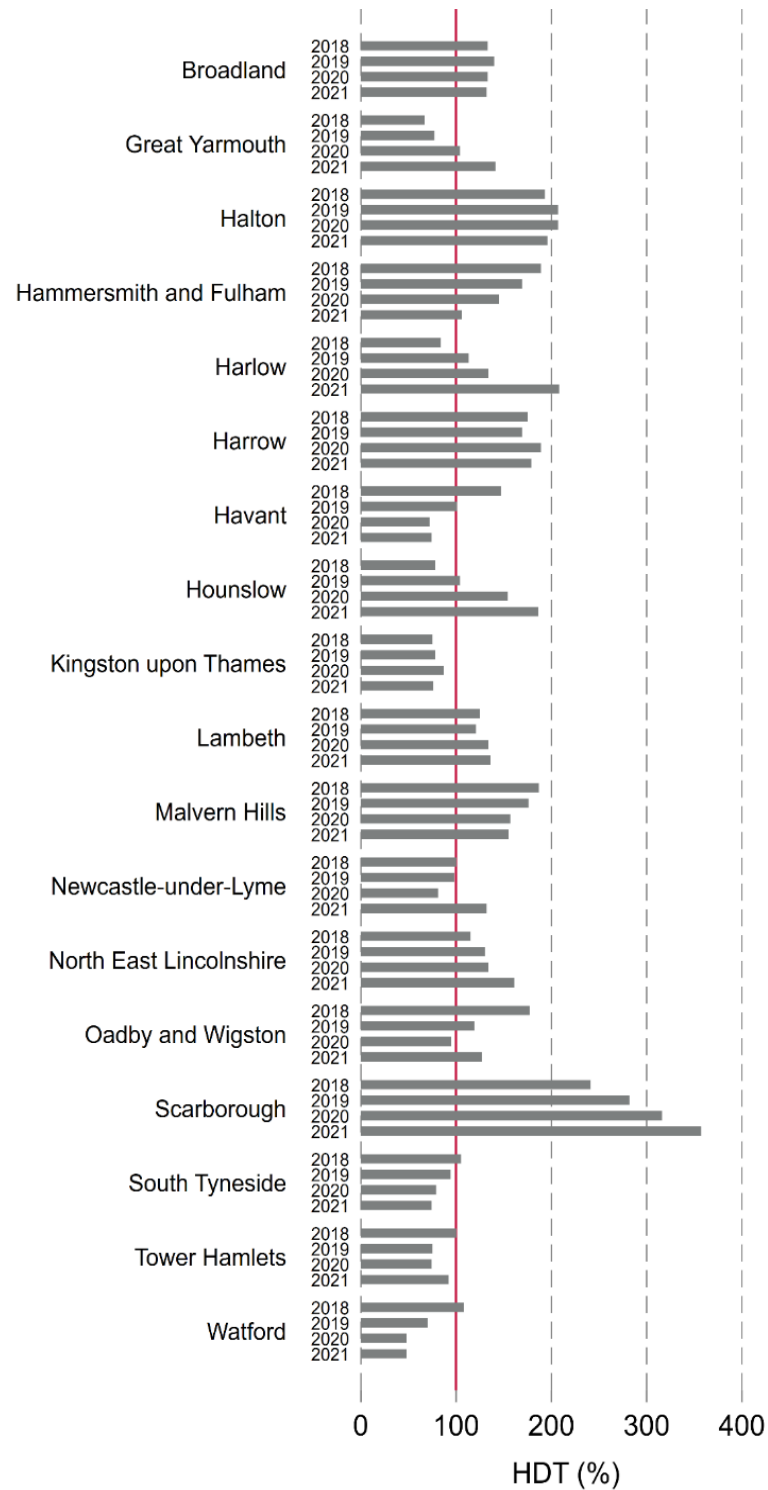
level of new homes delivered relative to the housing need for each LPA in England over a three-year period. Figure 3 on the next page shows that 14 of the 19 LPAs for which data is available have a HDT score of greater than 100% in 2021, implying that housing delivery exceeds housing need in these LPAs.<sup>55</sup>

- 4.11 Many of the LPAs identified are subject to strong competitive constraints from adjacent areas. For instance, some of these LPAs are transport hubs and commuter towns, including: (i) the 6 London boroughs; (ii) Oadby and Wigston, which is within the Greater Leicester area and a popular commuter location; (iii) Halton, which has commuter links to Liverpool and Manchester, and; (iv) East Renfrewshire, North Ayrshire, West Dunbartonshire and East Dunbartonshire, which are all close to Glasgow (a city with strong railway connections) and contain a number of commuter towns. These LPAs are therefore likely to be subject to competitive constraints from outside the LPA, as better transport links makes it more likely that buyers will consider homes in a wider area.

---

<sup>55</sup> These 14 LPAs are: Broadland, Great Yarmouth, Halton, Hammersmith and Fulham, Harlow, Harrow, Hounslow, Lambeth, Malvern Hills, Newcastle-under-Lyme, North East Lincolnshire, Oadby and Wigston, Oxford and Scarborough.

Figure 3: Housing Delivery Test Scores of the shortlisted LPAs in England, 2018-2021



Source: TW analysis of DLUHC Housing Delivery Test scores (2018-2021).

Notes: (1) Oxford is not presented in the chart. Oxford had a HDT of 2126% in 2021 as the homes required were 88 and 1,879 were delivered. Its HDT in other years is 70% in 2019 and 99% in 2018. For 2020, according to the HDT test it required 0 homes and delivered 1,500. (2) Broadland's HDT also considers Norwich and South Norfolk as these are measured jointly. (3) Malvern Hills' HDT also considers Worcester and Wychavon as these are measured jointly.