

CMA – Planning Working Paper

Consultation response November 2023

Qu4.1.1 Yes, given its increasing complexity and politicisation, cost and uncertainty of outcomes and timescales to deliver determinations, planning risk is most certainly a key issue for the system.

Qu4.1.2 Yes, lack of a stable policy framework for adequate periods of time at both national and local government levels manifestly introduces uncertainty in decision making and delay in determinations.

The absence of up to date Local Development Plans in Scotland and Local Plans in England with a policy vacuum arising can further contribute to an lack of consistency in decision making and failure to have up to date, evidence led policy objectives to meet housing needs/ targets.

Certainly planning is becoming increasing politicised and this tends to focus particularly on the housing sector across GB. This is undoubtedly leading to uncertainty and delay in decision making, even when up to date plans exist.

Qu4.1.3 In Scotland applicants for major planning applications are required to undertake a minimum 2 rounds of public engagement over a 12 week period prior to submitting a planning application and this can lead to public consultation ‘fatigue’ given previous development plan consultations and public consultation associated with the actual live planning application.

Lack of primary evidence in assessing housing need at local authority/housing market area level is a significant factor in the variance in outputs and lack of transparency in HNDA processes across Council areas.

A lack of strategic planning today has to be a constraint on Councils meeting actual need where their policy base (eg greenbelt) and local geographies can combine to constrain land supply. The absence of a strategic planning level negates the opportunity to distribute unmet need to neighbouring authorities with relevant housing market area connections and where such Council’s are not constrained to the same extent.

Qu4.1.4 The different approach to community based plans between Scotland & England (ie Local Place Plans and Neighbourhood Plans) and their different status and relationship to the Development Plan is a significant inconsistency in the systems operating across GB. Inevitably, this variance can cause strategic risk in businesses operating cross border and lead to cost differentials between the two countries when managing said risk.

Yes, the absence in Scotland of a presumption in favour of sustainable development coupled with the removal of housing shortfalls when assessing housing land supply is a material change which will impact delivery, at least in the short to medium term (0-5 years) and pending new generation Local Development Plans in Scotland.

Qu4.2.1 Yes, there can be little doubt that the aggregated cost increases ongoing in terms of promotion costs to take site opportunities through the plan led system, the increasing planning fee base and the increasing regulatory costs around net zero transition in build/ energy supply costs, coupled to the cost of meeting ev charging policy requirements will be pushing numerous development sites towards or into unviable territory for housebuilders, particularly in secondary and tertiary market locations.

Qu4.2.2 Yes, significant delays in consent delivery from original housebuilding programming assumptions in their business plans obviously stalls site starts, delays unit completions Year on Year through life of a site and can frustrate further timeous investment in land when revenue streams are also delayed.

Qu4.2.3 Yes, the reasons established at 4.113 are the main causes of delay in the planning system delivery and in particular resourcing of planning officers to manage the caseload and solicitors to manage the legal agreements associated with planning permissions.

Qu4.2.4 No statutory pre application consultation process in England & Wales must streamline planning determination timescales. The NPF4 policy interpretation transition is creating inertia in the delivery system of new sites given the lag arising in LDP reviews and the impact of new policy interpretation on development management processes, particularly pending Scottish Government publishing supporting guidance around Bio-Diversity Net Gain measures, Whole Life Carbon Assessment metrics etc.

Qu4.3.1 In the Scottish context the under reporting of housing need through the HNDA process has had the effect of suppressing required housing land supply provisions across many Councils in primary market locations since at least 2008. This is one of the key reasons for the Housing Crisis now being announced by certain local authorities, including Scotland's capital city. This under reporting of need and associated constrained housing land supply in key markets will certainly have contributed to reduced housing delivery in the last 15 years and as your data has confirmed.

As just one example the housing land requirement in the City of Edinburgh Council area that has been tested through the Examination process including a hearing on housing is estimated by the industry at 44,000 new homes in the period 2024-34 against a land supply position of 26 -27,000 homes – a shortfall of 17,000 homes!

Homes for Scotland and member companies have undertaken new primary evidence gathering, in the form of nationwide household surveys and results nationally and disaggregated to Council level are due to be published by Homes for Scotland in the near term. I am sure HfS will wish to engage with CMA on these findings and their implications.

Qu4.3.2 Yes, there appears to be little accountability for non- performance when Council's miss housing targets and the removal of shortfall elements in undersupply will reinforce the lack of urgency in meeting housing need where under performance arises.

Qu4.3.3 Scotland should adopt England's practice of setting a national target for annual all tenure housing completions.

Qu4.3.4 There are no 'incentives' in Scottish Council Planning services for good performance and their carefully targeted introduction should assist with the task of increasing housing delivery. So Councils that fail to meet statutory timescales for determining planning applications should be required to return a percentage of the planning fee (ie min 50%). Consultees failing to meet consultation timescales should be advised that their responses will not be considered if late.

Qu4.4.1 Yes, and in our experience we would confirm that the planning system does have a disproportionate impact due to issues of; scale, higher cost per unit, comparative access to funding and the increasing trend in local planning authorities releasing large strategic housing sites as a significant proportion of its housing land requirement across numerous housing market areas. It must also be recognised however that there are significantly fewer SME builders in the market post 2008.

Qu4.4.2 Yes, the core issues are identified.

Qu4.4.3 Not sure 'incentivised' is the correct term but can understand how large strategic sites delivering significant social infrastructure (eg schools) will receive closer attention from local planning authorities when delivering wider Council objectives than new housing. Such sites can deliver annual outputs in excess of 200 homes, but often have longer lead in times to deliver plots and may have phasing restrictions preventing completions, pending provision of key enabling infrastructure. Accordingly, their annual outputs can vary in comparison to smaller sites demanding less infrastructure provision. Authorities ought to plan for a wide range of site types to offer the market better choice and access to land supply.

Qu4.4.4 The design and energy transition policy demands driven through planning policy will have a disproportionately higher costs for SMEs within their funding facilities and could restrict their access to growth as costs per unit increase year on year to meet these increasing requirements. The ever increasing level of technical expertise required to meet consenting regimes also places additional cost pressures on operational overhead in order to manage an increasingly complex system pre delivery. These costs are more difficult for SMEs to manage.

Qu4.4.5 Not apparent

Qu5.1.1 Yes, a major weakness in the system at present across GB is the regular absence of up to date primary evidence in the form of household surveys which should be applied to establish levels of housing need. This used to be undertaken fairly rigorously by Councils back in the 1970 and '80s, but rarely is undertaken today.

The HNDA toolkit misrepresents actual housing need due to its particularly restricted definition of need and requires to be significantly revised by local authorities and national governments.

Qu5.1.2 Yes, these would be the key characteristics of an effective model.

Qu5.1.3 In addition to the current definition of need in HNDAs covering households in temporary accommodation and those in concealed families in overcrowded households, gross housing needs require to extend, in addition, to the following households:

Overcrowded households

Households in unfit properties

Households without and requiring adaptations

Households which state they are financially struggling

Qu 5.2.1 The preparation of a statutory development plan is a public service and needs to be funded by the public purse. Accordingly, this aspect of the planning system needs to be afforded priority in Council budgeting to safeguard delivery. UK Government, as in Scotland, requires to make local plan review periods a statutory duty on Councils.

As a statutory duty it ought not to be incentivised.

Qu 5.2.2 Where matching need at local authority level to housing land supply is constrained an element of strategic planning should be restored to ensure the distribution of unmet need within the wider housing market to neighbouring authorities without the same levels of constraint is delivered.

Qu5.3.1 Fundamentally, to minimise risk in development funding processes the certainty of planning permission ought to be safeguarded. The notion that softer compliance regimes resulting in the potential for a higher incidence of unauthorised forms of development during or post construction phases being subject to costly enforcement action should not be countenanced.

What should be seriously considered is shifting the community/ political scrutiny in the planning system away from the regulatory environment of planning permissions and onto the statutory development plan process, allied to national governments' and Councils' statutory duty to review the Development Plan to a prescribed period. Land use allocations and development standards guidelines would become the focus of public engagement, allowing permissions to be managed by professional planners through Council Schemes of Delegation. Such a move could be a gamechanger relative to the current risks to delivery around, delay, inconsistent decision making and uncertainty of due process outcomes.

Qu5.4.1 This requires to be a balanced solution to ensure SMEs are not further restricted in the housing market. Further fee increases to fund development management services within local planning authorities must be ring fenced to the planning services and linked to the performance of development management services.

Qu5.4.2 The higher education sector needs to be incentivised by government to establish/ re-establish planning schools with under and post graduate courses where sufficient income streams from fees can be secured. Given the time it will take to establish the necessary output of graduates, modern apprenticeships should be introduced to enable trainee planners to work and study in parallel. This should have an early impact on vacancy rates in Councils.

Qu5.5 Financial support from Government to reduce the levels of risk inherent in meeting the increasing costs of delivering all statutory consents. Once approved and sites have commenced construction this funding support could be credited back to the state.