

# RESPONSE TO CMA HOUSEBUILDING MARKET STUDY - PLANNING WORKING PAPER

## INTRODUCTION

In this paper we set out evidence of the impact of the cost and uncertainty of the planning system on SMEs - many new market entrants - trying to deliver community led housing developments.

We are the official membership bodies for 358 Community Land Trusts in England and Wales, which in the past year have completed over 200 affordable homes.

Government policy has recognised that community-led housing has the potential to increase the **volume** of housebuilding, offer greater **choice**, improve **quality**, and support **innovation**.

In his speech on his long-term plan for housing in July, the Secretary of State for Levelling Up, Housing and Communities stated that 'core to that acceptance [of new homes] must be a new philosophy of community-led housing' and that the government would 'go further to empower communities to build beautiful in the places that they already love – supporting people to build homes themselves by scaling up the role of community land trusts and also making more resource available to support custom and self-built homes'.

## PREDICTABILITY AND CONSISTENCY

We agree that planning risk is an issue for the planning system. However, while we recognise the risks the CMA describes under the headings of predictability and consistency, they are not the primary issues for community-led developers. That is, they are secondary to the issues of cost and length. The exceptions to this are:

- 1) Where community-led development is proposed on unallocated sites, commonly for example for a 'rural exception site' or on windfall infill sites within settlements, where the principle of development does become a key risk. Probably the majority of community-led schemes are being delivered on these sites because of the wider competition issues in the market that make it extremely difficult for SMEs to buy and

develop allocated sites, particularly where Local Plans focus on the allocation of a small number of very large sites to hit targets.

- 2) Nutrient neutrality in England, which introduced a significant new set of policy requirements which local planning authorities and statutory bodies seem ill-equipped to process in a timely manner.

## LENGTH, COST AND COMPLEXITY

We agree that these factors are the key issues with the planning system affecting our members, and probably other SMEs.

### Nature and causes of cost

We recognise the CMA's analysis that the planning costs per-plot are disproportionately higher for SMEs. The majority of the schemes in our dataset are for fewer than 20 homes, and show an average cost higher than £3,500.

The average direct cost for applications doesn't vary linearly within the 0-50 scale, and so the cost for a 5 home scheme becomes disproportionately high per plot compared to a 50 home scheme. As research recently published by the Housing Forum found, even small applications for 10 homes were required to produce up to 42 documents per application, and across 21 local authorities there were 119 different types of document that might be required<sup>1</sup>. One recent case, a CLT applying for permission to build 6 homes has 82 documents on the portal.

These are also not the only sunk costs required in the pre-development stages of schemes. Proper community engagement adds a small amount. There will also be significant costs - particularly legal - associated with securing a site (usually obtaining an option agreement or in some cases an agreement to lease).

Where an application is sought on a rural exception site, there is further cost in obtaining the necessary evidence of local housing need e.g. through a local housing needs survey. This is required, in full, each time an application is submitted. In one recent case, Icklesham CLT completed 15 affordable homes with a local lettings policy and received over 70 applications for the homes. Yet will need to undertake a further (expensive and lengthy) housing needs survey to evidence the need for a second proposal that they are now bringing forward.

Taking account of this full range of costs, one specialist enabler provided us with figures showing an average of approximately £11,000 per plot of sunk costs in order to secure a site and a planning consent. That is as much, if not more, than the typical cost of the land that groups pay in 100% affordable windfall sites such as rural exception sites.

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<sup>1</sup> Housing Forum (December 2023), *Planning validation requirements: Moving to a planning statement approach instead of checklists*, <https://housingforum.org.uk/reports/key-publications/planning-validation-requirements/>

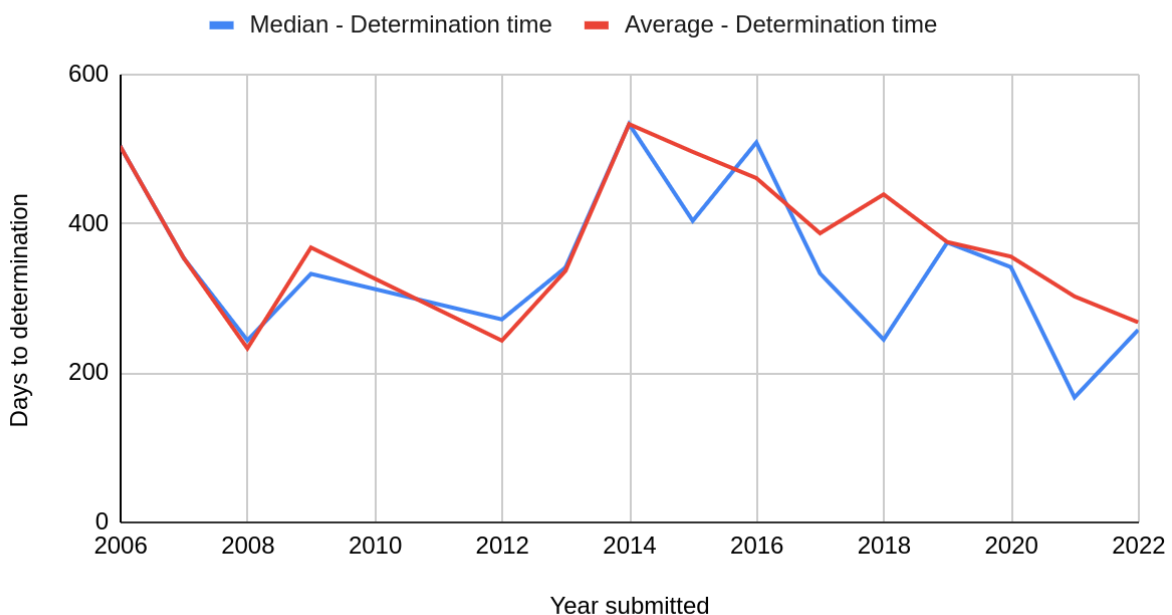
## Nature and causes of length

We hold data on the planning application submission and determination dates for 84 CLT schemes dating from 2006 to 2022. Of these, the mean time from submission to determination was 359 days, with a median of 314.

The statutory time limit for most of these schemes, not being major developments, is 8 weeks, or 56 days. Some may have Environmental Impact Assessments, pushing the limit up to 16 weeks, or 112 days. Not a single application in our dataset met either target, and on average were three to six times over the statutory limit.

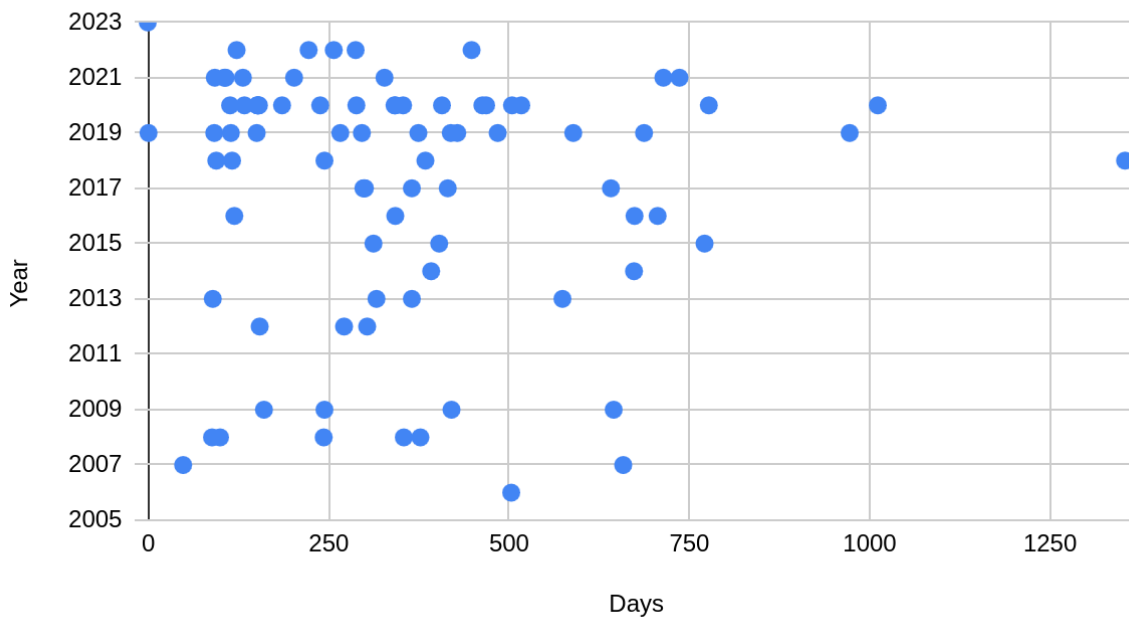
The following chart shows that the mean and median time to determination has consistently been in excess of 200 days, and in some years averaged over a year. The precise figures in each year should be treated with some caution due to small sample sizes in some years. We also don't account for the varying kinds of application - their complexity, number of statutory consultees and EIP requirements, etc although most will be simple small schemes with a deadline of 56 days.

### Processing of CLT planning applications



A scatter plot of all the schemes in the dataset also gives a sense of the significant range. While 9 were determined in fewer than 112 days, 35 took longer than a year, and 6 took longer than two years.

## Processing of CLT applications



There are other significant delays in cases that have yet to be determined. In one recent case, a CLT in Bristol submitted their planning application in March 2023. Seven months on it still hasn't even been assigned a planning officer. Other Bristol schemes have had high levels of delays from the statutory consultees. Dorchester Area CLT submitted its planning application to Dorset Council in May 2020; Yarcombe CLT to East Devon Council in October 2020; both are still awaiting a decision, with delays partly but not wholly due to nutrient neutrality issues.

We agree with the evidence the CMA cites that the primary cause of the length of the process is the shortage of staff in local planning authorities. This is compounded by the difficulty of being able to secure timely pre-application meetings and being able to do these in person - we have heard many reports of pre-app officers not properly reviewing materials and offering cursory comments on a remote call.

However, we would note that our data shows this issue predates the 'austerity' cuts introduced since 2010. In our experience, local planning authorities have prioritised development control resources for larger sites for many years, giving less attention to smaller and windfall developments. This has a disproportionate impact on SMEs.

### Impact on SME housebuilders

The delays are not only frustrating. For SMEs they represent a significant barrier to financing these risky stages of the development process.

The slow process of development is a barrier when the return on investment will always be quite slow and modest. In 2017 Chamberlain Walker Economics (CWE) produced a report (on behalf of Barratts Development PLC) which looked at the land pipelines for housebuilding in the UK. This

estimated that smaller schemes take an average of 5.7 years to complete, of which approximately 1.7 years are from the start of pre-planning work to a planning consent. This was based on determination taking half a year, as compared to our data showing an average of almost a full year, and in a significant minority much longer than that. This work is cited in a study by Sheffield Hallam University from 2021, which concluded that the speed of development CLT schemes was comparable to these wider industry benchmarks<sup>2</sup>.

For CLTs - SMEs focused on affordable housing - there has been no mainstream market of finance for the sunk costs required to secure a site and a planning consent.

Specialist social investment firms such as Resonance and CAF Venturesome, charitable funders such as Power to Change and public bodies including Homes England have provided pre-development loans and grants. But the loans are expensive - often with interest rolled up at a rate of 25% on the principal, reflecting the risk and the cost of deploying capital over long periods of time.

We are working with specialist enablers to find alternative ways to raise finance on a pipeline of schemes, e.g. raising £10m to bring 60 to the point of securing the site and a planning consent, to sell on to a developer or housing association. But if finance is sought with an annualised interest, then the possibility that - as in two cases above - applications can be stuck in the planning system for more than three years with no end in sight poses an unsustainable financial risk. This is compounded if the site is unallocated and so there is uncertainty as to the principle of development. The advice we have received to date is that we will need to find specialist forms of patient, semi-philanthropic equity due to the uncertainty and length of the planning process.

## OPTIONS TO IMPROVE THE PLANNING SYSTEM

### A rules-based system

We would welcome the move to a rules-based system if it were to reduce the uncertainty around the principle of development. However, as we argued in our response to the 2020 Planning White Paper<sup>3</sup> a reduction in the discretion for local councillors and residents on each application would require a commensurate increase in the depth and quality of public engagement in the Local Plan process, which is currently highly unsatisfactory. This would require more resourcing than is presently put into the preparation of Local Plans, which is already considerable and is a barrier to the timely production of Local Plans.

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<sup>2</sup> Sheffield Hallam University (October 2021), *Community-led Housing and the Speed of Development*, <https://nationwidefoundation.org.uk/projects-we-fund/current-funding/sheffield-hallam-university-speed-of-development/>

<sup>3</sup> CLTN response to Planning White Paper (October 2020), <https://www.communitylandtrusts.org.uk/wp-content/uploads/2021/08/CLT-Network-Response-to-Planning-for-the-Future-October-2020.pdf>

As we have stated that the majority of CLT schemes are on unallocated sites, a rules-based system would need to increase certainty about whether permission will be granted in principle on these sites.

A particular issue for small-scale development, particularly in urban areas and protected rural landscapes, is the particular difficulty of meeting the full range of policy requirements. In many cases CLTs have made real attempts to meet policy requirements and have developed a good scheme generally, but planning officers and committees must exercise a degree of flexibility to recognise that the scheme is probably the best possible and viable compromise for the site. In theory the planning system allows that, but individual case officers don't like to take the risk, for fear of setting precedents, and don't have the time for careful nuanced "balance of planning merits on specific sites" reports that would prevent setting such precedents. A helpful principle in the new draft Local Plan for North Norfolk<sup>4</sup> states, in relation to a policy to enable community-led development, that 'The Council wishes to support Community-led developments including those which may not comply with some aspects of this Plan provided it is demonstrated that the development proposed is needed and will make a meaningful and lasting contribution to the vitality of the community and deliver improved services and infrastructure.'

We proposed, in our response to the December 2023 consultation on changes to the NPPF, that two changes be made which would take the system in that direction without needing to fundamentally change the system to a rules-based one<sup>5</sup>:

1. Give great weight to community-led development that meets policy requirements including for affordable housing and that meets evidenced local need, particularly to balance out protections afforded in protected landscapes such as National Parks and AONBs.
2. Introduce a policy for 'community-led exception sites', giving permission in principle to community-led development on unallocated sites within or on the edges of settlement boundaries, provided they meet evidenced local need and are widely supported locally, even if they do not comply with every aspect of the Local Plan. This is based on an existing planning policy in East Cambridgeshire and a draft policy in North Norfolk cited above.

There is also more that local authorities and local councils/neighbourhood forums could do with Local Development Orders and Neighborhood Development Orders to reduce uncertainty. These can, in effect, create a rules-based environment specific to a local area, and offer a good opportunity for genuine coproduction with local people to ensure they have the democratic consent of the community.

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<sup>4</sup> North Norfolk District Council (January 2022), *Proposed Submission Version North Norfolk Local Plan*, <https://www.north-norfolk.gov.uk/tasks/planning-policy/local-plan-new/>

<sup>5</sup> CLTN response to NPPF planning consultation (April 2023), <https://www.communitylandtrusts.org.uk/news-and-events/cltn-final-response-to-the-english-planning-consultation/>

## Alignment of fees with LPA funding requirements

We do not object in principle to planning fees rising, but echo the comments about the disproportionate impact on SMEs, and those of eg the Housing Forum that this is unlikely to address the resourcing issues fully. As we noted above, this is even more of an issue on very small sites within the 0-50 category, and where schemes are proposed for 100% affordable housing in which land value expectations are already very low (typically up to £10k per plot).

## Additional support to SMEs

One alternative proposal to improve the availability of qualified planners, specifically to address barriers experienced by SMEs, would be to assign specialist case officers across a number of LPAs as a shared service. One of our specialist enablers, Middlemarch CLH, recommended this in a report commissioned by the Devon councils - 'Team Devon':

*'We don't know whether or not it would be possible to coordinate planning policy across the county but, if it is and some consistency of approach could be created in Development Management through, for example, the appointment of one or more case officers with specialist knowledge, we believe that this would be helpful. Homes England has taken this approach through the appointment of key people to handle CLH applications and the impact has been noticeable and welcome.'*

A related proposal, also recommended by Middlemarch CLH, would be to standardise some elements of policy across those LPAs with the aim of reducing the length and cost of the process. This could be easily applied, for example to section 106 agreements and local lettings plans for rural exception sites. As Middlemarch wrote to Team Devon:

*'Efficiencies could also be achieved through raising DM officers' awareness of CLTs and the nature of their projects, and by more standardisation in S106 agreements, especially around rural exception sites. At Middlemarch, we are now advising CLTs to submit fully drafted S106 agreements with their planning applications in the hope of shortening what can be a wait of over six months for LPAs to produce drafts of their own. The draft of such a standardised S106 can be provided.'*

Further consistency could be provided by clearer policy in the NPPF, or potentially a National Development Management Policy setting standardised expectations around community-led development on windfall sites (something we recommended be explored in our response to the December 2023 NPPF consultation, cited above).