

6 December 2023

To the Competition & Markets Authority

## Housebuilding Market Study – Planning Working Paper

The National Custom and Self Build Association (NaCSBA) is the voice of the self build and custom housebuilding sector. Our membership reflects the breadth and range of the sector from large multinational companies to the self-employed, and every aspect of the self-commissioning process from searching for a plot through to the final finishing touches for one’s home.

Our aim is to make custom and self build a mainstream choice for all those seeking a home of their own – just as is the case in every other developed country.

We are writing to provide our input to your *Housebuilding market study - Planning working paper*. We can confirm that the planning system represents the largest single barrier to the operation of an effective new homes market that delivers the mix, volume, and quality of new homes that is required.

The evidence base to support this position and to highlight how greatest consumer choice can bring about a step change in the quantity and quality of housing delivery is set out in our previous responses. However, it is important to repeat that the lack of consumer choice is the greatest single difference between our housing market and that in every other developed nation.

In Appendix A we have added our responses to Questions 4.4 (that part that focusses specifically on SMEs, which we consider to closely linked to custom and self-build – and the challenges it faces).

### Overview

There are two major outcomes that are needed to create a more consumer focussed new homes market:

1. There needs to be a greater delivery of homes on smaller sites (linked to the general expansion and densification of existing settlements).
2. There needs to be a greater variety of new homes delivered on larger developments.

### 1. Delivering Small sites

#### Introduction

By its nature, for most planning authorities, land allocation through the local plan process is ill-suited to ensuring the necessary delivery of a regular and reliable supply of individual / small sites. This is unlikely to change even with the advances that will come about following the Levelling-Up and Regeneration Act 2023 (LURA 2023). These plots are likely to be delivered by infills, and on the edge of established settlements, in effect as windfall sites.

To address the need for more small sites it is necessary to create an effective mechanism that secures a regular and reliable supply of such sites – and importantly one where a failure to operate such a system transfers risk and cost away from the self / SME builder and to the planning authority.

Given the focus on smaller settlements and edge of settlement sites to the self build and SME sector it is critically important that welcome moves towards digitisation in the local plan process continue to support the organic growth of all settlements and are not seen as a mechanism to prevent such additional housing provision.

### Existing powers

The **Self-Build and Custom Housebuilding Act 2015** (as amended) already contains a mechanism through which demand for those seeking to build or commission their own home can be met through a duty placed on planning authorities to permission enough sites. However, legislation (despite its recent strengthening by the LURA 2023), continues to fail to deliver its intended purpose due to a either being simply ignored or through actions that are contrary to the letter and the spirit of the legislation.

**Paragraph 69 of the National Planning Policy Framework (NPPF)** already contains a well worded statement as to the need for and benefits of delivery on small and medium sized sites, and on the greater weight to be given to such applications. However, this mechanism is failing deliver the combination of land the certainty that enables the market to thrive. Furthermore 10% is simply too small to sustain and grow the SME sector, and in those authorities where the SME sector is the strongest and most active that limit measure will already be being exceeded.

### The actions that are required

To facilitate greater competition within the new homes market then the following changes are needed with respect of the planning system:

The proposals contained within the Bacon Review (as referenced in the planning paper) should be implemented in full. This will help ensure that the **Self-Build and Custom Housebuilding Act 2015** operates in the way that the legislation was intended. Greater specific reference to custom and self-build should be set out within the NPPF.

Paragraph 69 of the NPPF needs to operate in that way that was intended. The 10% requirement should be expanded to also require an increase in the number of homes delivered on individual and small sites.

For both custom and Self Build and for small developments planning authorities should be required to monitor track and report permissions granted in a way that allows oversight of performance.

Where there is clear under-delivery then increased weight should be given to those planning [proposals that do come forward, with the ultimate sanction that costs are imposed against any authority failing to deliver the required performance, whilst at the same time rejecting applications.

## 2. Large sites

### Introduction

Large sites offer the greatest opportunity to provide a variety of homes. They also can create be used to maximise demand and hence build out rate by flexing the delivery approach to reward those building to need and pace. The benefits of such an approach can be clearly demonstrated in overseas markets and are clearly laid out in the **Letwin Review**. That Review concluded:

*“the homogeneity of the types and tenures of the homes on offer in these sites, and the limits on the rate at which the market will absorb such homogenous products, are the fundamental drivers of the slow rate of build out.”*

### Existing situation

Rather than deliver variety, large sites currently result in a monoculture of homes with a limited target market, where build rate is set to maximise profit.

As set out in previous submissions, the Self-Build and Custom Housebuilding Act has been successful in increasing the proportion of large sites that contain (in theory) a proportion of custom and self build plots – typically through the requirements of the S106 agreement.

In too many current cases these are not resulting in such plots being made available. Many constraints have been observed, from inappropriate master planning, poor plot layout, little or no marketing, and pricing designed not to sell. This is not least as developers are incentivised to ultimately build out such plots as speculative housing (in much the same way as reducing their affordable housing delivery).

### The actions that are required

- To facilitate greater competition within the new homes market then the following changes are needed with respect to large sites:
- Large sites are to be designed from the outset to deliver a variety of homes with regards tenure and design, through the parcelling up of sub plots within the site.
- This process to contain specific provision for serviced plots for custom and self build homes, and smaller plots suitable for SME builders.
- Later phases of the build to be determined by the demand evidenced by the early stages – to create an incentive to maximise the rate of build out.
- This approach to be set out within the NPPF and enforced through S106 agreements.
- Monitoring and reporting to occur.

### **In summary**

Legislation and the NPPF in theory create an environment that supports the delivery of homes through custom and self build and from SME developers.

However, despite a wide recognition that these processes are not working as intended, there is little that self-builders and SME developers can currently do to make the planning system work as intended.

Whilst challenges exist throughout the planning system. Large developers have greater resources to work within the system, and to benefit from it. They have the financial muscle, the access to third party resources, and the time to succeed.

It is perfectly possible to operate a planning system that ensure a regular supply of individual and small plots to meet demand, and at the same time to create an effective market for high quality homes on such plots.

To shift the balance the following steps are needed:

1. Greater recognition of the need to deliver more opportunities to self-builders and SME developers within Regulations and the NPPF in particular.
2. A system of measurement, reporting, and feedback to monitor and report feedback.
3. Where there is non delivery, a growing weight given to those schemes that address the shortfall, with costs and risk transferred to the planning authority for non-delivery.

Yours sincerely

The National Custom & Self Build Association



## Appendix A

### Question 4.4

1. Do you agree with our analysis of how the planning system may be having a disproportionate impact on SME housebuilders?

We agree that the planning system is having a disproportionate impact on custom and self builders and SME housebuilders. The fundamental reason for this is the failure of the system to bring forward sufficient suitable small sites (or parts of larger sites).

As we have set out in our response the tools appear to be in place but they are not being used in the way that Government intended. Whilst this could be stated to be a failure of will on the part of planning authorities, this situation is brought about by the lack of resourcing of planning teams to able to support a larger number of smaller site applications, plus the distrust against development that leads to the general opposition to new schemes.

This in turn favours larger developments (although it is these larger developments that have played no small part in creating the system we have now.)

2. Do you agree that we have identified the key issues faced by SMEs due to the planning system?

We believe that you have identified the key issues that are faced but we believe that additional context – as we have set out above is helpful in pointing towards where the solutions lie.

3. Do you consider than the current planning system is incentivised to deliver housing on larger sites? If so, what are the implications of this for the housing delivery?

Yes, although we do nit believe this to be the intended outcome of a planning system that is designed to be flexible and respond to need. However, it is this flexibility that creates the increased semi-judicial framework around which planning operates and which in turn favours those with deep pockets and time – which inevitably equates to scale.

This process is then reinforced by the lack of resources within planning authorities and hence a capability to deal in a supportive and effective way with custom and self builders and SMEs. The framework is largely in place but it is not operating.

4. Are there any other aspects of the planning system that have an impact on SME housebuilders that we should consider?

At the heart of the problem is a failure to measure, monitor and report performance with regards individual and small sites. Data at planning authority level provides a valuable tool to review performance and to assess performance.

Requiring specific policies for custom and self-build and small sites and reporting performance in a standard regular way is an important part in ensuring a change towards increasing delivery.

5. Do you consider there to be any difference between how the planning system impacts SMEs between England, Scotland and Wales?

We believe that the greatest differences between the UK nations arise from the relative mix between urban and rural housing. Those nations with by their nature deliver a greater mix of smaller developments are in turn better equipped to operate to the benefit of self-builders and SMEs.

Note the custom and self build legislation is specific to England only. To date, and over seven years since its main powers came into force, it has yet to produce any discernible difference in delivery in England compared to other nations.