

08 December 2023

By email: housebuilding@cma.gov.uk

Housebuilding Market Study Competition and Markets Authority

The Cabot

25 Cabot Square

London E14 4QZ

Competition and Markets Authority

House Building Market - Planning working paper November 2023

Royal Institution of Chartered Surveyors Response

Introduction

The Royal Institution of Chartered Surveyors (RICS) is pleased to respond to this consultation by the Competition and Markets Authority. Established in 1868, RICS is the largest organisation of its kind for professionals in property, construction, land, and related environmental issues, setting and upholding professional standards for 125,000 qualified professionals and over 10,000 firms. RICS regulates both its individual qualified professionals and those firms that have registered for regulation by RICS. Over 80,000 of our qualified professionals work in the UK, where our goal is to deliver a healthy and vibrant property and land sector as a key pillar of a thriving economy while addressing the need for the creation of green, safe communities. We are not a trade body; we do not represent any sectional interest, and under the terms of our Royal Charter the advice and leadership we offer is always in the public interest.

Analysis of the GB planning system (Section 4)

Question 4.1

1. Do you agree that planning risk is a key issue for the planning system?

Yes, for many years planning risk has been identified to RICS as a significant factor determining whether development opportunities are pursued. There is a link between the actual risk to developers and the perception of that risk by other participants in the process particularly lenders many of whom will not commit on proposals where there is 'planning risk'. Those lenders who will commit require a significant risk premium, making financing unaffordable to many SMEs.

This reflects the general attitude in relation to planning risk but this attitude is more pronounced depending on geographical location and position in the economic cycle. Figure 1 below illustrates the cyclical challenges of the house building market with very high returns at the peak of the cycle and very low returns at the trough leading to some SMEs having to exit the market.

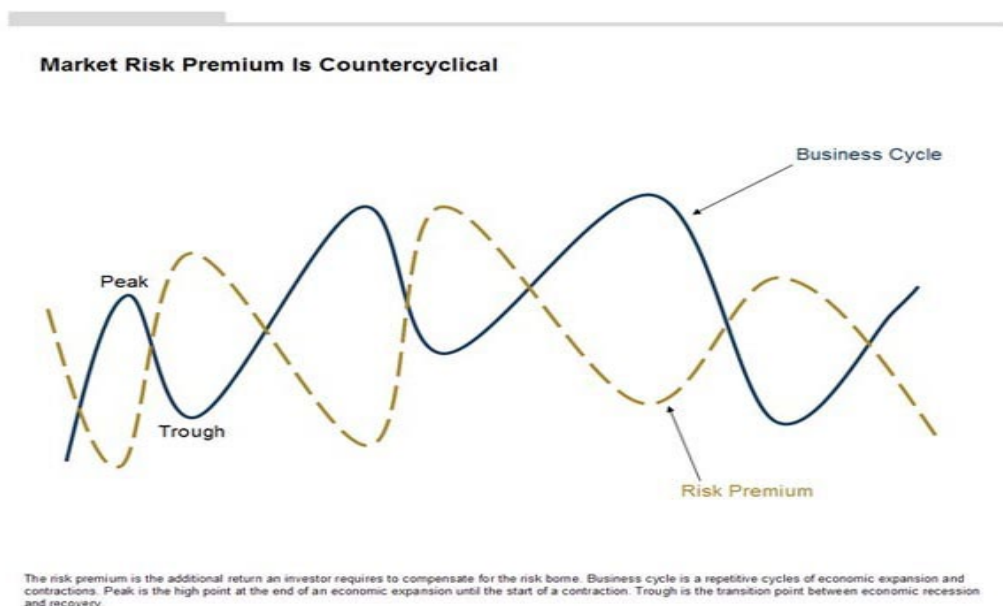


Fig 1 Market cycle

2. Do you agree with our analysis of the causes of the uncertainty in the planning system and how they contribute to under-delivery of housing?

We broadly agree with the analysis. We also consider that proper resourcing of the operation of the planning system would go a long way to removing some of the uncertainty.

3. Are there any other factors that we should consider?

National Government

The planning system functions as development regulator in the built and natural environments. Business environments benefit from stable or predictable regulation. The sector has been subjected to changing and uncertain regulatory directions for a long time. The constant turnover of government ministers with responsibility for this portfolio underlines the low priority, given the importance of stability to this business sector.

There is also a very significant time lag between planning policy being initiated, formulated and settled at national level. The related uncertainty is commercially unsettling adding to risk and additional cost. Our members reported that changes introduced in the National Planning Policy Framework in 2019 were just beginning to take effect as government was introducing a completely new levy system through the Levelling Up and Regeneration Bill.

Local Government

Alongside this is the very variable transposing of national policy into local plan policies across 300+ local authorities often with very different aspirations. Some local planning authorities may be opposed to the national policy direction; they may be reluctant adopters and may defer updating their plans to comply. Some may be in the midst of local elections and find little appetite among local house owners and voters for policies advocating increased housing numbers. We are increasingly receiving reports of the politicisation of decisions locally with decisions being taken against the advice of officers assessing proposals based on settled local planning policy.

Plan led system breakdown

In a plan led system this type of policy formulation in the context of changing market conditions is not reliable as a basis for local decision making. It gives rise to further uncertainty and risk in the development sector. It is also very different to the regulatory conditions in other commercial sectors.

Given the foundational nature of the local development plan in the plan led system it would probably come as a surprise that more than 60% of local plans are out of date and do not provide a sound basis on which to take planning decisions.

Making a local plan should be a statutory requirement and keeping it updated every five years should be part of this obligation. Failure to make and maintain an up to date local development plan should have consequences for the local authority given its central position in the regulation and enabling of development.

4. Do you consider there to be any significant difference in the level of planning uncertainty between England, Scotland and Wales

There are similarities between the experiences in Wales and in areas of England which have been de-industrialised, where a combination of the costs of remediation along with the need to meet biodiversity net gain requirements result in challenging viability issues.

Question 4.2

1. Do you agree that the current level planning, policy and regulatory costs could threaten the viability of development at some sites? To what extent do you think that this is currently happening? Are some sites and areas more at risk than others?

Geographical differences

There is a very clear distinction to be made in England between viability considerations in high and low value areas. We have emphasised to government that policy measures responding to high land values in the south-east have very little relevance to conditions in low value locations. Indeed parts of the south-east also experience viability challenges. The Community Infrastructure Levy was not adopted by a number of local authorities because they considered they did not have the land values to justify its introduction. In some other local authorities it was introduced and applied at a nil charge. These locations would provide a good approximation of where viability is threatened because of weak market conditions and not just for planning reasons.

Cumulative costs of regulatory requirements

There is though an important market point to be addressed in relation to the cumulative effect of increasing standards to meet climate change obligations. Many of these standards are applied through the planning system and are met as an additional cost of development. They are essential to contribute to achieving national net zero objectives.

But they are usually unknown in particular locations at the time developers are entering into agreements to purchase land or have it put forward for development. Leaving aside locations which may have the value potential to absorb the additional costs of increasing standards, some locations will struggle to bear the costs of current obligations let alone additional costs. It is important that these green measures are introduced consistently and with sufficient advance notice to enable developers to factor them into their plans.

Avoiding overlap between planning policy and building regulations

There is also a risk referred to below relating to overlap between planning requirements and building regulation requirements. Clear distinction between these is required.

Many local planning authorities understandably will be ambitious to contribute to achieving the climate change objectives and net zero targets. Some of these targets are intended to be achieved through the building regulations. In the absence of clear prescription through the building regulations there may be unhelpful overlap between these two regulatory regimes again leading to confusion and additional risk.

We favour the introduction of the proposed National Development Management Policies to ensure consistent application of nationally agreed policies so that the same technical standards apply to all developments.

2. Do you agree with our analysis that shows the length and complexity of the planning system may contribute to under-delivery of housing?

The length of the planning process starting with the allocation of land in a local plan to the point of obtaining a permit to go on site is complex and protracted. This is partly because there are technical complexities in enabling and regulating development and partly because of the need for democratic accountability. However the existing process is under-resourced and in need of streamlining.

Whatever type of planning system is adopted, it will need to be evaluated for its efficiency to deliver its legal administrative functions effectively and in a timely manner. Irrespective of whether the UK operates a discretionary planning system or a more prescriptive one adequate professional and financial resources will be required to make it function properly. We refer briefly to the digital transformation of planning as offering a potential solution at the end of this response though not without its own implementation risks.

The sector has devised its own risk mitigation measures. Holding land under option, having a pipeline of permissioned land (also referred to as land banking) are both methods of mitigating risk in an under-resourced, volatile policy and highly politicised business environment.

3. Do you agree that we have identified the key causes of delays in the planning system? Are there any other factors that we should consider?

As above

4. Do you consider there to be any significant difference between England, Scotland and Wales in:

i) the extent to which planning policies and costs threaten the viability at some sites; and

No Comment

ii) the causes and extent of planning delays and their impact on delivery of housing?

No comment

Question 4.3

1. Do you agree with our analysis that in some cases local targets may not accurately reflect underlying housing need and the reasons for this? What impact do you consider this has on housing delivery?

We support the use of the standard method for assessing housing need providing the base census figures are updated. Use of the standard method removes many of the contentious arguments in previous approaches.

2. Do you agree that in some the planning system lacks internal consistency within its objectives, meaning that LPAs may be insufficiently focused on meeting housing need?

Housing need v other planning objectives

We recognise that the scope of this inquiry is to understand the impact of the planning system on housing supply. RICS has engaged in consultations with members which had a focus on housing delivery. The responses from some parts of England were that their need was not for housing but for employment opportunities.

Although providing adequate housing to appropriate standards in locations where the need arises is an important specific objective of the local plan process, sustainable development has a much broader and more long-term objective which includes the

collective benefits of good quality development. You have recognised the wider purpose of planning. But focusing exclusively on the housing numbers element of the planning process may introduce narrow incentives when the market needs to be incentivised to deliver on the broader goals of sustainable development. We refer to this briefly at the end of this response.

The economic strategy for the region/local authority area requires to be factored into the assessment of need. The under supply of available housing can delay or frustrate economic growth and job creation.

3. Are there any other issues relating to targets, incentives of planning constraints that we should consider?

We consider it is helpful to have a national target against which national delivery can be judged (see attached letter to Secretary of State). It should not however ignore the qualitative aspects of large-scale sustainable housing delivery. As referred below it needs distribution at regional scale.

4. Do you consider there to be any significant differences between England, Scotland and Wales in either how targets are set, the balance of incentives faced by LPAs and the extent of local planning constraints? If so, how do you think they impact housing delivery?

No Comment

Question 4.4

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

Yes

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

Yes

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?

There has been a trend towards granting permissions for larger sites. Anecdotal feedback we have from surveyors working for small housebuilders refers to the lack of availability of smaller scale sites. The Letwin Review considered the potential to obtain

more housing faster from large scale sites and we refer you to its analysis and conclusions. RICS engaged extensively with the Letwin Review.

[Independent review of build out: final report - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/441144/Independent_review_of_build_out_final_report.pdf)

There is an issue with phasing of construction on large scale sites where the residential amenity of early occupiers is undermined by ongoing intensive construction which in turn can lead to home buyer dissatisfaction. In addition the ability of local markets to absorb the rate of supply is always an important factor to bear in mind.

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

Relative costs of making and processing smaller planning applications makes it more expensive per dwelling unit for SMEs to operate the planning system. This is a matter of scale encountered in all sectors. Information requested should be proportionate to the scale and potential impact of proposed developments.

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

No comment

Options for reforming the planning system (Section 5)

Question 5.1

1. Should the UK, Scottish and Welsh governments be considering changes to their various existing methods of assessing housing requirements? If so, should providing certainty, stability and consistency to the housebuilding market feature?

In public planning policy terms the housing market has lacked certainty, stability and consistency for some time. This is during a period when the sector needs to adjust to significant changes in population growth, employment patterns, quality of development and standards of construction. Most of these issues require long lead times to address effectively. Failure of national government to produce stable frameworks within which these changes can be addressed and costed in a market context will have significant negative consequences at local housing delivery level.

Rapid growth of housing in areas inadequately serviced with either social, community or engineering infrastructure is a source of resistance in many communities.

By way of illustration of a potentially equitable approach, it is arguable that if proportionate growth were permitted around existing settlements it would reinforce the structure of these settlements whose town centres would benefit from additional population growth and provide an even distribution of supportive population growth around existing towns and cities. There will also be high employment growth centres which will justify commensurate additional housing delivery. Explicit provision needs to be made for that.

In terms of assessing the need numerically the existing standard method needs updating.

2. Are the criteria we set out in paragraph 5.19 appropriate for determining an improved methodology for target setting?

No Comment

3. What is the most appropriate method of forecasting housing need – nationally and locally?

An independent body should be given responsibility for forecasting housing need. Being able to identify this geographically is fundamental to local planning authorities and service providers particularly networked service providers being able to plan sufficiently far ahead to ensure adequate social, environmental and economic provision is made. Some form of regional spatial level of allocation will be required whatever it may be called.

Question 5.2

1. How could the financial and resourcing constraints facing LPAs in the production of local plans be mitigated whilst incentivising LPAs to produce local plans on time?

If the plan led system is to have its foundational document up to date in the approx. 60% of local planning authorities where that is not the case, there is a need for dedicated government funding together with timescales for compliance with the requirement to have an up to date plan.

2. We note in Section 4 above that land supply constraints, such as urbanisation or greenbelt land, affect the availability of sites for local plans. These constraints would not be directly changed by financial incentivisation. How could land supply constraints be managed in an effective way?

Greenbelt

There is a need to properly address the role of the green belt, in particular its potential to contribute to housing delivery and the terms on which it is released. This needs to be done with reference to factual information about the extent and quality of green belt land in various locations. The RTPI and the Centre for Policy Studies have also called for this. The London School of Economics produced a report in 2016 on how the London Greenbelt might be developed in proximity to railway lines running through it.

[A 21st century metropolitan green belt - LSE Research Online](#)

A review of brownfield land in greenbelt allocations would be helpful to remove eyesores, bring forward housing, or mixed use schemes, that are sensitive to the local area and will provide smaller sites for 'sme' activity, with little disturbance to the wider greenbelt objectives.

Brownfield

There is a particular challenge in Wales where brownfield first means significant remedial costs needing to be incurred on the extensive disused industrial land. This is challenging the viability of many sites there. Similar challenges are experienced in England in locations addressing the legacy of de-industrialisation.

Question 5.3

1. What is the most appropriate method for implementing a reformed, rule-based system that is designed rigorously and resilient to future changes in planning policy -and which minimises disputes about the lawfulness of developments?

RICS is cautious about any grand proposals to reform the planning system in England. While we don't doubt the aspirations of successive governments to reform planning there does seem to be an inability for governments to stay the course in the face of inevitable local opposition to the implications of any reforms which would be capable of delivering more housing.

The planning system at bottom can be seen as a very complex dispute resolution service responding to the representations of stakeholders with legitimately held opposing points of view. Rather than expect to create a system of acceptance in a sector which by

its nature is contentious we would like to see this function of the planning service working smoothly and efficiently in its role as a dispute resolution service.

We would also like to see:

- the necessary documentation (local plans) supporting decision making to be maintained up to date.
- effective and proportionate stakeholder consultation with statutory consultees time limited (prompt reports from statutory consultees)
- Obligations on statutory consultees and infrastructure providers to respond promptly

An attempt was made to introduce a more prescriptive planning system which included a form of zoning. There was general resistance to this. RICS supported such a change on the basis that it would provide more certainty for the community about what would be built and more certainty for the developer about what was allowable. Zoning systems operate all around the world and there is nothing unique about circumstances in England that couldn't enable them to work. Nevertheless the reality of opposition to the introduction of a more prescriptive type system in itself creates uncertainty and risk in the system.

We should recognise however that replacing the current discretionary system with a more prescriptive zoning type system will not in itself resolve the problem of under resourced administration of the planning system.

In your working paper you refer to the design and implementation of a planning system. At present the current system is not being implemented. It is defined as a plan led system. With 60% of local planning authorities without an up to date plan we would suggest the starting point should be to implement the existing system first then assess if it is capable of delivering the housing required. Our concern is the replacement of one under resourced and unimplemented planning system with another under resourced and unimplemented planning system and expecting circumstances to improve.

We consider that proper resourcing of the existing system so that all plans are up to date and that planning decisions are taken within the time limits set would go along way to addressing the dissatisfaction with the existing planning system.

Greater use of mediation, or other forms of dispute resolution, would allow for a speedier system and lower cost process that is not delayed with litigious procedure and excessive cost.

Question 5.4

1. To what extent would increased planning fees materially affect the viability of certain developments? Are there particular circumstances where this is likely to occur?

This will vary depending on the socio-economic conditions in the proposed location and will depend on the business model and scale of the developer. RICS has consistently raised the issue of variable land value conditions in different parts of the country which are really a reflection of broader socio economic conditions. This reflects the weakness of demand in these areas and will limit the ability to fund development. Part of the cost of development is the increase in planning fees as well as the cumulative effect of other obligations essential to ensure new developments are sustainable in the long term.

2. How could the availability of qualified planners be improved?

Increasing the salaries being paid to planners in the public sector to make them competitive with the private sector is one element of this. As a body seeking to make market signals work more efficiently the CMA will recognise this as the most direct way of not just attracting staff but addressing the equally challenging problem of retaining staff in local planning authorities. Local planning authorities are unable to compete with salaries provided in the private sector. Many of those working in the private sector are experienced planners who have been enticed away from local planning authorities by the offer of higher salaries.

But being attractive as an employer requires more than 'salary'. A recent survey of graduates seeking employment showed that the majority sought employment with recognised values and ethical practises and those considered to be 'good' employers.

Question 5.5

1. What measure would be most effective in supporting SMEs to navigate the planning process effectively?

We frequently hear from SMEs that a more effective 'outline planning permission' facility would be very beneficial to them in reducing costs and risk at a key stage in the planning application/ development process. An outline planning permission as originally intended provides a level of assurance early in the process without incurring significant costs, which enables SMEs to more easily finance development. This is also helpful to enable SMEs to secure funding.

Additional Comments

1. Placemaking not just housing numbers

We recognise that this working paper is focused on housing supply through the market. RICS published 'Placemaking and value' in 2016 (attached) a paper which sought to link the creation of great places to live with enhanced values and by implication increased incentives to develop to higher standards.

What we are really talking about here is 'delivering sustainable development, in a market economy, in a liberal democracy' and having a planning system with proportionate processes to achieve these aims. It is one which anticipates the growing needs of the built and natural environment to achieve net zero carbon however that is defined so that businesses which operate to create that environment can cost it effectively and well in advance.

In isolating the functioning of market housing within the planning system there is a risk of skewing the final recommendations so that an enhanced model for delivery of housing numbers falls short of the more complete objective of the planning system i.e the delivery of sustainable communities. It is about delivering the numbers of dwellings to that standard.

2. Digital transformation as a potential contributor to planning efficiency

The working paper does not refer to the digital transformation of planning and its potential for improving efficiencies in the planning system and therefore the speed with which the various processes can be implemented.

There is also the potential risk associated with this digital transformation as many local planning authorities and SMEs may not be fully digitally integrated; may not have compatible platforms in place; and may not have the inter-operability essential to benefitting from a digital transformation of the planning system.

Yours sincerely,

[Redacted signature line]

[Redacted name line]

RICS Land and Resources, Parliament Square, London SW1P 3AD

[Redacted contact information line]