
Competitions and Markets Authority Housing market study planning working paper

A response from the Town and Country Planning
Association
6 December 2023

1 About the Town and Country Planning Association

The Town and Country Planning Association (TCPA) works to challenge, inspire and support people to create healthy, sustainable and resilient places that are fair for everyone. Founded in 1899, our work over the last century has focused on improving both the art and science of planning in the UK and abroad. We do this through a variety of ways including seeking to influence national policy and legislation, undertaking research and developing guidance and running workshops for local authorities and communities. Informed by the Garden City Principles, our strategic priorities are to:

- Work to secure a good home for everyone, in inclusive, resilient and prosperous communities which support people to live healthier lives.
- Empower people to have real influence over decisions about their environments and to secure social justice within and between communities.
- Support new and transform existing places to be adaptable to current and future challenges, including the climate crisis.

The TCPA is a charity and company limited by guarantee.

2 Introduction

The Competition and Markets Authority (CMA) has published a working paper seeking feedback on how planning rules may be impacting competition and the delivery of new homes. The TCPA has a unique body of research in relation to planning for housing and communities. That knowledge includes detailed assessments of the new towns programme¹ as well as an analysis of the current planning system reflected in the Raynsford Review². That knowledge illustrates the importance of an effective, democratic and strategic planning system in framing a successful approach to housing delivery.

The TCPA recognises the importance of the CMA's review and shares the objective of increasing the supply of genuinely affordable and high-quality homes. Our concern set out in this

¹ [New Towns - Town and Country Planning Association \(tcpa.org.uk\)](http://www.tcpa.org.uk)

² [The Raynsford Review of Planning - Town and Country Planning Association \(tcpa.org.uk\)](http://www.tcpa.org.uk)

response, however, surrounds the core assumptions about the housing market and about the function and purpose of the planning system which are reflected in the working paper. We would welcome closer engagement with the Authority as it completes its review.

The housing crisis in England has three clear components: supply, affordability and quality. For forty years we have failed to build high quality homes, available at prices which are genuinely affordable, in locations which enable people to live thriving lives in resilient places. There is broad agreement that we have a broken housing market, and that market failure is reflected throughout the development process from investment to skills and supply chains. But since the housing development model comprises a complex process, there has been less clarity about precisely which element is 'broken'. Despite this complexity, successive governments have defaulted to blaming one element, the planning system, for this failure. As a result, 'reform' measures have focused not on, for example, increasing investment in social housing, but on expanding planning consents. This is largely because there are few political risks in criticising and defunding the public planning service.

3 The components of the housing markets

The application of supply and demand economics to the housing market has been the orthodox approach to assessing market failure of successive government reviews most notably the Barker Report commissioned by the Treasury in 2004. These studies have contributed to a sustained period of planning deregulation, the most notable feature of which is its failure to systemically address the undersupply problem. Such an approach assumes that housing operates like any form of exchangeable commodity. That assumption is, however, plainly false and this has led to the failure of effective solutions to the housing crisis. Homes and the land upon which they are developed are fixed in space, have exceptionally long-life spans and function as a key utility and public good.

A home has a profound impact on the occupant's health well-being and life chances. The TCPA and other organisations have produced compelling evidence about the overall linkage between people's health and the built environment³. This evidence demonstrates the economic impact on productivity and costs of the NHS and social care budgets of poor-quality homes and communities. Current regulation does not secure the standards necessary to achieve many of these basic cost-savings but this relationship illustrates the complex social economic function of the home and the important role of government in setting detailed regulatory standards.

The provision of a home to those who have no market power to secure one is an important societal goal and has always required significant state intervention. We note that the planning system is currently the dominant way of securing affordable homes in an era when government investment in socially rented homes has dramatically declined. The point here is simply that planning has multiple social, environmental and economic outcomes upon which vital public policy objectives depend. While paragraph 1.5 of the working paper states that the planning system 'aligns with other societal goals', in fact, rather than playing a peripheral role in delivering these societal objectives, it is the fundamental delivery mechanism.

Of all these characteristics it is the fact that development land is fixed in space, has intense pressure for multiple uses and is declining in extent⁴ which are the most significant challenge to

³ For instance, see NHS England's Healthy New Towns reports: [NHS England » Healthy New Towns](#)

⁴ The action of climate change is reducing the absolute amount of land in the UK through coastal erosion but more significantly the amount of developable land because of increased flood risk.

simplistic supply and demand approaches to planning reform. Each housing site is different, and its detailed characteristics determine the social, environmental and financial viability of its development.

One example of those characteristics concerns flood risk. The TCPA is currently working in partnership with the Environment Agency to communicate the complex requirements necessary to make a development site resilient to flood risk both now and over its whole lifetime (at least 100 years). Each development site is subject to multiple forms of flood risk and particularly the growing challenge of surface water flooding. Large proportions of the most obviously developable land in many districts are categorised as 3a or 3b floodplains. As a result of climate change the government has made clear that the extent of these floodplains will increase and the severity of the flooding they experience will be exacerbated.

In some cases, successful flood risk mitigations can be implemented, but in many this would be economically unviable. Development on these sites will be both disastrous for homeowners and the wider economy. **Any investigation of the housing market must include an understanding of how the system plays a pivotal role in avoiding dramatic market failures by ensuring new development is capable of being insurable.** No new housing built after January 2009 benefits from the government backed FloodRe insurance scheme. Instead, government assumes that any property built after that date will be intrinsically resilient to flood risk. For those properties which have subsequently flooded, access to insurance has become limited and expensive. In addition, the action of lenders in reducing mortgage offers in high flood risk areas will ultimately lead to declining property values and, despite the conclusions of the working paper at paragraph 2.11, to negative land values. This will be a particular problem for some housing markets in vulnerable coastal communities. The point is that planning is the foundation of creating resilient places; no other regulatory regime deals with this function. The ability of the planning system to guarantee resilience is vital to the efficient operation of both the insurance and housing markets. The question is whether a deregulated and underfunded planning system is capable of sustaining such a role.

Flooding represents just one of the multiple challenges that the planning system has to address in ensuring that a development site will not create real harm to future occupants. Water availability in the southeast of England is another significant constraint. While many of these challenges can be overcome they require significant strategic investment in infrastructure by a complex web of private and public bodies. A free market approach on a site-by-site basis cannot, and will never, be capable of addressing this scale of investment and the risk it implies. One of the great successes of volume house builders has been to privatise profits from development while socialising many of costs of the infrastructure necessary for the development to proceed.

4 Demand side factors

Supply side constraints result both from real world development challenges in terms of site characteristics and supply chains and political decisions about investment and site allocation. However, the consideration of the affordability of homes must also address demand side factors that inevitably relate to the distribution of the existing housing stock. House prices are themselves the product of complex systems shaped by, for example, macro-economic policy in terms of interest rates and taxation and the degree to which property rather than productivity attract investment. Particular demand side factors can play out differently in different housing markets. For example, should the planning system be catering for the demand created by

speculative foreign investment in the London housing market? How should it respond to the high demand for second homes in areas where real-world constraints severely limit the ability to increase housing supply? The policy of other nations and restricting foreign ownership on the application of higher stamp duty rates may be one solution to this problem.

5 The purpose of English planning system

The town planning system in England has a complex remit. In the broadest sense its objective is to achieve sustainable development over the long term and in a democratic manner. The system deals with all aspects of the way human beings interact with the built environment, limited at the building scale by the building regulations regime. The planning system must deal with all aspects of design, location, accessibility affordability, environmental performance and a host of impacts on nature and the historic environment. As a result, it plays a pivotal role in tackling issues such as climate change through specific measures on carbon mitigation and adaptation. These responsibilities are supported by four statutory duties relating to climate mitigation and adaptation, sustainable development, good design and biodiversity net gain. Paragraph 1.11 of the working paper acknowledges that ‘the planning system is extremely complex, and external stakeholders will have a far more detailed understanding of it than we could hope to achieve ourselves within this study’. However, understanding the complexity of the system and the multiple aspects of social value it produces is vital before any conclusion can be drawn about reform measures.

6 The democratic dimension

In sharp contrast to the production of most commodities, housing is deeply embedded in the democratic fabric of local and central government. As the Raynsford Review concluded, while local democracy may be inconvenient to the development sector nothing can be built in England without democratic consent. The power of local government and the voice of local people in decision making has been systematically weakened over the past ten years. Significant powers have been centralised and important parts of the local development plan have removed community rights to be heard. In a more general sense, there is a profound asymmetry in decision making with the development community having the expertise and resources while local communities have little access to the skills they need to make an effective case. The collapse of public trust in planning and the conflict that has embedded in decision making is one of the key barriers to effective housing delivery.

7 Experiments in deregulation

As the Raynsford Review concluded, England now has one of the most deregulated planning systems in the UK and in northwest Europe. After 2010 the whole apparatus of strategic planning in England was abolished. This framework allowed for the successful strategic coordination of critical issues around infrastructure provision and strategic housing sites. Without it, local authorities were left with the impossible job of meeting housing demand often inside their own highly constrained boundaries with no effective mechanism for cross-boundary cooperation that could reflect either environmental constraints or housing needs. That position has been made much worse by the Levelling up and Regeneration Act 2023, which has removed the minimal requirements for co-operation that had previously been imposed through the duty to cooperate.

Unlike many other advanced economies England is now left with no national spatial framework that can coordinate data, highlight constraints and growth opportunities, nor with any coherent regional or sub regional planning framework outside London. Devolution deals across the core

cities are making bespoke planning arrangements but none of them reflect the legal weight or strategic scope of the regional spatial strategies (RSS) that were abolished in 2012.

In addition to the abolition of important environmental standards, including, in 2016, the commitment to net zero homes, the most dramatic example of deregulation has been the expansion of permitted development rights (PDRs). Originally designed to deal with very minor household applications this legal route does not require the applicant to receive full planning permission. After 2013 this mechanism was expanded to deal with the conversion of a wide range of commercial, retail and office premises into housing. Because full planning permission was not required the standards set out in local plans and national policy did not apply. The result has been the production of exceptionally poor-quality living conditions⁵ not just in the internal design of the homes being created, but in their wholly unsuitable locations. For example, housing families on active industrial estates. There is extensive research on the negative impacts of permitted development conversions but the obvious lesson is that a free market approach without sufficient standards regulating the design and location of new housing can lead to exceptionally poor outcomes with costs both for the residents and to the NHS and social care budgets.

The overall effect of the deregulation is to create an increasing gap between the potential of the planning system to coordinate and deliver growth and the actual performance of system on the ground. In short, the planning system can no longer do what it should do best, particularly in terms of providing a strategic approach to dealing with the complex issues of housing infrastructure delivery.

8 Why deregulation has failed

There are two reasons why deregulation has failed.

First, the modern ‘planning system’ has no power to build homes. The system consents land for housing units and sets requirements for how and where they can be delivered but it has no direct leverage to get housing units built. Before 1979 local authorities might have planned for and delivered up to 50% of new homes in their area. After that point delivery was left almost completely in the hands of the private sector. As a result, a fair test for our current planning system is how many consents are generated and whether they are in the right place and to the right quality. Planning also plays an important role in ensuring a proportion of such housing is affordable.

While the evidence is clear that the reformed planning system has significant failings on the quality and location of new development, it does consistently deliver sufficient consents to meet the government’s unmet housing target of 300,000 units per year. Figures 1 and 2 illustrate the gap between consents, which ran at an average of 311,000 units in the last decade, and delivery, which ran at around 220,000 per annum over the same period. The delivery gap is significant, as is the accumulation of unbuilt consents.

⁵ See the considerable body of research by Prof Ben Clifford [Ben Clifford Publications | University College London \(ucl.ac.uk\)](https://www.benclifford.com/) and *These are Homes* (TCPA, 2023). Available at: <https://www.tcpa.org.uk/resources/these-are-homes-photobook/>



Figure 1: Number of housing units granted planning permission, England, year ending June 2009 to year ending June 2023, DLUHC, 2023⁶

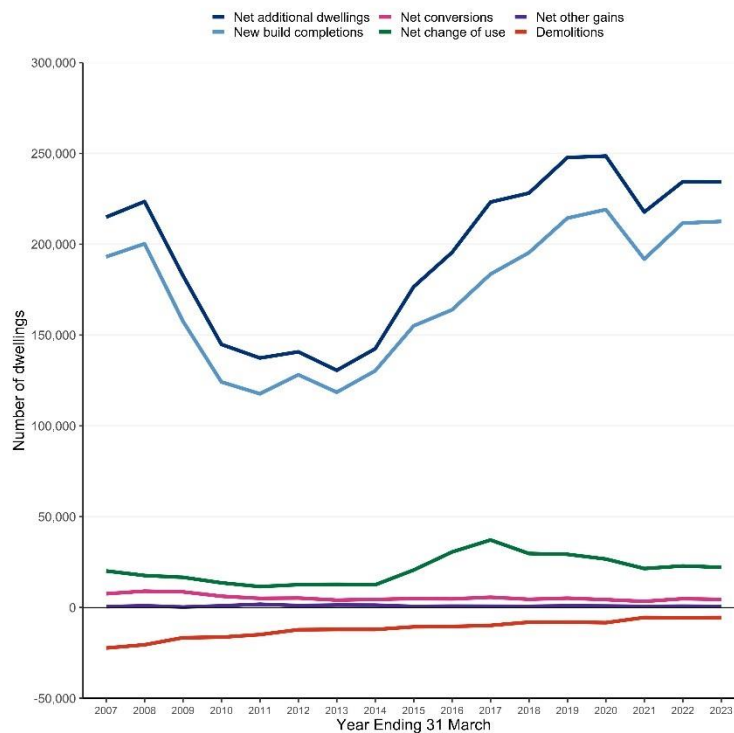


Figure 2: Time series of the components of net additional dwellings, England, 2006-07 to 2022-23, DLUHC, 2023⁷

There is no doubt that there are frustrations with the details of the planning consent process and some of the democratic principles that are enshrined within it. Many of these frustrations

⁶ Graph taken from [Planning applications in England: April to June 2023 - statistical release - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/planning-applications-in-england-april-to-june-2023)

⁷ Reference

stem from a decision to defund the planning service. Even so, 87% of all planning applications are approved and 87% are approved inside the statutory timescale or time agreed in planning performance agreements (PPAs). Ninety-one percent of PPAs are approved on time. But consent is one element of a complex development process and is not the primary cause of the undersupply of homes in England. **No amount of deregulation focused on the consent process will solve the problem of insufficient delivery.**

The second reason that the recent approaches to planning reform have failed is that planning is a vital way of generating certainty, co-ordinating infrastructure and therefore unlocking the complex problems which arise from the delivery of new homes in specific locations. From understanding flood risk and sewage capacity, to considering transport infrastructure investment and the delivery of affordable homes, planning represents the key organisational force which could unblock the development process. Taken together this amounts to an infrastructure-led approach to new housing development which is the foundation of international success on housing growth at all scales. The increasingly permissive approach taken in England results in housing-led growth which often lacks key services; or in no growth at all where sporadic policy interventions (such as requirements for nutrient neutrality) delay development because of insufficient upfront consideration of sewage infrastructure.

The housebuilding industry has legitimate frustrations about aspects of planning procedure, but the housing crisis is driven overwhelmingly by two factors: a collapse in the nation's investment in socially rented homes; and a failure to focus on effective delivery mechanisms rather than simply on planning consents.

9 Refocusing solutions on housing delivery mechanisms

Effective planning can only be achieved by binding together those bodies which are strategically planning for homes with those that have the mechanisms necessary to consent and deliver at pace. The almost complete privatisation of the way we deliver homes means that those who plan for them - the local authorities - and those who deliver the vast majority - the volume house builders - are working with conflicting incentives. Local planning authorities (LPAs) want homes delivered in the line with plans at pace to keep up with need. Those building homes have an overriding responsibility in company law to maximise profits and will build at a rate which does not risk depressing prices in the local markets (the absorption rate). As a result, **the volume house builders have no primary interest in meeting the government's housing target** or in systematic increase in supply which would carry risks with few commercial rewards. The exceptions are those housebuilders who are able to take a longer-term master-developer approach and embed infrastructure up-front in the development process. Breaking the link between consent and delivery is the foundation of the inefficiency in the current way we plan for homes.

The way to achieve a breakthrough in housing supply is to adopt a strategic approach with the public sector de-risking development by operating as master developer. Strategic local growth on sites of around 10,000 homes reflects the practice of the TCPA's New Communities Group⁸ and is often a public-private partnership led by local authorities. A smaller group of large strategic sites of 35,000 plus homes will require the use of development corporations, mirroring the approach of the post war new towns, which provided a rich set of lessons on how to deliver at pace. The detailed case for how this can be achieved will be set out in a forthcoming

⁸ New Communities Group - Town and Country Planning Association (tcpa.org.uk)

TCPA housing paper. This paper is expected to be published in early 2024 and once it is published the TCPA will be happy to share it with the Authority if that would be helpful.

10 Conclusion

For over 40 years the crude application of a supply-and-demand economic analysis of what is a highly complex development process involving a very special kind of commodity, a home, has essentially failed to deliver the quality, quantity and affordability of homes that the nation requires. Both site identification, and the complex process necessary to secure development, require us to create sophisticated public policy solutions which recognise that a home is much more than simple commodity.