

Vistry Response to CMA Planning Working Paper

1 Introduction

- (1) Vistry welcomes the opportunity to respond to the CMA's working paper on the planning system ("**Working Paper**").
- (2) As the CMA is acutely aware, the UK is in a housing crisis, and more affordable and market-rate housing must enter the market to alleviate the current situation.
- (3) In our view, the most significant barrier to increasing housing supply is dysfunction in the planning system. Urgent action is required to release the current backlog of planning applications and improve the efficiency of the planning system going forward so that supply can meet national housing targets. In particular, developments that prioritise affordable housing delivery should be fast-tracked to ensure supply in areas with the greatest need.
- (4) Vistry broadly agrees with the CMA's analysis on the key features of the planning system and the proposed remedies. We have set out our comments on each of these issues below.

2 General comments on the CMA's analysis

- (5) Vistry agrees with the CMA's assessment that the key issues facing the planning systems are (a) a lack of predictability in the planning system; (b) the length and complexity of the planning process; and (c) insufficient focus on local planning authority ("**LPA**") targets and objectives to meet housing need.
- (6) As a general comment, we note that planning at a local level works most efficiently when it is grounded in regional and national plans that include detailed proposals for utilities, roads, public services (such as schools and hospitals) and significant residential development such as new towns. Development must be approached in a holistic manner instead of the current narrow focus at an LPA level.
- (7) It is also critical that LPA planning departments have adequate capacity to prepare local plans and assess planning applications. Funding for planning has been slashed significantly over the years, and this is having a substantial detrimental impact on the planning process and delivery of planning permissions (with knock on impacts on ultimate delivery of housing stock).

2.1 Lack of predictability in the planning system

- (8) Vistry agrees that the main factors the CMA has identified – including the risk of policy change, a lack of up-to-date local plans, and political / public attitudes to development – are causing significant uncertainty around the planning system.
- (9) Planning is a key risk for Vistry. In our experience, it is not uncommon for schemes to progress through the planning system and to either require significant alterations (which can affect the viability of the scheme), or fail to secure planning permission, due to changes in policy or a change in political control of the local council. For example, [X]. In total, Vistry have [X] homes on live application sites stalled or at risk as a result of nitrate neutrality issues and [X] homes on promotion sites that are at risk or affected by nitrate neutrality.
- (10) Other significant factors that impact on the uncertainty of the planning system which the CMA should consider as part of its Final Report include:

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- Limited use of sanctions against LPAs as a consequence of poor planning performance. Without the right incentives in place, local councils are unlikely to develop and adopt local plans that reflect the current housing need. As the CMA notes in the Working Paper, only 40% of LPAs have an up-to-date local plan, and this is contributing to the shortfall in the number of permissions granted.
- Lack of consistency around planning between LPAs (e.g. validation requirements, scheme of delegation, etc.) and within LPAs on a project-by-project basis (e.g. due to limited resources within an LPA). Without a clear, consistent national framework in place across England, housebuilders cannot anticipate the time and resources required for each planning application.
- Planning delays associated with the discharge of planning application conditions and technical approvals. This can lead to a significant lag between the time planning permission is granted and the build out of those units. Discharging conditions is often a low priority for LPAs, but this has significant consequences for housebuilders. For example, at [X].

2.2 Length and complexity of the planning process

- (11) In our experience, the length and complexity of the planning process has been steadily increasing over time. The amount of supporting material required to progress an application, including due to environmental regulations and more demanding technical standards, is a significant barrier for housebuilders.
- (12) We understand that different LPAs have a unique set of competing policy and regulatory demands that require careful consideration. However, the variability of these demands can have a significant impact on the viability of sites.
- (13) As far as possible, the planning process should be streamlined to improve the speed at which permission is granted. For example, validation requirements can differ between local councils and should be simplified to reduce the number of planning issues under consideration (which can be dealt with at other stages of the process, e.g. through building regulations). Furthermore, there is often a lack of effective pre-application advice, including lack of consultation internally within LPAs and/or with statutory consultees, given to housebuilders, which means that application requirements are not scoped appropriately. This can lead to more technical requests and other information requests during the planning process, prompting further delay.
- (14) Other factors that increase the length of the planning process include:
 - Insufficient resourcing of local planning departments and supporting staff. For example, there are a limited number of LPA solicitors available to negotiate s106 Agreements, which are an essential part of each development.
 - Delays associated with presenting applications to planning committees. In many cases, the issues are technical in nature or have been considered in the early phases of the planning process. There is scope for these decisions to be delegated to planning officers.
 - Planning delays associated with the discharge of planning application conditions. As noted above, LPAs often apply conditions to planning applications, but do not prioritise discharging them.

2.3 LPA lack focus to deliver new housing targets effectively

- (15) Local councils typically balance multiple and conflicting objectives, including providing a supply of housing and protecting green belt or Area of Outstanding Natural Beauty (“AONB”) land.¹ However, it is clear that many LPAs are not placing enough emphasis on meeting housing demands – as noted in the Working Paper, 40% of LPAs in England would fail to pass the Housing Delivery Test in 2023,² and as a whole LPAs are not setting their local targets high enough to meet the 300,000 national new home target.
- (16) In part, the lack of focus on housing relates to the narrow view that each local council has of planning and development. Local plans generally only consider housing needs within the LPAs own planning area, however housing demand does not neatly align within these boundaries. National and regional plans, including strong national housing targets and policies to encourage development, are critical to ensuring supply is brought to market, particularly in the areas of greatest need.
- (17) Furthermore, we consider the National Planning Policy Framework (“NPPF”) and the presumption in favour of sustainable development as a key mechanism to align LPAs with housing demand. The presumption allows for development opportunities to be explored outside of the Local Plan process (where no up-to-date local plans are in place) and has generally led to an increase in planning permission approvals where housing targets are not being met.
- (18) However, there are two significant issues with the current formulation of the NPPF. First, the presumption does not apply to green belt or AONB land, which can minimise its influence on particular LPAs. In our view, the presumption should apply to green belt land. Second, LPAs can effectively avoid sanctions under the NPPF by setting a low housing target (thereby not falling short of the 75% target). As noted above, LPAs are generally setting their targets too low and are collectively failing to meet the national housing target. This could be remedied by setting a more objective stock-based housing target.

2.4 Other factors that influence the number of new houses

- (19) Vistry notes the CMA’s discussion regarding the various factors that influence the supply of new homes in the UK. While we agree that no single issue is wholly responsible for the current housing crisis, we view the current shortcomings in the planning system to be the main driver behind the lack of housing supply.
- (20) We disagree with local government stakeholders who claim slow build-out rates are contributing to the failure to meet housing targets. This claim rests on the incorrect assumption that the number of housing permissions should be roughly equivalent to the number of houses built. However, the difference between the two numbers is misleading, given that between 15-20% of planning permissions either lapse or are reapplications, and final planning decisions may have a lower number of plots than the initial application due to changes requested by an LPA. Additionally, given that it takes several years to build out a site and the general trend for planning permissions to increase year-on-year (in an expanding market), we would expect the difference between the net number of new buildings and planning permissions granted to gradually increase over time to account for the increased stock of housing.

¹ Now known as “National Landscapes”.

² See [Savills UK | Planning Research 2023](#).

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- (21) Taken together, we do not believe there is any evidence that housebuilders are limiting supply, and this is plainly incorrect. Housebuilders have a strong financial incentive to minimise the time taken to progress an application through the planning stages and to build out the site as quickly as possible to meet demand, because it does not receive a return on capital until a house is sold.³

3 General Comments on CMA's proposed remedies

- (22) Vistry broadly agrees with the remedies proposed by the CMA. It is important that the CMA focus on what is achievable to improve performance and delivery under the current system. We agree that a mix of short-, medium- and long-term policy changes are appropriate to address the systemic issues facing the planning system. Our comments on the specific remedies proposed are set out below.

3.1 Planning system reforms

3.1.1 Objective target setting

- (23) A strong national target that accurately reflects housing demand is a key pillar to encourage LPAs to bring forward planning permission. We support the HBF's proposal for a stock-based approach to housing delivery targets, which uses the existing number of houses in an LPA as a baseline. We believe the appropriate target is 1.2% of existing stock per year, which can be further adjusted upwards based on local factors, including whether there are sufficient affordable housing and employment opportunities in area, and whether there is significant investment in infrastructure.

- (24) We consider the stock-based approach to have a number of advantages over the standard method, including:

- The approach is objective and easy to understand, because the target has a direct relationship with the current size of the community.
- The number of new houses will adjust automatically based on the most up-to-date information, without needing to be re-assessed in detail.
- There may be less scope for targets to vary based on other policy considerations, and may provide local councillors with greater 'cover' to provide more planning permissions over time.
- New housing will be more evenly distributed around the country.

- (25) As noted above, a clear national approach is necessary to encourage LPAs to bring forward sufficient planning permission. Where local councils do not meet their targets, the housing delivery test and presumption in favour of sustainable development should be retained to ensure targets are met.

3.1.2 Monitoring and enforcement of local plans

- (26) Vistry agrees that effective monitoring and enforcement will improve planning outcomes over time. However, the CMA's proposed measures (set out in paragraph 5.21 of the Working Paper) broadly reflect the system that is currently in place. The UK Government already has

³ See, for example, the Lichfield Report ['Start to Finish: What factors affect the build-out rates of large scale housing sites?'](#) (2020)

sanctions and interventions in its toolkit, but successive Ministers have been reluctant to take action against underperforming LPAs for non-compliance.

- (27) We would support measures that provide financial incentives and penalties designed to change the behaviour of LPAs. For example, funds from the UK Government or planning application fees could be ring-fenced so that these are only accessible where an up-to-date local plan is in place and/or housing delivery targets are being met. Although we are aware that this could exacerbate existing financial issues, it would provide a powerful incentive for LPAs to comply.
- (28) Given the importance of local plans to the housing supply, LPAs should be restricted from withdrawing the plan once it has been submitted for examination or accepted. A significant amount of time and resources goes into preparing a local plan, and there is a high risk of a valid plan being withdrawn after a change in political control of a local council. We note, for example, in South Oxfordshire the local plan under development was withdrawn by the local council in 2019. While the Minister for Housing, Communities & Local Government intervened in this case,⁴ this caused significant disruption for housebuilders operating in the area.
- (29) Additionally, we consider that urbanisation and green belts should not be considered as “constraints” under a local plan that allows for flexibility in targets. These are deliberate policy choices and should be reviewed as part of the normal local plan process. LPAs need to take a pragmatic approach to green belts and, where necessary, make appropriate de-allocations to meet the identified housing need.
- (30) We are concerned with the Department for Levelling Up, Housing & Communities’ recommendation of the Plan Making Reforms Consultation (published 25 July 2023), that LPAs are given until 20 June 2025 to submit ‘old-style’ local plans. Providing LPAs with a lenient timeframe is contrary to the objective 100% up-to-date local plan coverage being achieved as quickly as possible. In our view, this approach should not be adopted as it does not provide for the necessary urgency required to address the acute problems the CMA have identified.

3.1.3 Streamlining the planning system

- (31) Planning is often criticised for its discretionary nature. In our experience, it is commonplace for there to be a high level of engagement from planning committees and for excessive scrutiny to be placed on developments due to public / political factors. Projects that receive outline planning permission are often materially re-assessed during the full planning permission stage, which creates duplication and risk of rejection.
- (32) Adopting a more prescriptive rules-based system, where planning permission is automatically granted if specific criteria is met, would reduce risk and increase certainty for housebuilders. Given the complex and challenging nature of many of Vistry’s schemes, extensive engagement with LPAs over a number of years is required to secure development approval. Any reduction in the use of resources for smaller projects due to a more rules-based approach would provide an immediate benefit for these larger developments.
- (33) This can partly be achieved by up-to-date local plans that have clear allocations in place and conform to national development management policies. However, there is always going to be a place for speculative development (outside of local plans), particularly where an LPA is

⁴ See [South Oxfordshire Local Plan: Local Plan intervention and Holding Direction. \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1141232/South-Oxfordshire-Local-Plan-Local-Plan-intervention-and-Holding-Direction.pdf)

not meeting its housing need, so there should be enough flexibility to allow these schemes to be brought forward.

- (34) An alternative approach the CMA should consider is the adoption of a national scheme of delegation, which would require LPAs to determine applications for sites allocated under a local plan by delegation only. Once a project has outline planning permission, planning officers should conduct a technical assessment only without input from the planning committee. This would ensure that most sites are progressed quickly through the planning stages, while non-compliant schemes are scrutinised appropriately by the planning committee. Given that the committee process is one of the most significant sources of uncertainty in the planning system, this would likely have a significant positive benefit on the planning system.
- (35) We note the CMA's proposal to move towards a zoning system, where developments can proceed without planning applications in particular zones. There are advantages and disadvantages to this system. Overall, we do not think that the proposal would improve certain issues set in the Working Paper, primarily because housebuilders will not want to commence construction if consent could be removed by the LPA at a later date.

3.2 Statutory consultees reform

- (36) Statutory consultees play an important role in the planning process. However, response times from different consultees often cause delays to the planning process. The CMA have proposed two measures to resolve these delays. First, to limit the number of statutory consultees that must respond and second, to establish a 21-day consultation period, after which the consultee is deemed to have consented.
- (37) While we agree that a 21-day response period would be desirable, this will place additional pressure on LPAs and may have unintended consequences. For example, key consultees such as highway and drainage authorities will need to inspect and adopt the amenity, and proceeding without their input creates significant risks for a housebuilder. Councillors may also decide to reject an application outright if a significant statutory consultee has not made a submission to the planning committee, which could lead to further delays and expense.
- (38) The CMA could consider two variations to its alternatives. First, the 21-day window could be the initial period for statutory consultees to signal if they want to make a substantive submission. They could then be granted a further period of time (e.g. two weeks) to finalise any comments, otherwise they will be deemed to have consented to the application. This balances the need for statutory consultees to participate with timing certainty for housebuilders.
- (39) Second, the UK Government could develop a national accreditation scheme that certifies third parties to make submissions on planning issues. If such a program was adopted, we expect uptake amongst the relevant industries would be rapid, and it would significantly reduce the burden on the LPA's consultees to respond. There are already schemes in place similar to this, for example approved companies can undertake highway works and manage land subject to Biodiversity Net Gain requirements.

3.3 Alignment of planning fees with LPA funding requirements

- (40) Over the past decade, council planning departments have been under significant financial pressure which has impacted their ability to deliver planning permissions required to meet national housing targets.

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- (41) Vistry would support changes to planning fees outlined in paragraph 5.42 of the Working Paper, including an increase to major application fees of 35%, additional fees for 'fast track' services, and linking fees to inflation. However, any fees must be ringfenced to build capacity within the planning department, rather than being treated as a source of general revenue for the council. We note that the changes to be introduced in December 2023, which increase fees in line with the CMA's recommendation, contain no requirements on LPAs to ring-fence the additional revenue generated from planning permissions. We anticipate these changes will have a limited, if any, impact on the speed the planning system operates unless they are sufficiently ring-fenced.
- (42) More broadly, under-resourced LPAs could benefit from reducing the complexity in the system, as noted above. Many policy issues linked to planning should be removed from the process or simplified. For example, considerations on energy, water or space standards would be more appropriately dealt with in the Building Regulations (which, to a certain extent, already address these issues). Duplication between the planning regime and Building Regulations creates additional compliance costs for both housebuilders and LPAs.
- (43) Local government capacity can also be increased by a comprehensive skills and resources strategy for the planning sector. This could include, for example: (a) increasing bursaries for day release degree/post graduate education; (b) knowledge sharing within and between LPAs, on how to deal with major applications; (c) development of hubs of specialists (e.g., experienced planners, master planners, landscape architects etc) for broader geographies (for example, based on devolution arrangements) who can support local planning departments in delivering sustainable growth; and (d) funded training courses, day-release job opportunities and specific/targeted recruitment. The greatest resourcing gaps are for experienced planning officers who can assess large, complex applications, and a combination of the above programs may increase capacity over time.

3.4 MIR is not appropriate course of action to address the remedies identified above

- (44) Vistry does not consider an MIR to be an effective mechanism to deal with the issues outlined above. The proposals will require significant coordination across local and national governments and, in most cases, can only be implemented as part of UK Government policy and via legislation.