
Housebuilding Market Study
Competition and Markets Authority
The Cabot
25 Cabot Square
London
E14 4QZ

6 December 2023

Dear Sir/Madam,

Feedback on the CMA's land banks and planning working papers

I am writing on behalf of Harworth Group plc ("**Harworth**") in response to your invitation to comment on the CMA's two working papers dated 15 November 2023, regarding the use of land banks and how planning rules may be impacting competition and the delivery of new homes.

As one of the UK's leading land and property regeneration businesses, and having worked with over 20 housebuilders over the past decade to deliver new communities across the North of England and the Midlands, we have first-hand experience of the blockers and enablers of delivering much-needed new homes. To date we have not been approached for formal comment as part of the CMA's housebuilding market study, but given our position in the market, we would be delighted to arrange a meeting to discuss our experiences if this would help. I have included contact details at the end of this letter.

A. Background to Harworth

Harworth is one of the UK's leading land and property regeneration businesses, owning and managing over 13,000 acres across around 100 sites in the North of England and the Midlands. Based in Rotherham, South Yorkshire, we also have regional offices in Birmingham, Leeds and Manchester, and we are listed on the London Stock Exchange.

Harworth's purpose is to invest to transform land and property into sustainable places where people want to live and work, in turn supporting new homes, jobs and communities across the regions. As a master developer, we create long-term value by acquiring and assembling sites that are large, complex and have often had former industrial uses, and transforming them into sustainable residential and employment spaces, with a focus on placemaking. The Group's pipeline has the potential to deliver around 29,000 homes and 35 million sq. ft of employment space, across 41 local authority areas.

Across our residential developments, we create value by devising a masterplan for a site, progressing it through the planning system and delivering necessary earthworks and infrastructure to allow construction to begin on site. We then sell serviced land parcels to housebuilders in phases, while continuing to develop amenities, green space and infrastructure as the build-out of a site progresses. To date, we have transacted with over 20 different housebuilders, comprising both national and regional businesses. Due to the scale of some of our development sites, as many as six housebuilder products could be present on one of our schemes.

In recent years, Harworth has aimed to diversify the types of residential products and tenures being developed across its sites, in order to accelerate development and add to the vibrancy of the communities we create. In 2022, we launched a portfolio of sites for the development of c.1,000 single-family build-to-rent homes, which was followed by the launch in 2023 of a portfolio of sites for the development of c.600 affordable homes (as defined by the National Planning Policy Framework (“NPPF”). Both portfolios are expected to be delivered through a forward-funding arrangement with a specialist funder, and Harworth is well progressed with these transactions.

B. Responses to specific questions within the “Local concentration and land banks” working paper

Background (section 2)

Question 2.1: Do you agree with our focus on plots as a measure of land banks? What other measures should we take into account?

We broadly agree that number of residential plots is an appropriate measure of landbanks, and is the main metric used by Harworth in measuring our own landbank. However, using a single metric is an over-simplification of how landbanks are delivered into the market, and a better understanding could be gained by categorising the data set using several different measures.

Examples of different measures that could help improve the overall measurable assessment of landbanks include:

- the delivery position of these plots within the overall development lifecycle, i.e. pre-planning, planning, initial infrastructure or build-out;
- the Housing Market Areas these sites sit within, given differences in demand across the UK;
- the type of housing tenure e.g. held for market sale vs affordable housing, as different tenures have very different risk profiles, delivery timescales and target consumers; and
- the number of individual sites held by housebuilders. Some housebuilders might have a large landbank in terms of number of plots but these might represent a higher concentration in fewer and larger sites. Local absorption rates mean that e.g. 1,000 plots held across 10 sites can be delivered more easily than 1,000 plots at a single site, so by not considering the number of sites, a housebuilder’s degree of control within a local market may be overstated (or occasionally understated).

As at 30 June 2023, Harworth had 28,359 residential plots in its pipeline, of which 6,508 were consented, 1,641 were in the planning system awaiting determination and 20,210 were in the pre-planning application stage. For those plots that are consented, local housing absorption rates in the regions, combined with the need to concurrently develop amenities and sustainable infrastructure at an appropriate stage in development, means it may take several years to deliver the associated homes. These factors are covered in more detail later in this response. If these homes were to be delivered at any faster pace, artificially boosting supply would force developments to be uneconomical, likely resulting in a further longer-term contraction in supply and disincentivising future housebuilding. It would also adversely depress house values for existing homeowners on these sites, many of whom are first time buyers. In addition, the supporting infrastructure such as schools can become pre-populated by pupils from surrounding areas suffering from their own poor supply, rather than serve the new community it was purposefully designed for, which is one example of several adverse consequences in establishing infrastructure/amenity to create a sense of place.

Although referenced much less in our reporting, we do also measure our land supply in years (by dividing the number of plots in our pipeline by our ambition to sell on average 2,000 plots per year), and one of our key strategic aims is to maintain a 12 to 15-year land supply. However, again this 12 to 15-year land supply is not immediately deliverable due to the challenges identified above and throughout this response letter.

Identifying local areas with high concentration (section 4)

Question 4.1: Do you have any comments or alternative suggestions for identifying local Housing Market Areas?

We believe that, in general, using local authority boundaries is probably the easiest way to measure local Housing Market Areas. Around major conurbations, travel to work areas ("TTWAs") could be a good alternative, as these reflect one of the key considerations of homebuyers in deciding where to live.

Question 4.2: a) Do you have any comments on Method 1? b) Do you have any views as to how much weight we should put on Method 1? and Question 4.3: a) Do you have any comments on Method 2? b) Do you have any views as to how much weight we should put on Method 2?

Our view is that too few areas have been independently reviewed to provide a robust assessment of how the housing land market works in the UK. As a leading developer in the North of England and the Midlands, it is surprising that just one local planning authority area in the North of England has been assessed in both Method 1 (Halton) and Method 2 (Scarborough). Neither area can be realistically described as being representative of the North of England housing land market.

We believe that further investigation is required to provide a genuinely robust assessment, and both methods should pick at least three local authority areas within the principal regions cited in Figure 3.1.

Question 4.4: Do you have any other comments on our methodology for exploring land banks? What alternative or additional ways of analysing the data we have collected should we consider to shed further light on the issues?

We believe there are a few key omissions in your current data methodology.

First, whilst the study has analysed the 11 biggest UK housebuilders, there has been no reference to landbanks held by either master developers (such as Harworth) or key public bodies such as Homes England. These parties should be included in the analysis to gain a full appreciation of how land is brought forward on multi-year regeneration schemes, including major brownfield programmes that often take 20 to 30 years to build out in full. On large-scale regeneration schemes, delivery has to be phased to ensure that revenue generated from the sale of residential parcels can be directed towards the delivery of key infrastructure and amenities.

Secondly, principal data points used are plots and population, but no weight has been given to planned industrial growth in the UK's regions. Areas like our flagship Waverley development in South Yorkshire have been able to deliver consistently strong housing delivery rates in part due to the proximity of high-value employment adjacent to the site, provided by world-leading businesses such as Rolls-Royce and Boeing. Proximity to these employment spaces is a key consideration for housebuilders close to these locations and is an essential element of 'balanced growth'.

In terms of alternative or additional ways of analysing the data, we would suggest:

- differentiating between outline planning permissions and full or reserved matters planning permissions, because it is not possible to commence construction with just an outline planning permission. Given the challenges of the planning system, reserved matters planning permissions can take up to 18 months or more to be received following submission. Therefore, to identify artificial constraints in the market we believe the focus should be on full planning permissions;
- investigating the depths of certain markets, as we do not consider it to be a particular issue if a single housebuilder is the only one delivering new homes in a small and limited geography; and
- further exploring how many years output is typically held in short-term landbanks for the major housebuilders. [REDACTED] It is harder for housebuilders to predict how quickly planning consents will arise from their longer-term strategic land banks (some sites will not be successful, while others will be delayed) which is probably why they need scale to balance out the 'winners' and 'losers'.

Findings (section 5)

Question 5.1: In the areas identified as potentially highly concentrated in our analysis, what are your experiences of operating in these areas? How well do you consider the market to be working, and why?

None of the residential sites within our 13,000 acres of landholding fall within the 'areas of concentration' identified. The areas identified do not account for large parts of the UK that are crucial for its economic future – including areas of economic development in the North of England and the Midlands, and areas that are close to ports or major existing infrastructure. We believe omitting these areas could impact the outcome of the study and, as outlined in our response to Questions 4.2 and 4.3, a far greater number of areas need to be studied to provide a robust assessment.

The areas highlighted closely correlate to where some of the greatest viability challenges to deliver houses exist, given house values in these regions relative to building costs and the likely planning timescales. As a result, there are limited numbers of housebuilders willing to operate in these areas, particularly in the SME space. This exacerbates the existing challenges in these areas in terms of placemaking, social cohesion and social mobility. In areas such as Oxford and London, the availability of land is likely to be the main constraining factor.

C. Responses to specific questions within the "Planning" working paper

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, and Harworth identifies planning risk at one of its "principal risks and uncertainties" (as defined by the Companies Act 2006) in its reporting. In our 2023 Annual Report we provided the following commentary on this risk:

Whilst changes (or proposed changes) in planning legislation and policy are not uncommon, emerging planning policy principally in the form of proposed changes to the NPPF poses long-term headwinds for planning promotion

if they remain as stated, particularly of large residential sites and development in the greenbelt. If implemented, the removal of housing supply targets will likely mean that securing residential development allocations in local plans, particularly in the greenbelt, becomes increasingly difficult and bringing those sites through the planning system takes longer. In the shorter term, the government's proposals for changes to the NPPF have encouraged some Local Planning Authorities to delay the adoption of their local development plans. This exacerbates the challenges and delays we already experience due to stretched Local Planning Authority resource.

We would add to this that, while proposed changes in planning legislation will make the supply of greenbelt land more difficult, changes elsewhere such as BNG targets are making brownfield supply challenging too.

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

The study accurately reflects the number of actual or planned changes to the local planning system within the past decade – one of the undoubted causes in our view of uncertainty and lower housing delivery rates. We also agree with the study's finding that the length, cost and complexity of the planning process is a contributing factor: all three have materially increased over the past few years, with a number of our residential planning applications often taking years rather than months to determine.



We are also reassured to see references to local authority resourcing constraints on Page 72, and agree that the key data point is that provided through a recent HBF study: that 76% of SME housebuilders believe local authority staffing shortages are the main cause of delays in the process. This issue is a key one to solve within the context of providing a sustainable funding solution for local commitment.

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

Whilst the study has rightly focused on the creation of plans and the added complexities of the planning application process, comparatively little attention has been given to councillor conduct at planning committee meetings. We would like the study to consider the role of planning committees, and in particular how they can become political in nature and [redacted] make decisions that are at odds with the recommendations of their own officers and legal representations, resulting in a costly and lengthy appeal processes.



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

Harworth operates predominantly in England with some [REDACTED] activity in Wales. Our experience across both territories has been similar. We do not have any operations in Scotland.

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?

We strongly agree with this statement. It is especially true in the current market conditions, which are characterised by high inflation and increased levels of uncertainty. Given a large-scale application may take years to progress through the planning system, what may be viable when an application is submitted may become unviable by the time consented. This results in further delays, as scheme reviews are then required, which often necessitate amendments to existing permissions or new applications.

As an example, while progressing recent reserved matters planning applications for some of our residential sites, we have seen millions of pounds added to construction costs due to inflation, against a backdrop of declining house prices. Given indexation is factored into many Section 106 agreements, this provides a perverse incentive in the current high inflation environment for local planning authorities to delay the delivery of infrastructure.

We wholly agree that the current level of planning, policy and regulatory costs threatens the viability of some developments and believe it to be particularly relevant in the following cases:

- where land values are low, particularly in secondary economies in the North and Midlands in England and in historically deprived areas in Wales and Scotland; and
- where SME housebuilders are bringing forward sites, who often do not have the luxury of a strong balance sheet to absorb unforeseen additional costs.

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

We believe that the CMA has appropriately demonstrated through its analysis that the length and complexity of the planning system has contributed to the under-delivery of housing. We would be pleased to present to the CMA the evidence that we have accumulated over the past decade which shows how the system has become more complex and unwieldy in practice.

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?

We think most of the key causes have been identified. Another factor to consider is the role of Section 106 triggers that are outside of the developer's control acting as 'hand cuffs' on development for sites which have received a planning consent.



[REDACTED]

The judgement in *Hillside Parks Ltd v Snowdonia National Park Authority* [2022] UKSC 30 (02 November 2022) is a factor that developers like Harworth need to consider. This impact of this ruling is to restrict developers holding larger longstanding outline planning permission from tailoring their development proposals to current conditions and local demands, again impacting viability. Large complex consents straddle multiple economic cycles and local requirements and consumer trends will change in the period so there needs to be flexibility in the system to enable these schemes to evolve and continue to deliver homes whatever the cycle.

The current inflexibility supports housebuilders only building out in strong economic cycle as they cannot re-work to reflect more challenging market conditions. The *Hillside* judgement is likely to delay the delivery of phases on large regeneration schemes as it may be sensible to submit new applications rather than risk the possibility of a legal challenge to the original outline planning consent. Given these applications typically take 18 months or more to determine, this will result in further delays.

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

Harworth operates predominantly in England with some [REDACTED] activity in Wales. Our experience across both territories has been similar. We do not have any operations in Scotland.

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?

In areas of planned *significant* economic growth, local authorities should be encouraged to plan for housing numbers above and beyond what traditional calculations would suggest – in turn supporting balanced growth and good placemaking. This is a clear omission from the present system.

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?

We believe that a lack of capacity within planning teams, along with the regular altering of national planning policy and the politicisation of certain planning applications locally have greater effect in practice on meeting housing need. Given the timescales involved in creating and implementing a new local plan, the housing need and the local planning authority objectives can both change.

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

Whilst the study is correct to emphasise that SME housebuilders do not have the financial power to absorb unnecessary or unforeseen planning delays, it is often the case that major schemes actually suffer greater determination delays.

Given the increased complexity of bringing forward a planning application and the implications in areas such as Biodiversity Net Gain ("BNG"), and the length of time of planning applications, the housing targets need to reflect the constraints to recognise an under delivery is likely.

Developments in areas such as BNG are often unhelpful for promoting brownfield land supply and therefore are likely to place more pressure on greenbelt - that of itself will need more time and more strategic land to work through the planning process because its inherently riskier.

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?

Harworth operates predominantly in England with some activity in Wales. Our experience across both territories has been similar. We do not have any operations in Scotland.

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 do agree with the findings of this analysis. The cost, timescales and complexity of planning applications makes it challenging for SMEs to finance, plan and deliver development.

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

We agree that the key issues have been identified.

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

Harworth operates predominantly in England with some activity in Wales. Our experience across both territories has been similar. We do not have any operations in Scotland.

Options for reforming the planning system (Section 5)

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?

Immediate action is needed to address the findings of the *Local Government Chronicle* in May 2023 that just one in 10 councils' planning functions were 'fully staffed'. Whilst the long-term aim for Government should be a sustainable financial settlement to allow local authorities to effectively discharge their statutory responsibilities,

the immediate need is for some form of ring-fenced grants – particularly aimed at those with the biggest application backlogs or most out-of-date local plans – to tackle this bottleneck.

The other issue is more complex: our desire for successive Governments to stop attempting to alter the basis of the planning system every few months, as your study has rightly highlighted. It often takes a number of years for local authorities to properly adapt to revisions to the NPPF or to statutory guidance, which subsequently affects the production of local plans and the speed of determining applications.

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?

Within the options provided in the study, we would support option (a) on the basis that it is the most likely to be implementable in practice:

“(a) Developments that are within scope of the local plan and comply with the LPA’s rules (or where no plan is in place, which satisfy national planning frameworks, or, where applicable, the presumption in favour of sustainable development) could be permitted with housebuilders only having to submit a high-level plan to the LPA rather than a full planning application. This high-level plan could be approved with a presumption of approval for any plan that complies with the LPA’s rules.”

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?

Whilst we would not welcome additional planning fees, we do not believe this would materially affect the viability of large-scale developments of more than 100 homes. However, we believe this would be entirely different for smaller schemes of below 50 homes.

We would support an increase in the application fee if it brought certainty of decision within defined timescales. The cost of delay to our business in terms of inflation and the time value of money significantly outweighs the planning fee. We frequently engage in planning performance agreements (“PPAs”) where appropriate, but we find many planning authorities do not enter into PPAs as they cannot commit to the timescales or performance requirements. To provide more certainty to developers, a system could be implemented by which if an application is not decided within an agreed timeframe, it qualifies as a deemed consent.

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

We believe that increasing resources within local planning authorities needs to be matched with increasing resources within statutory consultees as it is consultee response delays (and decisions/requirements that contradict those of the local planning authority) that are as much a cause of a delay as local planning authority constraints. We fully support the efforts of the Royal Town Planning Institute (“RTPI”) to encourage new planners into the system and to support existing ones to remain in it.

Question 5.5

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

Definitive timelines for smaller planning applications up to a certain size and a shorter list of requirements for smaller planning applications. As a developer of large-scale sites, we would of course also support definitive timetables for all planning applications regardless of size.

D. Next steps

I trust that the above information is helpful. As mentioned, we would be delighted to arrange a meeting to discuss the feedback provided in this letter and our wider experiences of supporting new homes across the North of England and the Midlands. If you would like to proceed with this, please contact us at

[Redacted]

Yours sincerely,

[Redacted]

[Redacted]