

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

Submitted by email only: [housebuilding@cma.gov.uk](mailto:housebuilding@cma.gov.uk)

24<sup>th</sup> November 2023,

Dear Sir/Madam,

**Private management of public amenities on housing estates working paper**

Introduction

I am writing on behalf of the Land, Planning and Development Federation (LPDF) to respond to the working paper on the private management of public amenities on housing estates. This response starts by providing a brief introduction to the LPDF and then moves on to answer a number of the questions set out in the consultation document.

About the LPDF

The LPDF was set up in April 2018 and represents land promoters, housebuilders and commercial development businesses, of all sizes, who due to their land interests interact with the planning system across England to establish the principle of development. As a consequence of these multiple daily interactions with Local Planning Authorities (LPAs) and consultees throughout the country, we are uniquely placed to comment on both the plan making and decision taking components of our planning system.

LPDF members support the housebuilding and commercial development sectors by promoting sites through the planning system, providing “shovel ready” land with a planning permission which can facilitate the delivery of infrastructure and serviced land parcels.

The LPDF seeks to actively engage with government on planning, housing and commercial development policy and to educate the wider public on the social, environmental and economic benefits of development through an evidenced based approach. The LPDF encourages its members to deliver well designed, high quality, sustainable places which deliver a mix of housing types and tenures, commercial spaces and community uses that have a positive social, environmental, and economic impact.

Our key values include:

- Working in a positive and cooperative way with central and local government and key stakeholders, to deliver a planning system capable of supplying the homes and employment space we need.
- Promoting research and an evidence-led approach to policy development.
- Increasing the supply of new homes to meet demand and make home ownership a realistic possibility for all those who aspire to it.
- Ensuring that we build the affordable homes of all types and tenures that this country so desperately needs.

- Delivering new employment space to meet demand from businesses and support economic growth.
- Championing the impact of increased housing delivery on reducing intergenerational unfairness.
- Creating well designed, high quality and sustainable places to live and work.
- Educating and informing about the social, environmental and economic benefits of development.
- Supporting diversity of delivery in the market and championing SME developers.
- Promoting diversity and inclusivity within the sector.

Our role is to represent our members best interests, to encourage good practice and to disseminate information and advice so that they can perform their role better, more efficiently and more sustainably in the future. The LPDF seeks to represent its members' views and to influence Government planning, housing and commercial development policy.

#### Consultation questions

The responses below focus on the more generalised consultation questions looking at the possible measures to address the concerns identified in the working paper. The LPDF welcomes the consideration of these issues and supports the need for changes to be made. The shift to far greater use of management companies for much more of the public realm, particularly over the last 15 years or so, seems to have been driven by a desire from the government to move spending and liabilities away from local authority control and there seems to have been little deliberate strategy or thought behind this shift. The use of private management companies has become standard almost entirely because local planning authorities are declining to adopt public amenities, and management companies are the only viable alternative, given that development itself cannot fund maintenance in perpetuity.

The LPDF believe that there needs to be a much clearer framework in place on what local authorities are mandated to adopt and the standards which need to be delivered in order for them to adopt these amenities. Without significant changes such as these, the current situation and plethora of issues will continue and if anything, will only be exacerbated due to reluctance from local authorities to adopt these public amenities, in part due to the serious resource constraints which they are currently facing.

#### Question 5

- a) What measure or combination of measures would provide the best solution to our emerging concerns?

The LPDF agree that there is a need for common adoptable standards for new housing estates moving forwards. This would ensure a consistent standard of public amenities on new developments and also that the necessary features are in place on these new housing estates.

Notwithstanding the support for common adoptable standards, it may be necessary for this to be coupled with enhanced consumer protection for those existing estates, even if this is just as an interim measure whilst they are brought up to an adoptable standard.

#### Question 6

- a) Would enhanced consumer protection measures by themselves provide sufficient protection for households, or would mandatory adoption also be necessary to achieve a comprehensive solution to the detriment experienced by households living under private estate management arrangements?

The LPDF believe that in order to provide a comprehensive solution, a hybrid approach combining mandatory common adoptable standards and enhanced consumer protection may be necessary. The LPDF are skeptical whether on its own, enhanced consumer protection would be sufficient to drive enough change and believe that moving forwards for new housing estates (at the least), common adoptable standards is a more appropriate approach.

#### Question 7

- a) Would the determination of common, adoptable standards support an increase in the adoption of amenities by local authorities?

Whilst the LPDF believe that common adoptable standards would be likely to increase the level of adoption of amenities by local authorities, the most effective means of addressing this issue would be to make the adoption of these amenities mandatory providing the common standards are met.

#### Question 8

- b) Which sanctions, if any, should be available to public authorities in case a housebuilder fails to build a public amenity to an adoptable standard?

The inclusion of appropriate sanctions within proposals to address these issues will be critical to ensure that these measures work in practice. Without appropriate sanctions in place the non-adoption of amenities is likely to continue, and the sub-standard provision of public amenities will remain a feature of some housing estates.

#### Question 9

- a) Is mandatory adoption likely to be an effective and feasible option to address our emerging concerns in relation to new housing estates?

Yes, the LPDF believe that the introduction of mandatory adoption could be an effective and feasible approach to addressing the issues and concerns regarding new housing estates highlighted in the working paper. This would move things away from what has become the norm over the past 15 years and enable a more structured framework to be brought forwards.

Whilst the LPDF agree that mandatory adoption could provide a solution, this is on the basis that the cost of doing so is proportionate. There comes a risk with mandatory adoption that the LPA's may charge a very large adoption fee which would place excessive financial pressure on the development industry. One way to avoid this would be to have a framework in place which requires adoption costs to be no more than the sum required to maintain the amenity for a set number of years, and that the costs can be the subject of an independent assessment.

The LPDF agree that mandatory adoption of these amenities, unless there were a good reason for the local authority not to adopt, would halt and reverse the trend of falling adoption levels and prevent households from having to pay privately for these public amenities.

- c) Do you consider there to be any unintended consequences from mandatory adoption?

It will be important to ensure that the common adoptable standards of public amenities, such as open space, is set at an appropriate level to ensure that residents are getting a high quality environment and that the bar is not set too low and sub quality environments end up being adopted by local authorities. Equally the standards need to be achievable and not expect too much of the developers to ensure that they are realistically capable of being delivered in a viable manner.

- d) Are there circumstances where it may not be appropriate for a local authority to adopt a public amenity?

There are likely to be a number of exceptional circumstances that would not be appropriate for mandatory adoption by local authorities, further consideration of what these exceptions may be will be important to ensure a comprehensive framework is in place and that both developers and local authorities are provided with clarity over what these exceptions are. Without further clarity in this regard, you are likely to see authorities seeking to avoid the adoption of a range of amenities which do not warrant exclusion in this manner.

#### Question 10

- a) Are our proposed criteria for determining which public amenities should be adopted the right ones?

Section 4.7 of the working paper outlines which amenities are considered appropriate to be required to be adopted by the relevant public authority. The LPDF agree with this list and also the recognition within paragraphs 4.48 and 4.49 of circumstances where adoption may not be appropriate.

#### Question 11

- a) How should local authorities fund the long-term ongoing maintenance of adopted public amenities?

It is acknowledged that the payment of commuted sums by developers would only cover the initial period of maintenance, after which the expense would come from the local authorities overall budget. The LPDF believe there is the need for a clear framework to be in place regarding the calculation of commuted sums, which takes into account the time value of money (i.e. paying cash in advance of costs being incurred). This would help to ensure that a consistent and fair approach is applied across the country and so that developers have a clear understanding and certainty over the level of funding that will be expected from them. After the initial period, which should be set at a common timeframe, then the Council Tax receipts should be sufficient to fund the ongoing maintenance. Any commuted sum needs to be proportionate, subject to scrutiny and for a set number of years.

With the current situation where local authorities are not adopting the public amenities and these are being managed by private management companies, this is resulting in growing inequalities between residents of newer developments. These residents are having to pay both council tax and management company charges, whereas residents of older areas have their public realm maintained by the Council and only have to pay council tax towards it. This double payment feels especially harsh given that residents of affordable housing on these new housing estates are also caught by it.

#### Conclusions

The LPDF welcome this working paper on the private management of public amenities and consider this to be an issue which warrants further consideration and potential reforms. It is important to note that the unregulated approach, with the use of private management companies, which has become the norm over the last 15 years, whilst there will be circumstances where this works, is more often than not resulting in a number of issues which need to be addressed.

Having a clear framework in place regarding common adoptable standards and mandatory adoption of certain amenities would benefit residents, developers and the local authorities as this would result in a clear and consistent approach and if the correct framework is developed and brought into being would result in the delivery of high-quality public amenities on housing estates.

We trust you find our comments on this working paper helpful and constructive, and we, along with many of our members look forward to assisting you further in your market study by providing responses to your working papers on land banking and the planning system.

[Redacted]

Yours faithfully,

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