



Lands Improvement

Response to CMA Housebuilding Market Study – Private management of public amenities on housing estates working paper.

Roads adoption (Section 3)

Question 1

- a) How effective is the process for the adoption of roads on new housing estates in England?
- The current process can be best described as inefficient, slow and time-consuming. As such this:
 - slows down the delivery of infrastructure (time to obtain technical approvals and agree technical agreements);
 - increases the cost burden on developers (bond costs and legal costs) which could be better deployed elsewhere; and
 - results in delayed adoption due to the difficulties in getting final certificates, ultimately impacting residents.
- b) What are the barriers to the adoption of roads on new housing estates in England?
- Lack of resource at Highways Authorities – it's a painfully slow process, both in terms of technical approvals and legal drafting of agreements to get roads adopted, mainly due to resourcing constraints and bureaucracy. This results, among other things, in high levels of bonds being in place for much longer than required (holding bonds for roads already delivered).
 - From a developer point of view the standards required for adoption are often not at an appropriate level for new developments. They do not conform with best design practice (e.g., Manual for Streets) but looking to minimise complaints and costs rather than contributing to the amenity of a new place.

Sewers, drainage and SuDS adoption (Section 3)

Question 4

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- a) Please provide views on how effective the adoption process works in practice for (i) sewers and drains and (ii) SuDS. In responding, please state whether your response relates to England, Scotland or Wales, or a combination of nations.

England

Sewers

Similar to Highways (Q1) in terms of timeframes for obtaining technical approvals and agreeing technical agreements.

SUDs

Statutory water authorities do not generally adopt SUDS in our experience.

- b) Will forthcoming changes in England remove any barriers to adoption?
- We would expect that SUDS adoption could become easier; however, this may lead to reduction in design quality to minimise the statutory authority's liability, but which will not be to the benefit of residents.

Possible measures to address our emerging concerns (Section 4)

Question 5

- a) What measure, or combination of measures would provide the best solution to our emerging concerns? Please give reasons for your views.
- Legislative and policy changes would not only have the most impact, but would also be the easiest to implement, and specifically the regulation of estate management arrangements. We agree with the identified emerging concerns, however these are standard practice on a lot of new developments. The issue is lack of regulation and rogue managers. If best practice principles are applied, then most concerns can be easily dealt with.
 - Whilst having sympathy for the suggestions of common standards and mandatory adoption, both have significant potential downsides and, in our view, would result in unintended consequences of lower standards of design and reduced community benefit.
- b) Does the best approach to tackling our emerging concerns differ according to the amenity (eg roads versus public spaces) or by nation?

Yes, there are significant differences between what is required for different amenities

Highways

- Adoption should always be the aim, as long as the adoption process is not time burdensome, and as long as best practice design principles do not have to be compromised. Short term Highways budget maintenance constraints often lead to a less beneficial public amenity with no long term view or wider public benefit assessment.
- Policy can assist this process. There is significant guidance available for road design but which is not mandatory for Local Highways Authorities to adopt, which often results in out of date guidance being applied which is not in the best interest of residents living in a new community. Because of this Developers may wish to retain streets within a management company's remit rather than seek adoption.

- Automatic adoption by Highways authorities after 12 months (subject to criteria) would make a big difference. Having this certainty would be beneficial for all parties. Whilst the document states that this already happens this is definitely not the case, and it can take many years for Highways departments to process and agree provisional certification let alone final certification.
- H&S implications are much more significant for roads than other amenities, and it is much better for Highway's authorities to take this on and work closely with other agencies (e.g., police)

Public spaces

In a place-led development public open spaces will be carefully designed and delivered to create:

- Spaces for play
- Spaces for leisure
- Places for rest
- Social areas
- Events areas
- Ecological / BNG benefits
- Walking routes

These spaces have huge community benefit – health, social, wellbeing, community, ecological – and huge amount of social value if designed, delivered and maintained properly.

What this mix is, and what landscaping and planting is required, will depend very much on the area in question, local requirements and other imperatives.

These require high levels of investment early on, plus active tailored on-site management to ensure that the spaces embed and thrive, that issues are spotted (soil types not right for certain plants etc) and that they flex with needs of residents over time.

This requires small works teams who understand the nuances of the spaces they are maintaining.

This is a whole different skillset and mindset to managing roads, which whilst needing a clear maintenance regime the demands are not as active or responsive to local or seasonal need as is required for open spaces.

It is also worth remembering that SUDS and Open space overlap, it is in practice hard to split the two when it comes to landscape maintenance.

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?

Consumer protection measures as set out in the working paper, if properly enforced, should provide sufficient protection. The issues as set out in the paper can relatively easily be addressed via policy and regulation and are not insurmountable and indeed are already the working practice on many sites.

In an ideal world, where there was sufficient funding, resource and specialised skillsets available to the statutory bodies than mandatory adoption might work. It is worth noting that other consumer protection

measures would need to apply equally to the adopting authority as we have seen examples where open spaces & ecological areas maintained by a local authority are not up to required standards.

Even if this were the case, on a large site (>1500 units), where things need to be responded to quickly and resident feedback needs to be reacted to, then having open space adopted is likely to be tricky.

Public spaces do not come in one neat package. Some of it will be delivered by a master developer, some by individual housebuilders (often up to 5 housebuilders on site). These need to be delivered (by the contractor) to the required standard and handed over to the management regime following detailed checks by a supervisor or clerk of works. These areas can include verges, planting round parking, green corridors, pocket parks as well as the larger open spaces. These are then transferred to the estates management regime, along with a specific landscape management plan. This is all time consuming and costly, but essential to ensure ongoing management and ownership. It is hard to see how local authorities and their legal teams, will have the resource to undertake even the administration of this, let alone actively managing a varied management regime.

Even with the requisite funding in place, it is anticipated that mandatory adoption of open space would not lead to good outcomes for residents on large sites.

Open spaces when designed, delivered and maintained well offer so much to residents and can provide many benefits for well-being, social interaction, ecology, community cohesion.

Delivering open space requires consulting, thinking, design and investment. A local authority cannot possibly understand the site as well as a site specific management arrangement can, and would not be incentivised to make sure that the spaces are maintained to the required standards.

It is well known that a significant amount of s106 monies collected by local authorities to maintain open spaces and amenities remain uncommitted as they are not set up to deliver on these obligations and maintain the spaces.

This in turn would disincentivise developers from delivering good open space, as they know that it will not be adequately maintained. Requirements will be for protecting the worst outcomes and minimising cost & risk which will stifle creativity and won't provide for the needs of the community or maximise the amenity's potential.

Question 7

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

In theory yes for highways, as long as there is sufficient flexibility to adapt for the specifics of a particular site.

Absolutely not for open spaces – these need to be so carefully designed to meet local needs and maximise benefits that, common standards seems both unworkable, disincentivising and bleak. To implement this would be to not see the wood through the trees – perhaps more spaces would be adopted, but our public realm would suffer immeasurably.

- b) Are there existing standards that could be used to support the determination of common adoptable standards?

N/A.

- c) Who should be responsible for determining and enforcing common adoptable standards?

N/A.

- d) Should this option only apply to future housing estates or include existing housing estates? If the latter, how and over what timescale could existing infrastructure be brought up to the agreed common standard?

Regulation would be a much better way to deal with existing 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? Please state whether this applies in general terms, or to specific amenities, and/or in specific nations.

See answers to Q5 & 6.

- b) Do you agree with our preliminary view that mandatory adoption is likely only to be practicable for new housing estates, given the significant additional challenges and costs of retrospective adoption? Please explain your views.

Yes, for the reasons you have set out.

- c) Do you consider there to be any unintended consequences from mandatory adoption? If so, please describe the consequences and state whether this applies in general terms, or to specific amenities, and/or in specific nations.

See answers to Q5 & 6.

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

When they don't have the resources or skillset to be able to maintain to the required extent. Skillset wise this is most likely to be linked to SUDS and Open Spaces which will have more varied and nuanced maintenance regimes.

Question 10

- a) Are our proposed criteria for determining which public amenities should be adopted the right ones? Are there amenities that we have not mentioned but should be included?

Roads – the criteria seem reasonable.

Sewers – the criteria seem reasonable.

Open spaces – this is more nuanced. Some parts of open spaces in new developments are linked closely to the needs of those new residents and looked after (and indeed altered and improved) for the benefit of those residents. Other parts, in particular sports pitches, are delivered for the wider community use. Whist both open to the public, they have very different objectives and user bases.