

Housebuilding market study

Planning working paper

15 November 2023

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The Competition and Markets Authority has excluded from this published version of the report information which the inquiry group considers should be excluded having regard to the three considerations set out in section 244 of the Enterprise Act 2002 (specified information: considerations relevant to disclosure). The omissions are indicated by [X]. Some numbers have been replaced by a range. These are shown in square brackets.

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Summary

- 1.1 The housebuilding market in Great Britain (GB) in recent decades has been characterised by a number of sub-optimal market outcomes.¹ Our wider study is considering a range of market outcomes. However, given that everyone needs a place to live, and that housing is the single biggest expenditure faced by most consumers, two market outcomes are particularly concerning:
- (a) The number of new homes that have been delivered by the market has been below the assessed level of need, expressed in government targets and other officially-endorsed assessments – not enough homes are being built;
 - (b) The homes are not being built where people want to live, ie the under-delivery of housing has been especially concentrated in areas of high demand.
- 1.2 In a well-functioning market, a situation of under-supply accompanied by fast-rising prices² would typically be at most a temporary situation, as the increasing prices would attract entry and expansion into the market, particularly by small and medium sized housebuilders, which in turn would dampen (and potentially reverse) price increases. In the English, Scottish and Welsh housebuilding markets, however, this has not happened, and these sub-optimal market outcomes have become persistent features of the market. Indeed, far from experiencing entry and expansion, there has been a decline in the number of small and medium-sized enterprises (SMEs) participating in the market, and their collective share of market output.
- 1.3 A key part of our market study is to investigate why these persistently poor market outcomes have arisen. In general, there are three broad areas that we have been considering as potential explanations:
- (a) First, despite increasing house prices, profit levels for building houses may be too low to attract more supply to the market, due to increasing costs to supply. We are considering the profitability of housebuilders as part of our market study.

¹ In scoping the market study, we found that there are differences in the structure and functioning of the housebuilding sector in Northern Ireland compared with England, Scotland and Wales. This means that Northern Ireland appears unlikely to face the same market or supply-side issues as the rest of the UK. For that reason, we excluded Northern Ireland from the scope of the market study.

² The level of house prices in general are influenced by a wider set of factors than the amount of new housing built, such as the prices and availability of existing houses and demand side factors such as availability and terms of credit for consumer borrowing. As such, house prices in themselves are not necessarily a good signal as to how well the housebuilding market is working. Nevertheless, we would normally expect rising prices – and profits – to provide a signal for producers to expand supply.

- (b) Second, and separate to the profitability of housebuilders we are considering as part of our market study, the actions of market participants may slow or delay the delivery of housing, particularly where this allows them to maintain higher prices and profits. This may be particularly the case where firms individually or collectively have market power, and may mean those wishing to enter the market, or expand within it are prevented from doing so. In the housebuilding market, a lever often considered as part of this type of explanation is the land banks held by large housebuilders: more specifically, whether these allow such housebuilders to control the rate of housebuilding in particular areas or act as a barrier preventing other builders from building more houses. We consider issues relating to land banks in the other working paper we are publishing today and are considering any wider issues around how downstream competition in the market is working as part of our market study.
- (c) Third, firms may face barriers to entering or expanding, which taken together prevent the market as a whole from expanding supply sufficiently to address the ongoing under-supply. Possible barriers to entry and expansion include things like limited availability of appropriately skilled labour, materials or access to finance, as well as regulatory and policy barriers. We are considering these types of barrier in our market study.

1.4 This working paper focuses on one particular source of barriers to entry and expansion in the housebuilding market: the planning system. The purpose of the planning system is to manage the amount and type of building that can take place to ensure that the need for housebuilding (and other forms of construction) is appropriately balanced with the preservation and promotion of other societal goals, such as environmental protections and managing the impact on existing local residents of the potential loss of amenity from new building. As such, it prevents, by design, some building that would have taken place if the planning system did not exist. Given the role of the wider societal goals it seeks to serve, the planning system plays a role in attempting to deliver these societal outcomes.

1.5 Given the persistence of poor market outcomes, it is necessary to consider whether the design and operation of the planning system could be reformed in a way that would better support the aggregate level of housebuilding that policymakers are seeking to achieve whilst aligning with other societal goals. In particular, if having considered the other potential explanations for persistently low supply set out above, we conclude that applying all appropriate actions to address any problems we see would still not lead to an acceptable level of housebuilding aligned with where the need for new homes is greatest, then it may be necessary for the UK Government and devolved administrations in Scotland and Wales either to make changes to the planning system to achieve these, or accept that they will continue to remain unachieved, with the impact of this compounding over time.

Our approach

- 1.6 As part of our market study, we have been exploring the planning system to:
- (a) Assess the extent to which different aspects of the planning system are influencing outcomes in the housebuilding market;
 - (b) Map the landscape of policy options that could be pursued with the aim of supporting improved market outcomes; and
 - (c) Set out the wider policy trade-offs that pursuing these options would entail.
- 1.7 This paper sets out our emerging thinking on the impact of the planning system on housebuilding market outcomes, and potential options for reforming it in ways that may improve these market outcomes. The purpose of this working paper is to present our thinking in relation to these issues and seek views from stakeholders in relation to the accuracy and comprehensiveness of our analysis, including whether we have accurately reflected the distinct situations in England, Scotland and Wales. We will then consider this feedback as we prepare our final report, which must be published by 27 February 2024.
- 1.8 Many aspects of the design and operation of the planning system are the result of trade-offs being made with other important objectives, including decisions around the nature of environmental protections, societal and aesthetic considerations about the availability of green space across England, Scotland and Wales, the extent to which local views are taken into account, and the allocation of public funding, all of which are outside the CMA's focus on markets. We are not, therefore, proposing to make specific recommendations on how these trade-offs ought to be determined. These decisions are rightly for elected representatives to determine via the political process.
- 1.9 We also do not intend to make our own assessment of the outcomes we would expect to see if the housebuilding market were functioning as well as possible, or to assess the validity of existing targets for new housebuilding. Any such assessment would inevitably involve trade-offs with other important objectives, and so is itself a matter of political judgement. Instead, we consider existing government targets, and other accepted assessments of new housing need, as representing the stated outcomes that policymakers think the market ought to be delivering.
- 1.10 Our intention has therefore been to gather and analyse evidence about the housebuilding market, which will enable us to map the range of policy options that could be considered to reform the planning system in support of better market outcomes. Our aim in doing so is to provide policymakers with a stronger understanding of the range and likely outcomes of the different policy options open to them in this space, rather than to advocate for any of these options in particular.

If we were to identify any options for improving the planning system that did not involve any significant trade-off with wider objectives, we would of course consider whether it would be appropriate to make firm recommendations in relation to them.

1.11 In carrying out this work, we are conscious that:

- (a) There is no single reform that would, on its own, address all of our emerging concerns in relation to the planning system. We therefore consider that the options we set out should not be considered as individual reforms, but rather as potential components of a wider package by policymakers;
- (b) Some of the policy options would require significant preparatory action to be workable and to produce successful outcomes, and there are interdependencies between the options. Again, this speaks to policymakers considering these as potential components of a longer-term strategic plan;
- (c) The planning system is constantly evolving, with a number of policy reforms having been introduced recently, or the process of being introduced, such that their impact cannot be fully evaluated yet;
- (d) Some of the options we discuss have been considered and rejected by policymakers in the recent past. Nonetheless we think it is important to set out the options in full, noting that these will be relevant over an extended period of time, during which the wider political and market context may change significantly; and,
- (e) 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. We are therefore offering our emerging thinking in the form of this working paper; we invite comments from stakeholders on all aspects of this work, which we will consider carefully as we complete the market study.

1.12 We will carefully consider all representations made to us in response to this working paper and will present our final view, in the context of our wider position on the market, in our final report. The remainder of this section summarises the content of the working paper.

Background to the planning system

1.13 Housing, environmental and planning policy in GB are devolved to the respective legislatures in Scotland and Wales, with the UK government retaining responsibility for this policy area in England.

1.14 England, Wales, and Scotland all have a 'plan-led' system which means that local planning authorities (LPAs), which are usually also local authorities, produce local

development plans and make decisions about development based on planning policy. There are 326 LPAs in England, 34 in Scotland and 25 in Wales.

- 1.15 Each nation's system is discretionary, meaning that the LPA is responsible for deciding whether a proposed development should be allowed to go ahead, then granting or refusing planning permission. Planning applications should be decided in line with local development plans unless there are material considerations that indicate otherwise.
- 1.16 In each nation, central government is responsible for overseeing the planning system including by producing national legislation, policy and guidance and monitoring local plan production.
- 1.17 In relation to planning policy, all three nations have a national policy framework.³ In England, this is the National Planning Policy Framework (NPPF). In Wales, the Welsh Government sets out its national planning policy framework in Planning Policy Wales (PPW), and in Scotland the National Planning Framework 4 (NPF4) sets the context for planning. LPAs must have regard to these national policies when taking planning decisions.

Analysis of the planning system

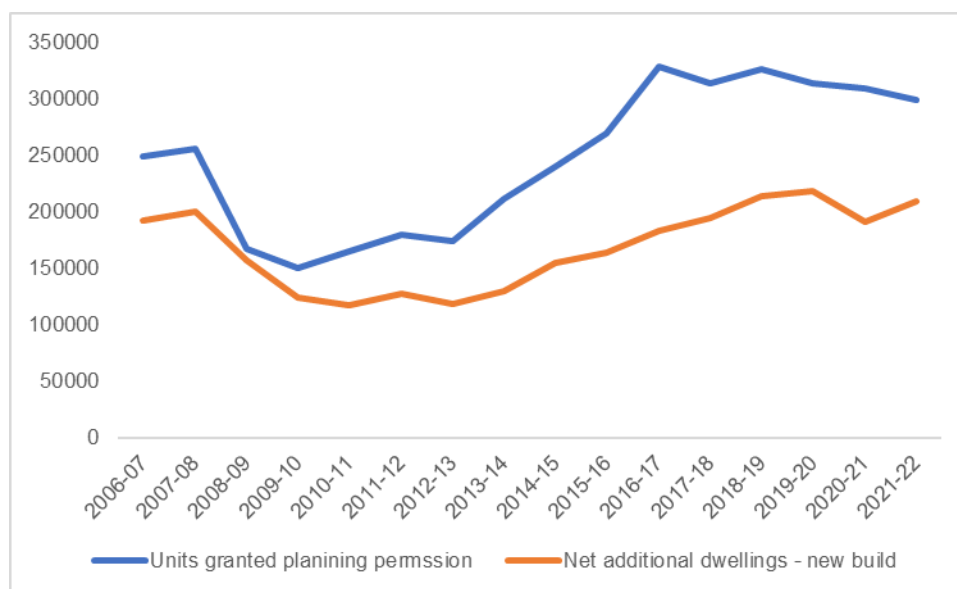
Planning system outputs and new home delivery

- 1.18 We first consider the extent to which the current operation of the planning system is capable of delivering desired market outcomes, in particular the achievement of sufficient new housebuilding to meet government targets or other assessments of housing need. While the relationship between the planning system and market outcomes will not in itself show the extent to which the former is responsible for driving the latter, it will provide useful context for us to consider as part of our wider work in the market study.
- 1.19 In England, the government has set out a commitment for the delivery of 300,000 new houses per year, by the middle of the decade.⁴ Figure 1.1, below, shows the number of net additional homes built and net additional planning permissions issued in England, over time.

³ Each nation has a national planning framework that has been subject to multiple updates over a period of years.

⁴ Paragraph 6 - Levelling-up and Regeneration Bill: reforms to national planning policy (21 September 2023)

Figure 1.1 Housing net additional new homes built and net additional planning permissions in England



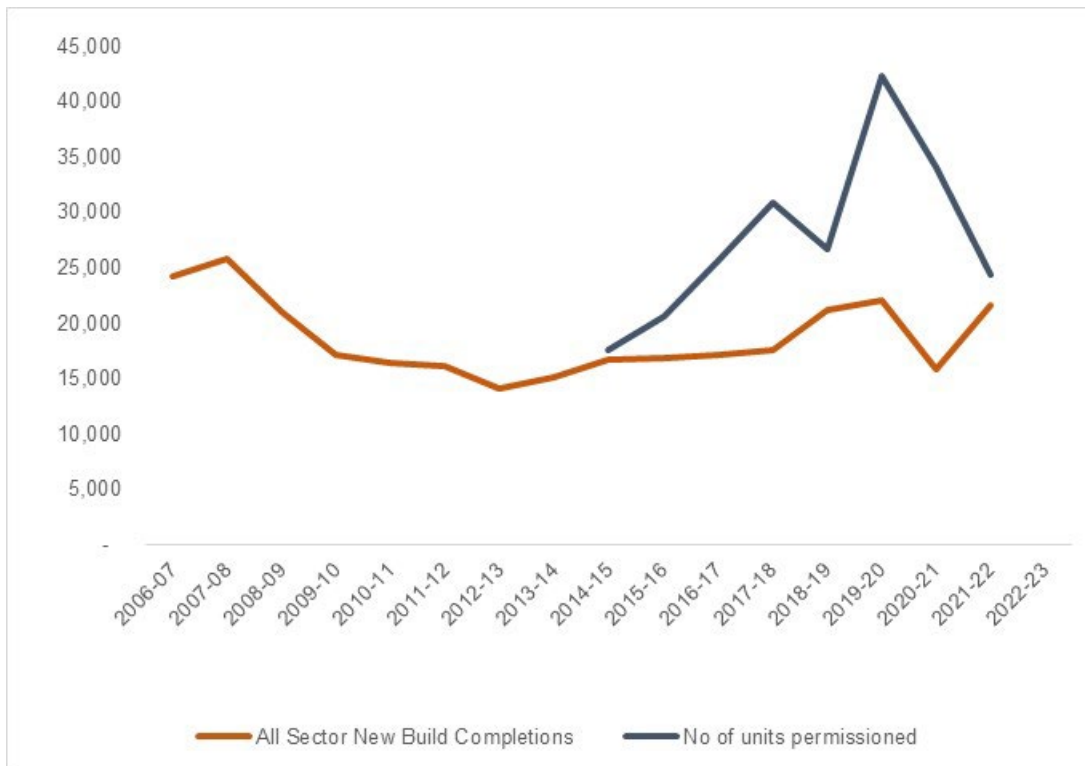
- 1.20 As can be seen from the above chart, the number of new additional homes built has been below the 300,000 figure for the entirety of the past 15 years. The number of new planning permissions exceeded 300,000 per year in the mid-2010s and has remained between 300,000 and 330,000 since then.
- 1.21 We note, however, that in order to sustain 300,000 home completions per year, annual new planning permissions must remain well above the 300,000 level because a given percentage of planning permissions represent reapplications and some will lapse without being built. Given the time-lag between planning permissions being granted and homes being built and brought to market, it is also true that a level of annual planning permissions significantly above 300,000 must be sustained for some time to begin supporting the consistent delivery of 300,000 homes per year.
- 1.22 While the proportion of major dwelling housing applications that have been approved has remained fairly constant since 2011 (at 80-85%), the number of decisions on such applications has fallen significantly since 2017; this has driven the modest decline in overall granted permissions over that period.
- 1.23 Looking at the regional level within England, we find that 51 of 306 LPAs in our analysis achieved less than 75% of their need-based Housing Delivery Test (HDT) in 2021, while 214 (70%) achieved more than 95% of their HDT.⁵ Of those areas that did not achieve their HDT, the majority (37) are in the South East, East of England or London.⁶

⁵ The HDT measures the number of homes delivered over three years against a target based on local need.

⁶ Note the sum of local HDT targets adds up to less than 300,000. We discuss local target setting as well as potential inconsistencies within that process from paragraph 4.120.

1.24 In Scotland, in contrast to England, there is no all-tenure housing target based on housing need. However, LPAs are required to set out their own local land requirement based on local housing need, which must collectively be above the minimum requirement set out in NPF4, the national planning framework at present. The minimum requirement set out in NPF4 sums to land for 20,000 homes per year. Figure 1.2, below, shows the number of new build planning completions and units given planning permission in Scotland.

Figure 1.2 New build completions and units given planning permission in Scotland

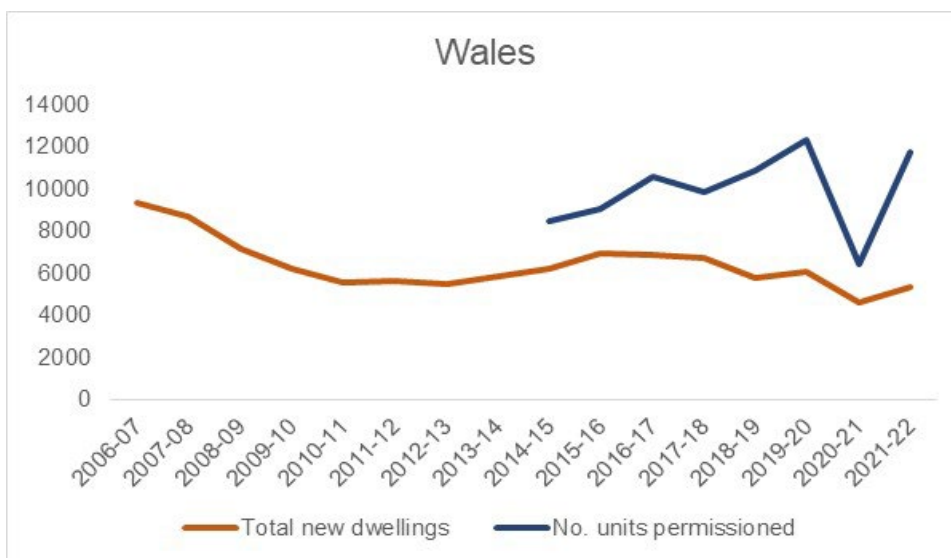


1.25 This analysis shows that the number of new build homes completed took a long time to recover from the pre-2008 level of over 25,000 and remained some way below this level in 2021-22 with new build completions of around 21,000. This is above the sum of LPA land supply targets for the forthcoming NPF4 period. However, over a 10-year period (2012-13 to 2021-22) completions were below that, averaging approximately 17,800. We note that since 2017-18 the average number of homes given planning permission annually has been significantly in excess of the sum of LPA land supply targets.

1.26 The relationship between the number of planning decisions and the number of homes given permission in Scotland is weaker than for England. In Scotland, while the number of homes given planning permission has been generally increasing since 2014/15 the number of planning application has been falling over the same period. One possible explanation is an increase in the size of sites (on a per plot basis) for which planning applications are being made.

- 1.27 At a regional level over the last five years 7 out of 33 LPAs (21%) achieved housing completions equivalent to 75% or less of their current housing targets, whilst 18 (55%) achieved housing completions in excess of 100% of this. Over the past 10 years 9 LPAs (27%) had a ratio of housing completions to target of less than 75%, with 16 LPAs (48%) having a ratio in excess of 100%.
- 1.28 In Wales, there is no all-tenure national housing target. However, work published by the Welsh Government in August 2020 provided a central estimate of annual all-tenure housing need of 7,400. Figure 1.3 below shows the number of new build completions and units given planning permission in Wales.

Figure 1.3 New build completions and units given planning permission in Wales



- 1.29 The analysis shows that the number of new build homes completed remains well below its pre-2008 level of around 9,000 and in 2021-22 was less than 6000. This is below the both the WCPP and Welsh Government estimates of need. We note that the average number of homes given planning permission annually has been slightly in excess of these need values since 2014-15.
- 1.30 Over the last five years, 13 out of 21 LPAs (62%) in Wales achieved housing completions equivalent to 50% or less of their local plan housing requirement whilst none achieved housing completions in excess of 100% of this. Over the past 10 years 10 LPAs (48%) had a ratio of housing completions to local plan requirements of less than 50%, with no LPAs exceeding 100%.
- 1.31 Overall, the analysis shows that in all three nations the level of sustained new housing delivery has been below current stated targets or assessment of needs for some time. In England, the number of planning permissions granted since the Great Financial crash has not been at the level required to deliver the target of 300,000 new homes per year. In Scotland and Wales, the data on planning permissions granted is insufficient to determine this, though we note that the

number of permissions granted would need to be well above the level of overall assessed need, for a sustained period, to support consistent output at this level.

Issues in the planning system

- 1.32 Through our work so far, we have seen evidence of three key concerns with the planning system which may be limiting its ability to support the level of new housing that policymakers believe is needed:
- (a) Lack of predictability;
 - (b) Cost, length and complexity of the planning process; and
 - (c) Insufficient clarity, consistency and strength of LPA targets, objectives and incentives to meet housing need.
- 1.33 We consider each of these in turn, before considering how any problems in the planning system may be having a disproportionate impact on SME housebuilders.

Lack of predictability

- 1.34 Lack of predictability in the planning system may impact the willingness of housebuilders to bring land through the planning system. Given the costs associated with securing land and putting it through the planning system, increased uncertainty about whether planning permission will be successful means housebuilders will be less confident about if and/or when they might earn a return on these sunk costs. This in turn will make them less willing to pursue development at some sites.
- 1.35 We identify and consider four potential sources of unpredictability in the planning system:
- (a) Policies that impact the planning process: The planning system is used as a means of implementing a range of new policies, most commonly environmental regulations.
 - (b) Continuous revision of the planning process: In England, since the introduction of the NPPF in 2012, there have been three significant revisions before the current review, which started with the Planning White Paper in 2020⁷. The uncertainty arising from this review has yet to be resolved, with many changes proposed to be rolled out gradually on a ‘test and learn’ basis. There have also been significant recent changes in Scotland over the past few years.

⁷UK Government, [Planning White Paper](#), August 2020

- (c) Lack of up-to-date local plans (in England): The LPA's local plan is a key factor in determining which land is allocated for development and therefore likely to get planning permission. As of May 2021, fewer than 40% of LPAs in England have an up-to-date local plan. Areas with older or no plans are associated with lower levels of planning applications and housing delivery.
- (d) Political and public attitudes to development expressed through the planning process: Residential development is increasingly political and attitudes to development vary significantly by area, with the release of greenbelt land being particularly controversial. How the planning system is implemented in an area may impact the number of planning applications brought forward and approved in that area.

Cost, length and complexity

- 1.36 A concern raised with us by the housebuilders in particular was that the planning process is long, complex and costly and is becoming increasingly so.
- 1.37 The planning process has become increasingly costly and complex to negotiate. In addition, there are substantial and increasing policy-related costs involved in the development process which could threaten the financial viability of development at some sites.
- 1.38 Since 1990, the volume of evidence that is required to support a planning application has increased dramatically, as has the cost associated with making a planning application. On average, direct planning costs range from around £100,000 per application to around £900,000 per application, depending on the size of a site. At the same time there has been, and continues to be, an increase in the costs of developing sites caused by new government policies such as Biodiversity Net Gain and the Future Homes Standard. The HBF estimate recent policy changes impose additional costs of between £19,000 to £23,000 per plot.
- 1.39 Increases in policy and similar regulatory costs could result in some sites that would otherwise be viable not being developed, if they rise to levels that means that sites do not provide a sufficient return to the housebuilder or landowner. The extent to which this is currently happening is difficult to determine, as it will depend on the specific circumstances at a given site.
- 1.40 The planning process typically takes a long time to navigate, and the time required to make planning decisions is increasing. A longer planning process requires housebuilders to hold on to a larger quantum of land for a longer period of time than they would otherwise, and to manage a longer period between paying the upfront costs associated with initiating a development and realising the returns from their investment. This is likely to deter planning applications as well as slowing the delivery of homes where an application is made.

- 1.41 Our analysis shows that the time taken to make a major dwelling planning decision has increased significantly; where in 2009 around 50% were made within the statutory 13-week period, this had fallen to just over 10% in 2021. Planning decisions can take much longer than 13 weeks: the average time taken to make an outline planning decision in England in 2021 was over a year. Comparable decisions in Scotland take an average of more than 39 weeks, while in Wales the average time is over 200 days (over 28 weeks).
- 1.42 The evidence that we have obtained from stakeholders indicates that there are several factors driving up the length of the planning process. The main reasons identified, alongside increasing public and political engagement discussed above, were:
- (a) The increasing amount of policy impacting the planning system;
 - (b) LPA resourcing constraints;
 - (c) Delays in receiving responses from statutory consultees; and
 - (d) The negotiation of site-specific agreements to secure housebuilder contributions to funding of local infrastructure.

Insufficient clarity, consistency and strength of LPA targets, objectives and incentives to meet housing need

- 1.43 Local land supply and housing targets are crucial in driving how much land LPAs need to allocate in plans, and therefore have a significant influence on how many planning applications are approved. We have heard some concerns about potential distortions in how these are calculated.
- 1.44 We also note the competing objectives that are faced by LPAs, and the varying incentives placed on them by the national planning frameworks in England, Scotland and Wales to prioritise hitting their housing need. Where these incentives exist, their impact on local authority behaviour can be mixed or unclear.
- 1.45 Finally, we note the significant constraints placed on some LPAs by the nature of their undeveloped land, including the presence of greenbelt land or geographic constraints.

Impact of the planning system on SME housebuilders

- 1.46 While the concerns with the planning system set out above will have a negative effect on the ability of all housebuilders to take forward projects, we are concerned that these impacts are disproportionately felt by SME housebuilders. The number of SME housebuilders operating in the market, and their proportion of total homes built, has declined significantly in recent years and SME housebuilders have told

us that the planning system is the biggest barrier they face. This may have an impact on consumer outcomes by reducing choice, innovation and volumes built in particular local areas.

- 1.47 Our analysis shows that per-plot direct costs (mainly LA planning fees and consultancy costs) for sites of fewer than 50 plots are around £3500 on average compared with £1500 for sites with 100-500 plots and under £1000 for more than 500 sites. Given SME housebuilders will naturally tend to seek smaller plots, this indicates the disproportionate financial burden placed on them by the planning system. In addition, by having smaller portfolios of land, SME housebuilders are inherently less able to mitigate uncertainty in the planning system and the length of time taken to decide applications can have an impact on their ability to raise finance to gain control of the site in the first place.

Options for reforming the planning system

- 1.48 Given the concerns set out above, and the impact they may be having on outcomes in the housebuilding market, we have also set out to map the policy options in this space. The table below summarises our emerging thinking on the policy options we are considering and the phasing of their implementation over the short term (one to two years), medium term (two to three years) and long term (four to five years over the course of a parliamentary term) - and the concerns with the planning system we think they could address.

		Principles			
Options		Predictability	Efficiency	Incentives	Level playing field for SMEs
Short-term	 Support for SMEs Greater government & LPA support to SMEs to navigate the planning process		✓		✓
	 Planning fees Planning fees set to cover costs and hypothecated for planning departments	✓	✓	✓	
Medium-term	 Defined consultees LPAs only have to consult with defined consultees		✓		
	 Consultee deadline LPAs only required to consider statutory consultees' views if on time	✓	✓		
Long-term	 Objective target setting National housebuilding target set in an effective way that better reflects need		✓	✓	
	 Local plan enforcement LPAs monitored so local plans are up to date and accurately reflect the national target	✓		✓	✓
	 Rules-based system Streamlined planning with a more rules-based system and reduced discretionary decision-making	✓	✓		✓

1.49 We are keen to seek views from stakeholders on the feasibility and impact of these options, as well as whether there are any significant options we have not considered.

Next steps

1.50 We will carefully consider any feedback we receive in response to this working paper, alongside feedback relating to our other two working papers and our wider analysis, as we draft out final report. We will publish our final report by the statutory deadline of 27 February 2024, setting out our overall view of the

housebuilding market in England, Scotland and Wales, alongside any action that we think should be taken or considered to improve market outcomes.

2. Introduction

2.1 On 28 February 2023 the CMA launched a market study on housebuilding. In our Statement of Scope, we set out that the focus of the study would be the supply of new homes to consumers in England, Scotland and Wales. We also proposed to obtain evidence and carry out analysis that will enable us to:

- (a) understand how the market is structured, the relationships between key participants, and other aspects of the way the industry operates, at each key stage of the housebuilding process;
- (b) establish whether there may be market distortions in the supply of new homes; and
- (c) explore and seek to measure, where possible, whether and to what extent any of the competition issues that we may identify, as described above, may lead to consumer harm, by looking at market outcomes (prices, profitability, quality, and innovation in the sector).

2.2 Following the launch of our study, we received responses to our Statement of Scope from almost 40 different organisations. Many respondents to the Statement of Scope considered that the CMA should look more closely at the planning system and the issues that it causes in the market. The main issues raised by respondents were:

- (a) **Complexity and resources:** Some of the large housebuilders argued that continuous changes to the planning system had led to increased costs, delays and uncertainty which also act as a barrier to entry and expansion for large and smaller housebuilders. Several housebuilders told us that the planning process had become increasingly lengthy due to resourcing issues in LPAs.
- (b) **Impact of changes to policy and legislation:** Some large housebuilders raised concerns that the Levelling up and Regeneration Act (LURA)⁸ would increase the complexity of the planning process, and so the length of time to get through it. Another respondent said that the LURA and changes to the National Planning Policy Framework (NPPF) would slow down local plan production and dramatically reduce housing delivery. Another respondent agreed that revisions to the NPPF would constrain land supply and disincentivise investment, particularly from SME housebuilders, suggesting this could strengthen the market position of the large housebuilders. One

⁸ The LURA introduces a series of changes to the planning system in England.

SME housebuilder told us that uncertainty, created by government consultations on planning reform, leads to delays in the planning process.

- (c) **Bias towards large sites:** We received a number of responses from SME housebuilders which raised concerns around LPAs and the planning system, arguing that LPAs tended to focus on large sites to meet their housing land supply targets, which favours the large housebuilders. SME housebuilders told us that the cost, delay, and risk associated with securing planning permission was, in part, responsible for the reduction in the prevalence of SME housebuilders, who cannot afford to go through the process. Similarly, some academics suggested that the CMA should examine the extent to which government planning policies favour larger housebuilders over smaller ones. They note that the introduction of the NPPF had apparently led to a drive towards sustainable development and an increase in the proportion of planning permissions for large greenfield sites. They argued that this, in turn, has made it easier to get approval for speculative planning applications that tended to favour larger and better resourced housebuilders who were capable of developing these capital-intensive sites.
- (d) **Scottish planning system:** We received some responses specifically on the Scottish planning system. One trade body described the Scottish planning process as inefficient, inconsistent and lacking resource across many LPAs. They argued that the new NPF4 has done little to address the resource burden on local authority planning departments or the cost and delays for housebuilders in the planning system.
- (e) **Developer contributions:** One academic said that evidence gathered over several studies showed that negotiating Section 106 (S106) agreements was more difficult for SME housebuilders than for the large housebuilders, as larger housebuilders have greater expertise and capital to conduct negotiations with local planning authorities. Another academic told us that, by threatening to withhold sites, the large housebuilders can exert structural power over LPAs, power that is underpinned by the fact that land, as an asset, does not depreciate over time, and that the structural power has likely been enhanced by the cuts to local authority funding, which has made them more reliant on S106 revenues.
- (f) **Viability:** One local authority argued that since viability assessments – which verify that a proposed development remains profitable after factoring in developer contributions – have been introduced, affordable housing provision has more frequently been negotiated down from policy requirements. Separately, some academics argued that the propensity for developers to seek to enter into viability negotiations to provide developer contributions below policy requirements has increased. Conversely, several developers argued that developers have a lack of bargaining power compared to LPAs

because developers are under significant time pressure to make an investment decision and commence construction of a project, which may require them to make significant concessions to an LPA, who themselves have the power to determine applications and grant or refuse consents.

2.3 We have gathered information from a range of stakeholders and market participants across England, Scotland and Wales in order to carry out our analysis of the planning system. Specifically, we have:

- (a) sent requests for information (RFIs) to the 11 largest housebuilders,⁹ and to over 40 SME housebuilders;
- (b) met with numerous stakeholders including local authorities across all three nations in scope, housebuilders, and various representative bodies (including trade associations and associations representing planning and housing officers and local authorities); and
- (c) procured planning data from a specialist supplier.

2.4 On 25 August 2023 we published an update report, which:

- (a) Explained what we had done so far in the market study;
- (b) Set out our preliminary thinking in relation to the housebuilding market; and
- (c) Announced that we were opening a consultation on a proposal to make a market investigation reference in relation to the supply of new homes in England, Scotland and Wales.

2.5 In the update report we also said that we would publish working papers in the autumn covering three important areas of our study. We published our working paper on the private management of public amenities on 3 November. This working paper covers planning, and we are also today publishing a [working paper on landbanks](#).

2.6 We received 20 responses to our update report and consultation on a market investigation reference. Many respondents criticised the inconsistent application of the planning system. The main issues raised by respondents were:

- (a) **Unpredictability:** Some housebuilders told us that the planning system often produces uncertain outcomes. One respondent noted that the application of the planning system varies significantly between LPAs. One housebuilder

⁹ The largest housebuilders were selected based on turnover and completions over the previous two financial years. Given that the volumes built by different housebuilders vary year to year, there may be other large housebuilders of similar size not included in this sample. However, the housebuilders we have selected represent a significant proportion of houses built in England, Scotland and Wales and include those building in each Nation and so consider this to be an informative sample for understanding the sector.

noted that LPAs each have different approaches to development and the planning process with varying degrees of resource and political considerations. This has a dampening effect on the ability to secure planning permission across LPAs. Another housebuilder argued that delays and unpredictability in the planning system causes housebuilders to hold more land. Several housebuilders told us that the increase in size of landbanks is a symptom of failures in the planning system.

- (b) **Resources, time taken and complexity:** Some housebuilders noted that the planning system is under-resourced, complex and time- and cost-intensive to navigate. One housebuilder noted that planning applications are taking longer to determine and are rarely within the statutory timescales. One housebuilder noted the reduction in spending on local planning at a local authority level, which it said demonstrated a clear resourcing issue within LPAs.
- (c) **Barriers to entry:** Some respondents said that the planning system acts as a significant barrier to entry. One respondent suggested that the particular focus of LPAs in the UK on large sites is a problem for smaller housebuilders. Several large housebuilders argued that the current underperformance of the planning system is a particular barrier to entry for SME housebuilders.
- (d) **Scottish planning system:** Heads of Planning Scotland highlighted that recent changes to the planning framework mean that there is little benefit in further structural change at this time. However, Homes for Scotland argued that NPF4 does not allow for any mechanism to allocated further housing land, outside of the plan reviews, in the case of an under-delivering housing land supply pipeline. They also argued that the tool currently used in Scotland to identify housing need and demand is not fit for purpose and relies on secondary data.
- (e) **Recommendations for change:** Several respondents recommended reforms to the planning system including incentivising LPAs to prepare and implement local plans, reforms to speed up the planning system and reforms to regional planning.

2.7 One of the aims of the planning system is to ensure a sufficient number and range of homes can be provided to meet the needs of present and future generations. However, it also aims to meet other objectives including social, environmental and wider economic objectives.

2.8 Policy makers face a set of complex trade-offs when making policy decisions in relation to the design and operation of the planning system. To the extent that many of these trade-offs involve objectives that are beyond the CMA's focus on markets, it would not be appropriate for us to offer specific recommendations on

how these trade-offs ought to be made. These questions are rightly for elected officials to determine via the political process.

2.9 With this in mind, we set out in our Statement of Scope that we would focus on aspects of the housebuilding market where the CMA can provide insight and have the greatest impact, such as barriers to the market working well and the implications for customers, rather than fundamental aspects of the planning regime or government policy. We noted that we did not propose to:

- (a) Test the validity of the actual targets set by governments or whether the UK is building enough homes to meet demand;
- (b) Explore the constraints on new home supply resulting from broad policy choices that weigh various costs and benefits to society, such as the preservation of green belts;
- (c) Question the fundamental aims of the UK's planning regimes, including the way in which they seek to balance housing needs and other societal needs;
or
- (d) Weigh the costs and benefits of the changes in the LURA.

2.10 Nonetheless, given the crucial importance of the planning system in determining market outcomes, any assessment of how the market is functioning must take it fully into account. Our wider study will consider several types of market outcome (such as quality of new homes delivered and the profitability of large housebuilders). However, one of the key aims of the planning system is to ensure a sufficient number and range of homes can be provided in the right locations. Therefore, when thinking about the planning system, of particular note are concerns that:

- (a) The number of new homes that have been delivered by the market has been below the assessed level of need, expressed in government targets and other officially-endorsed assessments ie not enough homes are being built;
and
- (b) The under-delivery of housing has been especially concentrated in areas of high demand ie the homes are not being built in the right places.

2.11 In this market study we are therefore considering the extent to which different aspects of the planning system have a significant impact on market outcomes, in particular the number and type of homes being built, the location of those homes and the cost of building them. We are also considering the ways in which changes to the design and operation of the planning system may support better market outcomes. Given that the trade-offs involved in these options are not for the CMA to determine, we aim to map the landscape of possible policy options, consider the

extent to which they could drive improved market outcomes, and identify the wider policy trade-offs that adopting these options may entail.

- 2.12 The purpose of this working paper is to share our thinking at this stage and invite views from interested parties. In particular we are interested to hear views on:
- (a) Our understanding of how the planning system is designed and operated, including the extent to which we have captured significant differences between England, Scotland and Wales;
 - (b) The robustness of our analysis of the impact of different aspects of the planning system on housebuilding market outcomes as described above; and
 - (c) The comprehensiveness of our mapping of potential policy options to improve market outcomes, the accuracy of our assessment of their likely impact on housebuilding market outcomes and of the range of wider policy trade-offs (including potential unforeseen consequences) they would entail.
- 2.13 We will carefully consider the feedback we receive in response to this working paper and take it into account as we develop our final report, which we will publish no later than 27 February 2024.

Responding to the working paper

- 2.14 We welcome responses to this working paper, and in particular the questions set out in Section 6 by 5pm on **Wednesday 6 December**.
- 2.15 Section 6 provides further details on how to respond to the consultation.

3. Background

Legal and policy framework

Overview of the planning system in the UK

- 3.1 In this section we summarise the key aspects of the legal and policy framework for planning in England, Scotland and Wales.
- 3.2 Housing, environmental and planning policy are devolved to the respective legislatures in Scotland and Wales. Each of the nations of the UK has a 'plan-led' system which means that LPAs develop local development plans and make decisions about development based on planning policy.
- 3.3 Each system is discretionary, whereby the LPA is responsible for deciding whether a proposed development should be allowed to go ahead and then grants, or refuses, planning permission. Planning applications should be decided in line with local development plans unless there are material considerations that indicate otherwise.
- 3.4 The Town and Country Planning Act 1990 (TCPA 1990), as amended, sets out the legislative framework for planning in both England and Wales, although there are differences in primary and secondary legislation as it applies to Wales¹⁰. In Scotland, planning legislation and policy is distinct from the rest of Great Britain with the Town and Country Planning Act (Scotland) 1997, as amended by the Planning (Scotland) Act 2019, being the basis for the planning system.^{11 12}
- 3.5 In relation to planning policy, all three nations have a national policy framework: the National Planning Policy Framework (NPPF) in England,¹³ the Planning Policy Wales (PPW) in Wales,¹⁴ and the National Planning Framework 4 (NPF4) in Scotland.¹⁵ The legislation requires LPAs to have regard to these national policies when taking planning decisions.

¹⁰ [The Town and Country Planning Act 1990](#)

¹¹ [Town and Country Planning \(Scotland\) Act 1997 \(legislation.gov.uk\)](#)

¹² [Planning \(Scotland\) Act 2019 \(legislation.gov.uk\)](#)

¹³ [The UK Government, National Planning Policy Framework](#)

¹⁴ [The Welsh Government, Planning policy Wales](#)

¹⁵ [The Scottish Government, National Planning Framework 4](#)

- 3.6 In each nation, planning law requires LPAs to consult specified bodies ('statutory consultees') before a decision is made on a planning application.¹⁶ The range of bodies consulted varies according to the nature of the development process.¹⁷
- 3.7 In each nation, central government is ultimately responsible for overseeing the planning system including by producing national legislation, the policy and guidance against which the planning system is administered, and by monitoring local plan production.
- 3.8 We set out the key features of each planning system in turn:

England:

- 3.9 The main legislation is the Town and Country Planning Act 1990, which has been amended by a number of Acts including the Planning and Compulsory Purchase Act 2004, the Planning Act 2008 and the Localism Act 2011. The administration of the planning system in London is governed separately by the Greater London Authority Act (1999).
- 3.10 The NPPF sets the framework for planning and the building of houses in England. It was introduced in 2012 and has been updated since (in 2018, 2019 and 2021). The NPPF sets out the government's priorities and provides further detail on how the TCPA 1990 should be applied.
- 3.11 The NPPF sets out that each LPA must produce a local development plan for its area. The purpose of these is to identify sites for new development and set out policies that guide decision making on planning applications. The local plan should be based on up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. When preparing local plans, LPAs are required to involve the community by including in the process all those who have an interest relating to development in the area. LPAs must also submit every development plan document for independent examination.
- 3.12 The NPPF introduced a 'presumption in favour of sustainable development', meaning that applications should be approved if they are sustainable, if the local plan is not up-to date or where an LPA does not have a five-year housing land supply (5YHLS), which would mean that supply sufficient for 5 years of housing need could not be demonstrated. This is separate from the statutory 'presumption in favour of a development plan'¹⁸, which requires LPAs to make any planning determination in accordance with the development plan, with some exceptions.

¹⁶ See: [Consultation and pre-decision matters - GOV.UK \(www.gov.uk\)](https://www.gov.uk).

¹⁷ Specific statutory consultees vary depending on specific circumstances of the application but in England include the Canal and River Trust, Environmental Agency, Forestry Commission, Health and Safety Executive, Natural England and Water and sewerage undertakers.

¹⁸ The TCPA 1990 provided in former section 54A that the development plan must be regarded so far as it is material. This requirement is now found in section 38(6) of the Planning and Compulsory Purchase Act 2004.

The statutory presumption will prevail in cases where there is conflict between the two.¹⁹ The presumption in favour of sustainable development does not apply to so called 'footnote 7' land, such as greenbelt land or areas of outstanding natural beauty.²⁰

- 3.13 Local plans should set the strategic priorities for the area and be drawn up over an appropriate timescale – a minimum of 15 years – and anticipate long term requirements and opportunities. Local plans should be reviewed to assess whether they need updating at least once every 5 years and should then be updated as necessary.²¹
- 3.14 The NPPF also introduced the concept of viability whereby required developer contributions could be challenged on the basis of the economic viability of a site.
- 3.15 Planning performance agreements (PPAs) were introduced as part of the of the NPPF in 2012, with the intention of providing increased certainty and dedicated resources for determining planning applications. Where PPAs are used, a different timeframe (rather than the 13 weeks statutory period) for determining planning applications can be applied.²²
- 3.16 The NPPF's 2018 update introduced the centralised Standard Method (SM) as the baseline for assessing local housing need (previously this was based on a local 'objective' assessment). The SM is the baseline for LPA housing targets and is an assessment of local housing population growth which is then adjusted for affordability and in some cases, there is an 'urban uplift'. It also introduced the Housing Delivery Test (HDT) where the presumption of sustainable development

¹⁹ For example, see *Barwood Strategic Land II LLP v East Staffordshire Borough Council and another* [2017] EWCA Civ 893. The High Court held that the statutory presumption in favour of a development plan in section 38(6) of the Planning and Compulsory Purchase Act 2004 is not displaced by the presumption in favour of sustainable development in the NPPF, which is a presumption of planning policy and not a statutory presumption. In practice, this means a development which does not earn the "presumption in favour of sustainable development" may still merit the grant of planning permission, and vice versa.

²⁰ Paragraph 11 of the NPPF states 'Strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan. Footnote 7 defines area of assets of particular importance as: habitats sites and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest); and areas at risk of flooding or coastal change.

²¹ See section 13 of the Planning and Compulsory Purchase Act 2004 for matters which may be expected to affect the development of an area corresponding to a local development plan, or the planning of its development.

²² See: [Before submitting an application - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/672222/before-submitting-an-application.pdf).

would apply where an LPA was not delivering more than 75% of its housing need target.²³

- 3.17 NPPF sets out that for major developments at least 10% of the total number of homes should be affordable homes.

Scotland:

- 3.18 In Scotland, NPF4 was adopted in February 2023, replacing NPF3 and other Scottish Planning Policy.²⁴ NPF4 is a long-term spatial plan for Scotland that sets out where development and infrastructure is needed, as well as setting out the Scottish ministers' policies and proposals for the development and use of land. The focus of the plan is improved sustainability, with an emphasis on limiting urban expansion to optimise the use of land and improving the environment.

- 3.19 With regard to regional planning, the Planning (Scotland) Act 2019 introduced a duty requiring the preparation of Regional Spatial Strategy whereby a planning authority, or authorities acting jointly, are expected to prepare long-term spatial strategies for the strategic development of a regional area.

- 3.20 Scottish LPAs are required by law to prepare a local plan for their district. Local plans must be prepared at intervals of no more than 10 years or when required by the Scottish Ministers and must also include targets for meeting the housing need of people in the region to which the local plan is applicable.

- 3.21 NPF4 sets out that for housing-led schemes, at least 25% of the total number of homes should be affordable homes.

Wales

- 3.22 The Welsh planning framework is set out in Planning Policy Wales (PPW), which was first introduced in 2002 and last updated in February 2021 (11th version). The Welsh Government also sets out its National Development Framework in the Future Wales: The National Plan 2040, which focuses on providing solutions to issues and challenges at a national level, setting the direction for strategic development plans at regional level, as well as setting the direction under which LPAs must prepare their local plans at a local level.²⁵ The national plan is to be built on by regional plans in the form of Strategic Development Plans that aim to focus on issues that cross LPA boundaries.

²³ The HDT measures the number of homes delivered over three years against a target based on local need.

²⁴ See NPF4: [National Planning Framework 4](#)

²⁵ See the Welsh Government, [Future Wales: the national plan 2040](#)

- 3.23 PPW sets out that local plans are required to cover a 10–15-year period and must be reviewed by an LPA at least every four years from the date the plan was adopted.
- 3.24 In terms of planning law, the primary legislative framework in Wales includes (inter alia) provisions in the Town and Country Planning Act 1990 (as applied to Wales), the Planning and Compulsory Purchase Act 2004 and the Planning (Wales) Act 2015.²⁶

Wider policy context

Approach to Housing Targets

- 3.25 **England:** There is a government commitment to deliver 300,000 new houses per year by the middle of the decade. Alongside this, LPAs must conduct a local housing need assessment, as set by the Department for Levelling Up, Housing and Communities (DLUHC) using the SM. The current version of the SM was implemented in December 2020 after consultation.²⁷ It introduced changes to help ensure that it ‘delivers a number nationally that is consistent with the commitment to plan for the delivery of 300,000 new homes a year’.²⁸ While the SM is the baseline, it is not binding, and LPAs can adjust their needs target according to local circumstances.
- 3.26 **Scotland:** LPAs must set out in their Local Housing Land Requirement for the area they cover. This is expected to exceed the 10 year Minimum All Tenure Housing Land Requirement (MATHLR). The MATHLR is the minimum amount of land, by reference to the number of housing units, that is to be provided by each planning authority in Scotland for a 10-year period, as set out in Annex E of NPF4.²⁹ This acts as a minimum target for the local authority area, which LPAs are expected to exceed. LPAs are able to adjust the initial default estimates to arrive at a locally-adjusted figure. However, they are required to explain the case for change and to submit this to the Scottish Government for assessment.³⁰ The sum of the MATHLR targets set out in Annex E of NPF4 equates to land for 20,000 home per year.
- 3.27 **Wales:** LPAs must explain how they will ensure that their housing requirement and associated land supply will be delivered in their LDP. This must be based on evidence and express the number of market and affordable homes that the LPA

²⁶ See also relevant provisions applicable to planning in Wales in the Planning Act 2008, the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Local Government and Elections (Wales) Act 2021.

²⁷ See: [Government response to the local housing need proposals in “Changes to the current planning system”](https://www.gov.uk/government/consultations/changes-to-the-current-planning-system) - GOV.UK (www.gov.uk).

²⁸ Proposed changes to the standard method for assessing local housing need: [Government response to the local housing need proposals in “Changes to the current planning system”](https://www.gov.uk/government/consultations/changes-to-the-current-planning-system) - GOV.UK (www.gov.uk).

²⁹ See: [NPF4 Annex E](#)

³⁰ See: [NPF4 Minimum All-Tenure Housing Land Requirement Guidance](#).

considers will be required in their area over the plan period. In Wales, work published by the Welsh Government in August 2020 provided a central estimate of annual all-tenure housing need of 7,400.

Developer contributions

- 3.28 Planning obligations are legal obligations entered into to mitigate the impacts of a development proposal. England, Wales, and Scotland all use these to require developers to contribute to the cost of infrastructure required to support new developments, including the provision of affordable housing.
- 3.29 **In England and Wales**, section 106 of the Town and Country Planning Act 1990³¹ sets out that agreements (referred to as section 106 agreements) can be negotiated between those with an interest in the land and an LPA, if an application does not comply with the policy for the area, including when an LPA may have concerns about meeting the cost of providing new infrastructure. Section 106 agreements are legally binding and may either be in cash or kind, to undertake works not included in the initial application, provide affordable housing, or provide additional funding for services.
- 3.30 Alongside section 106 agreements, in England and Wales, the Community Infrastructure Levy³² (CIL) is a levy that LPAs can charge new developments in their area to help pay for the supporting infrastructure. Planning obligations are sometimes set out in the form of an undertaking made by the developer alone (unilateral undertaking).
- 3.31 **In Scotland**, section 75 of the Town and Country Planning (Scotland) Act 1997³³ sets out the framework for agreements that can be negotiated between Local Authorities and developers.

Key differences between the nations

- 3.32 While the planning systems of all three nations are similar, there are some key differences:

³¹ [The Town and Country Planning Act 1990, section 106](#)

³² [See: CIL guidance](#)

³³ [The Town and Country Planning \(Scotland\) Act 1997, section 75](#)

- (a) **Regional planning:** unlike in Wales³⁴ and Scotland³⁵, England no longer has a regional planning system³⁶. However, it should be noted that few regional plans in these forms currently exist in Scotland and Wales.
- (b) **Affordable housing:** Both the English and Scottish planning frameworks include a requirement for a percentage of new homes on developments to be affordable housing. While Wales does not have such a requirement, the Welsh Government has committed to build 20,000 new low-carbon social homes for rent between 2021 and 2026.³⁷ Similarly, the Scottish Government has committed to deliver 110,000 affordable homes between 2022-32. There is no equivalent target in England.
- (c) **Targets:** In England there is an all-tenure housing target of 300,000 homes whereas in Scotland and Wales, there is no all-tenure housing target.
- (d) **Incentives:** Unlike in the English system, in Scotland and Wales there is no statutory equivalent to the presumption in favour of sustainable development or requirement for a 5YHLS. The Scottish Government removed the presumption in favour of development of sustainable development as part of the development of NPF4. This follows a previous decision of the Scottish Government to retain a reworded version of the presumption as part of a consultation on the Scottish Planning Policy in December 2020.³⁸ In Wales, until March 2020, LPAs were required to attach ‘considerable’ weight to the lack of a 5-year housing land supply as a material consideration in determining planning applications for housing. This requirement was removed in March 2020 following a review, due in large part to the land supply situation in many Welsh LPAs meaning that they attracted a significant number of speculative applications.

Recent policy developments

The Planning White Paper

3.33 In August 2020, the UK government published the Planning White Paper (Planning for the Future).³⁹ It proposed to reform the planning system in England with a

³⁴ See sections 4-6 of the Planning (Wales) Act 2015 as originally enacted. Provisions in the Local Government and Elections (Wales) Act 2021 repealed the relevant sections of the Planning Act on regional planning so that responsibility for preparing SDPs resides with Corporate Joint Committees (CJCs) and not Strategic Planning Panels (SPPs). See also: <https://www.legislation.gov.uk/asc/2021/1/notes/division/3/8> and [planning-wales-act-2015-implementation-update-march-2021.pdf \(gov.wales\)](https://www.legislation.gov.uk/asc/2021/1/notes/division/3/8)

³⁵ <https://www.legislation.gov.uk/asp/2019/13/section/5>

³⁶ England was formerly divided into eight regions ([Regional Development Agencies Act 1998](#)). The regional level was abolished by the Localism Act 2011.

³⁷ <https://www.gov.wales/programme-for-government-2021-to-2026.html>

³⁸ See Section 2, [Scottish Planning Policy – finalised amendments: December 2020](#)

³⁹ <https://assets.publishing.service.gov.uk/media/601bce418fa8f53fc149bc7d/MHCLG-Planning-Consultation.pdf>

move towards a rule-based or zonal planning system based on the classifications of land into identifying 'Growth', 'Renewal' and 'Protected' zones. It also sought to introduce a nationally set target of 300,000 homes per annum with binding targets for LPAs which would factor in land constraints. It also proposed to replace s106 agreements and the CIL with a new Infrastructure Levy (IL).

3.34 The government dropped plans for a zonal system in favour of attempts to incentivise the production of more up to date local plans through The Levelling up and Regeneration Act. The government also dropped plans to set binding targets for LPAs. The government took forward the IL as part of the LURA.

The Levelling up and Regeneration Act (LURA)

3.35 The LURA introduces a series of changes to the planning system in England.⁴⁰⁴¹
The key relevant measures contained in the LURA are as follows:

- (a) **New National Development Management Policies (NDMP) [Part 3, clause 94]:** The LURA introduces a new NDMP policy document. This will set out national policies on issues that apply to most local authorities (such as general heritage protection) to speed up the plan process and to make local plans easier to navigate.
- (b) **New Infrastructure Levy [Part 4, clauses 137-140]:** The Act replaces the current system (both S106 and CIL) with a new Infrastructure Levy. The rates and thresholds will be set and raised by LPAs meaning that rates are tailored to local circumstances. The levy will be charged on the value of the property when it is sold and applied above a minimum threshold – rates will be set as a percentage of gross development value. Unlike the CIL system, the new Infrastructure Levy will be mandatory.
- (c) **Planning enforcement [Part 5, clauses 115-121]:** The Act contains a range of measures to change the planning enforcement regime in order to speed up the development of permissioned land. These include stricter penalties for breaches, and measures to encourage implementation and completion of developments.
- (d) **Design [Schedule 7, clause 15F]:** The Act requires every LPA to introduce a design code, as part of the government's objective to encourage beautiful buildings.
- (e) **Regeneration [Part 9, clauses 180-190]:** LPAs will have powers to compulsorily purchase land for regeneration purposes, as well as current

⁴⁰ https://www.legislation.gov.uk/ukpga/2023/55/pdfs/ukpga_20230055_en.pdf

⁴¹ <https://bills.parliament.uk/bills/3155/publications>

powers to use it for promoting or improving the economic, social or environmental well-being of the area.

- (f) **Empowerment of communities [Neighbourhood Plans, clauses 98-99 and Street Votes, clauses 106-108]:** The Act requires increased community consultation, giving further weight to neighbourhood plans and introduces street votes which would allow for intensification of housing development on existing residential streets where support was signalled through a street vote.
- (g) **Housing delivery (Part 2, clauses 92-101):** The LURA introduces measures to encourage more efficient plan adoption and community engagement. LPAs will be required to make a new development plan within 30 months and should be updated every 5 years. LPAs will be required to carry out two rounds of community engagement before plans are submitted for independent examination.
- (h) **5YHLS [Schedule 7]:** The Act removes the requirement for LPAs with an up-to-date plan to demonstrate continually a deliverable 5-year housing land supply.

3.36 The government also launched a consultation on proposed changes to the NPPF in December 2022. These included changes in the following broad areas:

- (a) **Reforming the 5YHLS:** proposed changes include LPAs not having to demonstrate a 5YHLS where their local plan is up to date and oversupply of homes early in a plan period will be taken into account when calculating the 5YHLS later on.
- (b) **Local housing need:** proposed changes include that national policy should make clear that:
 - (i) Building at densities significantly out of character with an existing area may be considered in assessing whether housing need can be met.
 - (ii) Past housing over-supply may be considered in housing targets.
 - (iii) Greenbelt does not need to be reviewed or altered when making plans.
- (c) **Taking account of permissions granted in the HDT:** where an LPA can demonstrate that it has granted sufficient permissions to meet its housing target, the application of the presumption in favour of development will be removed.
- (d) **Small sites:** proposal to strengthen policy to encourage greater use of small sites.

- (e) **Build out:** proposed changes to publish data on housebuilders of sites over a certain size in cases where they fail to build out according to their commitments and to highlight that delivery can be a material consideration in planning applications.

Nutrient neutrality

- 3.37 Natural England has advised 74 English LPAs that, where protected sites are in unfavourable condition due to excess nutrients, development should only go ahead if it will not cause additional pollution to sites. This means that new residential development must achieve 'nutrient neutrality' by mitigating the nutrient load created through additional wastewater. This has had an impact on the number of homes that are granted planning permission in affected areas.
- 3.38 The government sought to address this through an amendment to the LURA which meant LPAs would have been instructed to assume developments would not 'adversely affect' areas affected by Natural England's nutrient neutrality advice. The amendment to the Bill was rejected by the House of Lords.

NPF4

- 3.39 As set out in paragraph 3.18, NPF4 was adopted in February 2023. It introduced a number of changes to the planning system including:
 - (a) **National planning:** NPF4 has an enhanced status and becomes part of the 'development plan' alongside local development plans and, therefore, has a direct influence on planning decisions across LPAs.
 - (b) **Sustainability:** NPF4 has a new emphasis on the transition to net zero updating planning policies to include a requirement to give weight to the climate emergency in plans and decisions.
 - (c) **Affordable housing:** NPF4 requires housing developments to include 25% affordable housing.

4. Analysis of the GB planning system

Overview

- 4.1 In this section we present our analysis of how the planning systems in England, Scotland and Wales impact outcomes in the housebuilding market. One of the key aims of the planning systems is to achieve an outcome whereby a sufficient number and range of homes can be provided in the right locations to meet the needs of present and future generations. However, this is far from the only objective of the planning systems: there are also significant, social, environmental and wider economic objectives as well.⁴² The exact objectives and the emphasis placed on the various objectives differ between each of the nations.
- 4.2 In line with our duties and the role of market studies in making markets work better for consumers, we have focussed our analysis largely on how the planning system facilitates meeting housing need. However, we acknowledge this analysis is therefore necessarily partial and that policymakers taking decisions on the overall design of the planning system would also need to take into account the wider range of policy objectives.
- 4.3 To facilitate enough homes being built to meet housing need, the planning system must help to ensure a sufficient amount of land is brought through the planning process and a sufficient number of planning permissions are granted. How the planning system is designed and implemented is a key influence on land supply and hence the number of new homes that are built.
- 4.4 The planning system is not the only factor that influences the number of new homes that are built. In particular, the land market will have an impact on the amount of land that is made available for development and the number of planning applications brought forward. If there are physical constraints on land supply, and/or competition in the land market is not working effectively, then the amount of land brought into the planning system may be insufficient to meet housing need. In addition, if downstream competition was not working effectively and this reduced the rate of build out of new homes, then more planning permissions would be needed to build a given number of homes. We are considering these aspects of the housebuilding market as part of our market study, but they are not within the scope of this working paper.
- 4.5 In the remainder of this section of the working paper, we present our current analysis of the planning system in England, Scotland, and Wales. This analysis

⁴² See: NPPF [National Planning Policy Framework \(publishing.service.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/426171/NPPF-2019.pdf) para 8; NPF4 [National Planning Framework 4 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/national-planning-framework-4/pages/1-4-introduction-to-the-framework-4.aspx) part 2; PPW [Planning Policy Wales - Edition 11 \(gov.wales\)](https://www.gov.wales/government/policies/planning-policy-wales) section 1.

shows that across all three nations, the level of new housing delivery is below publicly stated targets.

- 4.6 The key issues we have identified with the planning system which may contribute to this under delivery are:
- (a) Lack of predictability: decision making lacks certainty and consistency, which can reduce the willingness of developers to bring forward planning applications;
 - (b) Length and complexity of the planning process: it is lengthy, complex and costly to navigate, which can increase the risk associated with making planning applications; and
 - (c) Insufficiently clear incentives: it lacks internal consistency within its objectives and targets, meaning that LPAs may be insufficiently focused on meeting housing need.
- 4.7 We discuss each of these issues in turn below.⁴³ Our analysis also considers how the planning process may disadvantage SME housebuilders as well as recent policy developments. In addition, we have considered the system for securing developer contributions, the analysis of which is contained in Appendix A.

Planning system outputs and new home delivery

- 4.8 In this section we present analysis of high-level evidence on the relationship between the number of homes built, the number of planning permissions granted and the housing need in England, Scotland and Wales. The analysis provides some insight into how effectively the planning systems of England, Scotland and Wales are helping each nation to meet their housing need. However, while informative, this analysis in itself cannot be taken to imply any clear causality between the effectiveness of the planning system and housebuilding activity. While changes in the level of housing delivery may be linked to planning outcomes such as the number of decisions that are made and the proportion of applications granted, the changes in planning outcomes may not necessarily be a function of how well the planning system is operating. This analysis must be considered in the context of our analysis of the issues that we have identified within the planning system and the wider scope of the market study.

⁴³ See section below on “Issues in the market”.

England

4.9 In England, the volumes of planning permissions granted and housing delivery has increased significantly since the Global Financial Crisis (see figure 4.1).⁴⁴

Figure 4.1 Housing net additional new homes built and net additional planning permissions in England



Sources: DLUHC analysis of Glenigan data [DLUHC Open Data : Units granted planning permission on all sites, England](#) ([opendatacommunities.org](#)); [DLIHC Live Table 118: annual net additional dwellings and components, England and the regions](#)

4.10 Since the Global Financial Crisis there has been substantive reform to the English planning system. In 2012, the NPPF introduced a number of changes to the planning system in England including the ‘presumption in favour of sustainable development’ where there was no up-to-date local plan or 5YHLS. These policy changes have been credited by a range of stakeholders with increasing the volumes of homes given planning permissions since 2012, although other factors such as the long-term recovery from the 2008 Global Financial Crisis will also have had a significant impact. For example, in one document, one housebuilder describes how the introduction of the NPPF and the presumption in favour of sustainable development created many new development opportunities outside of the local plans, something which benefited land promoters in particular:

‘The introduction of NPPF in 2012, with the presumption-in-favour of development in areas with no local plan or 5YLS, created the biggest shift in the strategic land market in the last 40 years. Moving the market from one dominated by housebuilders securing options, to one dominated by land promoters offering landowners a planning promotion agreement whereby they would secure planning permission and then sell the site on the open market to the highest

⁴⁴ Global Financial Crisis refers to the period of extreme stress in global financial markets and banking systems between mid 2007 and early 2009.

bidding housebuilder. This new 'presumption' created many hundreds of new off plan planning opportunities in the period up to 2019.'

4.11 Similarly, in its 2022 Annual Report Bellway notes that:

'The National Planning Policy Framework system ('NPPF') introduced in March 2012, working in parallel with the Localism Act 2011, has had a positive effect on the planning environment. This is evidenced by an increase in the number of planning permissions over recent years'⁴⁵

4.12 In more recent years, an increasingly uncertain and complex political and policy environment is cited as a key reason for the growth in planning permissions stalling somewhat (see paragraphs 4.48 to 4.63 for more detail), although the impact of the Covid pandemic and general economic conditions will also have been a significant factor. In 2022-23 (not shown in the chart) the number of units granted planning permission fell to 269,000 after several years where permissions had been in excess of 300,000.⁴⁶

4.13 In England, the government has set out a commitment for the delivery of housing of 300,000 per annum by the middle of the decade.⁴⁷ As Figure 4.1 shows, in England there is currently an under-delivery of housing against a 300,000 target. This is despite the number of planning permissions exceeding this number in several recent years. Since 2008-09 there has also been a growing gap between the number of permissions granted annually and the number of new homes built.

4.14 Some stakeholders, such as the Local Government Association (LGA), argue that this growing gap is reflective of a slower than necessary rate of build out of new homes by housebuilders. They further argue that low build out rates are a significant contributor towards below-national target delivery of housing.^{48,49}

4.15 The view of land promoters and housebuilders is that this does not reflect the reality of housing pipelines. Research undertaken by Lichfields on behalf of the

⁴⁵ Bellway, Annual Report and Accounts 2022: [annual-report-2022.pdf](https://www.bellwayplc.co.uk/annual-report-2022.pdf) (bellwayplc.co.uk).

⁴⁶ See: [Planning applications in England: January to March 2023 - statistical release - GOV.UK](https://www.gov.uk/statistical-releases/planning-applications-in-england-january-to-march-2023) (www.gov.uk). We do not show this chart as, at the time of writing equivalent value for the new build component of the DLUHC net additional dwelling statistics for 2022/23 was unavailable.

⁴⁷ Whilst commitment to 300,000 new homes a year remains, the LURB has moved away from proposals for 'binding' targets for LAs, with it being made clear that the SM is advisory.

⁴⁸ See, for example: [Over 1.1 million homes with planning permission waiting to be built - new LGA analysis | Local Government Association](https://www.lichfields.uk/over-1.1-million-homes-with-planning-permission-waiting-to-be-built-new-lga-analysis). This recurring analysis has been criticised as it assumes that permission on all sites which are not completed are unused see: ([stock-and-flow-planning-permissions-and-housing-output.pdf](https://www.lichfields.uk/stock-and-flow-planning-permissions-and-housing-output.pdf) (lichfields.uk)).

⁴⁹ We do not include analysis of factors affecting build out rates as part of this working paper. This will form part of the analysis in the wider market study and our Final Report.

Land Promoters and Developers Federation and the Home Builders Federation provides some substance to this view. This research highlights that:

- (a) some planning applications lapse for technical and viability reasons and that many applications are duplicates or reapplications so not all permissions will translate into additional deliverable homes; ^{50, 51} and
- (b) there is lag between a planning permission being granted and the build out of housing units meaning that current planning permissions will not immediately translate into housing delivery. ⁵²

4.16 The research finds that between 15% and 20% of planning permissions will either lapse (approx. 5%) or are reapplications (between 10% and 20%). This implies that the planning system would need to grant between 353,000 and 375,000 permissions to enable 300,000 homes to be delivered. The research also finds that the average time taken to build out a site is approximately 4 years. The lag between permission and build out of the sites means housing delivery depends not on the current level of planning permissions, but on the stock of permissions built up over a period of time. As an illustrative example, to deliver 300,000 homes annually with an average time to build out of 4 years and a lapse/reapplication rate of 15% the planning system would need to build up and maintain a stock of approximately 1.4m permissions. ^{53,54}

4.17 While we are not making an assessment of the specific quantitative findings of the Lichfields research, in our view there will necessarily be a lapse/reapplication rate for permissions and a lag between permission being granted and sites being built out. Therefore, moving forward the planning system would need to produce in excess of 300,000 permissions each year over a sustained period to achieve the government's commitment to deliver 300,000 homes annually by the middle of the

⁵⁰. See: [Tracking Progress: Monitoring the build-out of housing planning permissions in five local planning authority areas \(lichfields.uk\)](#).

⁵¹ See for example: [Feeding the Pipeline Research.pdf \(lpdf.co.uk\)](#).

⁵² See for example: [Feeding the Pipeline Research.pdf \(lpdf.co.uk\)](#).

⁵³ $(300,000/(1/4))/(1-0.15)=1.4m$. The exact stock of permissions required would depend on the distribution of delivery of homes over 4 years. If more homes tend to be delivered in the early years, then the required stock would be lower. The LGA estimate this that over decade to May 2021 that a stock of 1.1m unused applications was built up (see: [Over 1.1 million homes with planning permission waiting to be built - new LGA analysis | Local Government Association](#)). However, our understanding is that its analysis counts all applications on projects that were unfinished as unused. In practice many of the projects in the dataset are likely to include completed homes on sites that are in progress. The LGA analysis would count the completed homes of sites that were not finished in their entirety as unused applications. The LGA estimate of unused applications is likely to be an overestimate, potentially substantially so.

⁵⁴ This compares to the LGA estimate that over decade to May 2021 that a stock of 1.1m unused applications was built up (see: [Over 1.1 million homes with planning permission waiting to be built - new LGA analysis | Local Government Association](#)). However, our understanding is that its analysis counts all applications on projects that were unfinished as unused. In practice many of the projects in the dataset are likely to include completed homes on sites that are in progress. The LGA analysis would count the completed homes of sites that were not finished in their entirety as unused applications. The LGA estimate of unused applications is likely to be an overestimate, potentially substantially so.

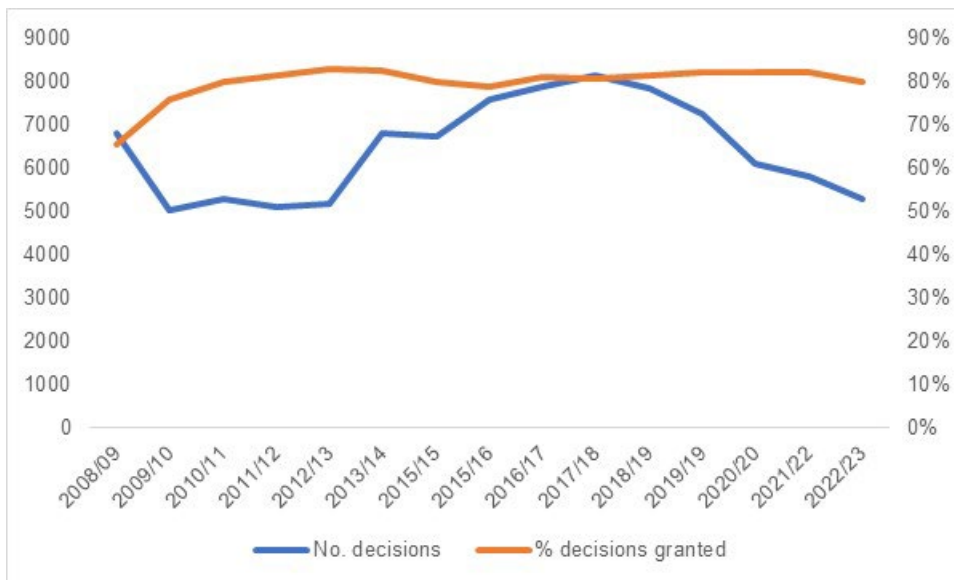
decade. Over the period since the Global Financial Crisis, the system has not delivered sufficient permissions to build up a stock of permissions compatible with this aim.

4.18 The number of homes that are granted planning permission annually is a function of the number of planning applications that are received, and the proportion of those that are granted planning permission. Other factors such as the size of the sites applying for planning permission and the time taken to make decisions will also play a role. Analysis of data on major residential applications⁵⁵ presented in Figure 4.2 shows:

- (a) The proportion of decisions that were approvals remained relatively constant between 2010-11 and 2022-23, at between 80 per cent and 85 per cent; and
- (b) The number of planning decisions made on major applications increased between 2012-13 and 2017-18 before falling afterwards.

4.19 This means the slowing of the number of permissions granted since 2016-17 can be largely attributed to a fall in the number of decisions made on major applications.

Figure 4.2 Number of major residential planning decisions in England and percentage of these granted in England 2008-09 to 2022-23



Source: DLUHC District planning application statistics (PS2): [Live tables on planning application statistics - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/live-tables-on-planning-application-statistics)

4.20 Looking solely at national figures can be misleading as there is significant variation in housing delivery against housing need across LPAs. Analysis of LPA performance in the HDT is presented in Table 4.1. The HDT measures the number

⁵⁵ A planning application involving new dwellings is a major application if: the number of dwellings to be constructed is 10 or more; or if the number of dwellings is not provided in the application, the site area is 0.5 hectares or more.

of homes delivered over three years against a target based on local need.⁵⁶ It shows that 51 out of more than 306 LPAs in our analysis (17%) achieved less than 75% of their need based HDT targets in 2021 whereas 214 (or 70%) of LPAs achieved more than 95% of their housing need. The majority of the areas that achieved less than 75% (37) are located in the South East, East of England and London. Since the HDT began in 2018 the pattern of LPA performance in the HDT has been broadly consistent.⁵⁷

Table 4.1 Summary of LPA HDT test results for 2021 and 2020 for England by Government Office Region⁵⁸

	HDT 2021 LPAs in range:				HDT 2020 LPAs in range:			
	<75%	75%-85%	85%-95%	>95%	<75%	75%-85%	85%-95%	>95%
East Midlands	1	1	4	32	3	1	2	31
East of England	10	1	2	26	12	0	4	25
London	4	5	5	19	8	2	8	16
North East	1	0	1	10	0	1	0	10
North West	3	2	3	30	6	1	2	30
South East	23	6	2	37	19	8	10	34
South West	3	4	4	19	4	3	1	20
West Midlands	3	0	0	24	2	2	1	22
Yorkshire and the Humber	3	0	1	17	1	1	4	15
England	51	19	22	214	55	19	32	203

Sources: [Housing Delivery Test: 2021 measurement - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/92122/housing-delivery-test-2021-measurement-technical-note.pdf); [Housing Delivery Test: 2020 measurement - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/92122/housing-delivery-test-2020-measurement-technical-note.pdf); [Housing Delivery Test: 2019 measurement - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/92122/housing-delivery-test-2019-measurement-technical-note.pdf)

4.21 As we discuss in paragraphs 4.120 to 4.130, the methodology used to estimate LPA level housing targets, including those used in the HDT in England, has received some criticism. Nevertheless, this analysis is indicative of wide variation across LPAs in England in meeting housing need and a significant geographic concentration of the areas which perform worst against HDT targets. The LPAs in

⁵⁶ HDT score is a ratio of the number of homes delivered by the LPA over a three-year period to the housing need target for the LPA over the same period. The potential housing delivery test outcome's are: No Action (delivery >95% of target); LPA is required to put in place action plan (delivery >75%, <85 of target); LPA is required to introduce buffer on its 5 year land supply of 20% (delivery >75%, <85% of target); or LPA should apply a presumption in favour of sustainable development for planning decisions (<75%). See: [Housing Delivery Test: 2021 measurement technical note - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/92122/housing-delivery-test-2021-measurement-technical-note.pdf)

⁵⁷ In 2020 the percentage of LPAs scoring more than 95% was 66%, in 2019 65% and in 2018 66%. In 2020, 2019 and 2018 the percentage of LPAs scoring less than 75% was 18%. In 2020 the percentage of LPAs who scored less than 75% that were located in either London, the SE or the East of England was 71%, in 2019 it was 69% and in 2018 it was 58%.

⁵⁸ Removed Isles of Silly, Barrow on Furness, Redditch due to zero or negative need numbers; removed Oxford from 2021 and 2022 due to implausibly low need numbers; only includes values from LPAs with joint plans or jointly assessed LAs once. Note the number of LPAs which are included in the analysis over time differs due to changes in the number of LPAs as local authority boundaries change and new LPAs are formed whilst others no longer exist. In addition, some LPAs commit to joint plans and targets and are assessed against the HDT accordingly, the identity of these LPAs changes over time.

these regions also account for a large proportion of the population of England. The SE, East of England and London accounted for 43% of the population⁵⁹ and 41% of the dwellings in England in 2021.⁶⁰ These three regions also have the three highest median affordability ratios (i.e. median house prices to median workplace earnings) of all English regions in 2021.⁶¹

Scotland

- 4.22 Unlike in England, in Scotland there is no all-tenure housing target (although there is a Scottish Government affordable housing target).⁶² As we set out in paragraph 3.26, LPAs are required to set out a Local Housing Land Requirement based on local housing need for the number of homes to be provided for a 10-year period. Across Scotland as a whole, this requirement sums to land for 20,000 homes per year.⁶³ We take this as our baseline for annual housing need in Scotland.
- 4.23 Available data on number of units given planning permission in Scotland is more limited than for England. However, we have been able to source a limited time series of data for this from HBF analysis of Glenigan data.⁶⁴
- 4.24 We present analysis of data on the number of new homes completed and the number of units given planning permission for Scotland in Figure 4.3. This analysis shows that:
- (a) The number of new build homes completed took a long time to recover from the pre-2008 level of over 25,000 and still remained some way below this level in 2021-22, with new build completions of around 21,000;
 - (b) In some recent years levels of completions have been just above 20,000, however, over a 10-year period (2012-13 to 2021-22) completions were below this, averaging approximately 17,800; and
 - (c) The number of homes given planning permission has increased significantly above the level of completions and housing need since 2014-15. Since 2014-15 the average number of homes given planning permission annually was 29,000, significantly in excess of the sum of LPA land supply targets although

⁵⁹ CMA analysis of: [Estimates of the population for the UK, England, Wales, Scotland and Northern Ireland - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk).

⁶⁰ CMA analysis of: [Live tables on dwelling stock \(including vacants\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk).

⁶¹ See: Figure 5 of: [Housing affordability in England and Wales - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk).

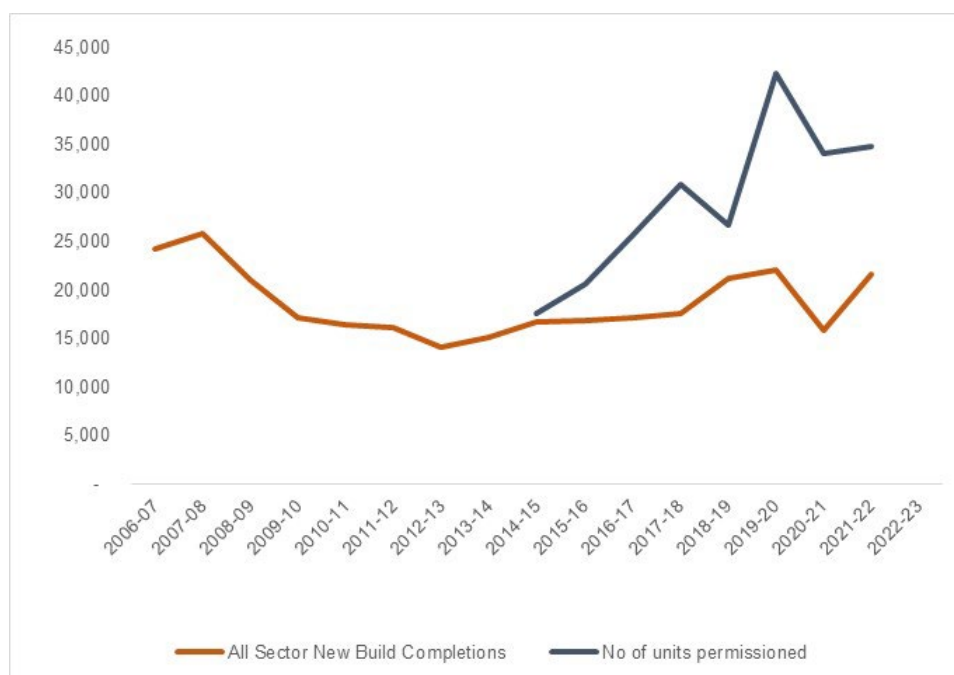
⁶² During the last parliamentary term (May 2016 to May 2021) the Scottish Government adopted a target of covering 50,000 affordable homes and has since adopted a target of delivering 110,000 affordable homes by 2032, see: [50,000 affordable homes target reached - gov.scot \(www.gov.scot\)](https://www.gov.scot).

⁶³ CMA analysis [Annex F – Glossary of definitions - National Planning Framework 4 - gov.scot \(www.gov.scot\)](https://www.gov.scot).

⁶⁴ See: [Housing Pipeline Report \(hbf.co.uk\)](https://www.hbf.co.uk).

this varies substantially on a year-by-year basis.⁶⁵ If this is sustained then this may feed through into an increased number of housing completion in the coming years.

Figure 4.3 New build completions and units given planning permission in Scotland



Sources: HPL_REPORT_2022_Q3_HG_DRAFT_3.pdf (hbf.co.uk); Housing statistics quarterly update: new housebuilding and affordable housing supply - gov.scot (www.gov.scot).

4.25 In Figure 4.4 we set out analysis of the number of decisions made on applications for housing developments in Scotland and the proportion of these decision that were approvals. The key points from this are:

- (a) decisions on all housing development applications fell over the period between 2013-14 and 2022-23 from around 5800 to close to 4300, although there is some year-on-year variability in the numbers;
- (b) the average number of applications for major housing developments between 2013-14 and 2022-23 was approximately 120, with the total number of major applications fluctuating around this over the same period; and
- (c) we have data only for 2019-20 to 2022-23 on the number of applications that were approved – it shows that overall levels of approvals during this period was consistently between 87% and 89%, but that there was more variation in

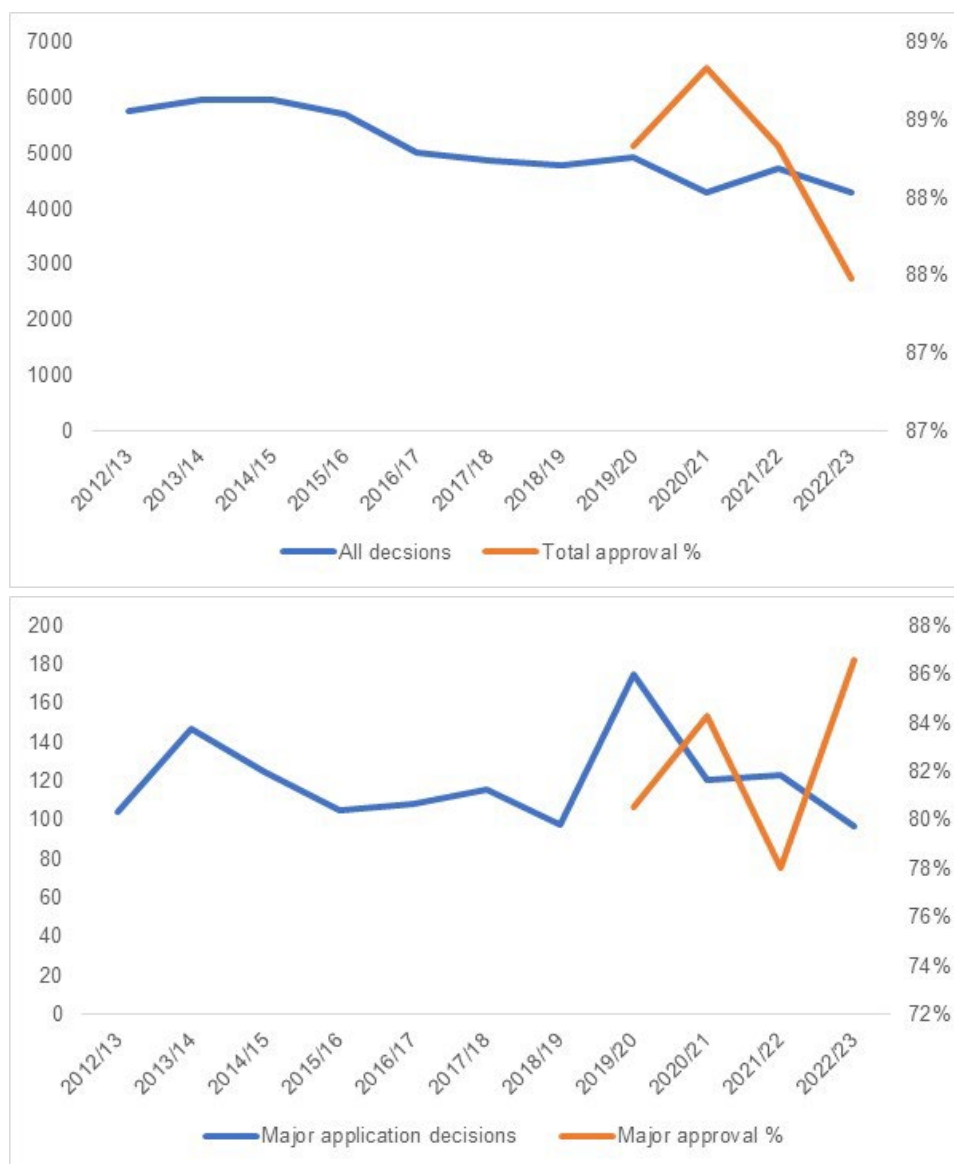
⁶⁵ However, this increase follow as a period during which the number of homes given planning permission was significantly less than this. Evidence compiled in a report for the Scottish Land Commission shows that for the five year prior to the average number of planning permission was below 20,000. See figure 3.1 of [An Investigation into land banking in Scotland: a report to the Scottish land commission 11 June 2020](#). The report concluded that in the years prior to 2018 the Scottish system had not been producing enough planning permissions to meet need (based on a hosing need of 23,000).

the proportion of major applications approved, which varied between 78% and 87%.

4.26 The relationship between the number of planning decisions and the number of homes given permission in Scotland is weaker than for England. In Scotland, while the number of homes given planning permission has been generally increasing since 2014 -15, the number planning decisions that have been made had generally been falling. We have only four years of data on rates of approval of residential development applications,⁶⁶ which is insufficient to understand if an increase in approvals is responsible for the increasing number of homes being permissioned. However, this is one possible explanation along with an increase in the size of sites (on a per plot basis) for which planning applications are being made. We present some evidence showing that the average site of sites applying for planning permissions in Scotland has been increasing over recent years in paragraph 4.162.

⁶⁶ Longer time series of approval rates can be sourced from statistics published by the Scottish government (See: [Planning statistics - gov.scot \(www.gov.scot\)](http://www.gov.scot)), but these are for all planning applications rather than those only for housing developments.

Figure 4.4 Total and major housing development⁶⁷ planning applications decisions and approval rates in Scotland between 2012/13 and 2022/23



Sources: CMA analysis of data provided by the Scottish Government and sourced from: [2. Annual Trends – Local Developments \(excludes legacy cases\) - Planning performance statistics: annual report 2018-2019 - gov.scot \(www.gov.scot\)](#)

4.27 Analysis of the ratio of housing completions to the NPF4 MATHLR across LPAs in Scotland is presented in Table 4.2. It shows that, over the last 5 years, in 7 out of 33 LPAs (21%) housing completions were equivalent to 75% or less of their NPF4 MATHLR, whilst in 18 (55%) housing completions were in excess of 100% of this. Over the past 10 years, 9 LPAs (27%) had a ratio of housing completions to MATHLR of less than 75%, with 16 LPAs (48%) having a ratio in excess of 100%.

⁶⁷ In Scotland major housing developments are those with 50 or more dwellings or with a site area that is or exceeds 2 hectares where the predominant use is for housing. Local housing developments are those that have less than 50 dwellings and a site area that is less than 2 hectares.

Table 4.2 Distribution of housing completions to NPF4 MATHLR across LPAs in Scotland

Housing completions/annual NPF4 MATHLR		
	2018/19 to 2022/23	2013/14 to 2022/23
less than 75%	7	9
75% to 100%	8	8
100% to 150%	13	13
150% to 200%	4	2
200% or greater	1	1
Total	33	33

Source: CMA analysis of data provided by the Scottish Government

Wales

- 4.28 As in Scotland, in Wales there is no all-tenure housing target based on housing need (although there is a Welsh Government affordable housing target).⁶⁸ Instead, as we describe in paragraph 3.27, local plans will incorporate evidence-based, locally-set housing and land supply requirements.
- 4.29 However, there are some credible sources that estimate the level of housing need in Wales at a national level. In September 2015 the Welsh Government commissioned the Welsh Centre for Public Policy (WCPP) to estimate housing need. The resulting report's central estimate was that between 2011 and 2031 the annual all-tenure housing need would be 8,700.⁶⁹ More recent work published by the Welsh Government in August 2020 provides a central estimate for annual all-tenure housing need of 7,400.⁷⁰ As with Scotland, we have been able to source a limited time series of data on the number of homes permissioned from HBF analysis of Glenigan data.⁷¹
- 4.30 We present analysis of data on the number of new homes completed and the number of units given planning permission for Wales in Table 4.5. The analysis shows that:
- (a) the number of new build homes completed remains well below its pre-2008 level of around 9,000 and in 2021-22 was less than 6,000;
 - (b) completions have been well below the both the WCPP or Welsh government estimates of need; and

⁶⁸ In July 2021 the Welsh government committed to deliver 20,000 new low carbon homes for rent within the social sector during the government term, see: [Written Statement: Social Housing in Wales \(15 June 2021\) | GOV.WALES](#)

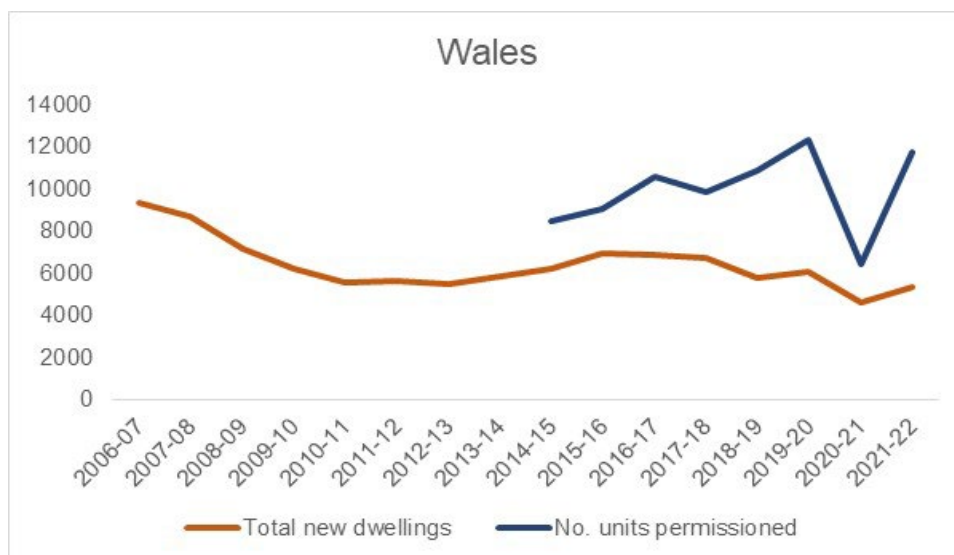
⁶⁹ [Future-Need-and-Demand-for-Housing-in-Wales-REVISED.pdf \(wcpp.org.uk\)](#).

⁷⁰ [Estimates of housing need: 2019-based | GOV.WALES](#).

⁷¹ [HPL_REPORT_2022_Q3_HG_DRAFT_3.pdf \(hbf.co.uk\)](#)

- (c) the average number of homes given planning permission annually has been slightly in excess of both need estimates since 2014-15.

Figure 4.5 New build completions and units given planning permission in Wales

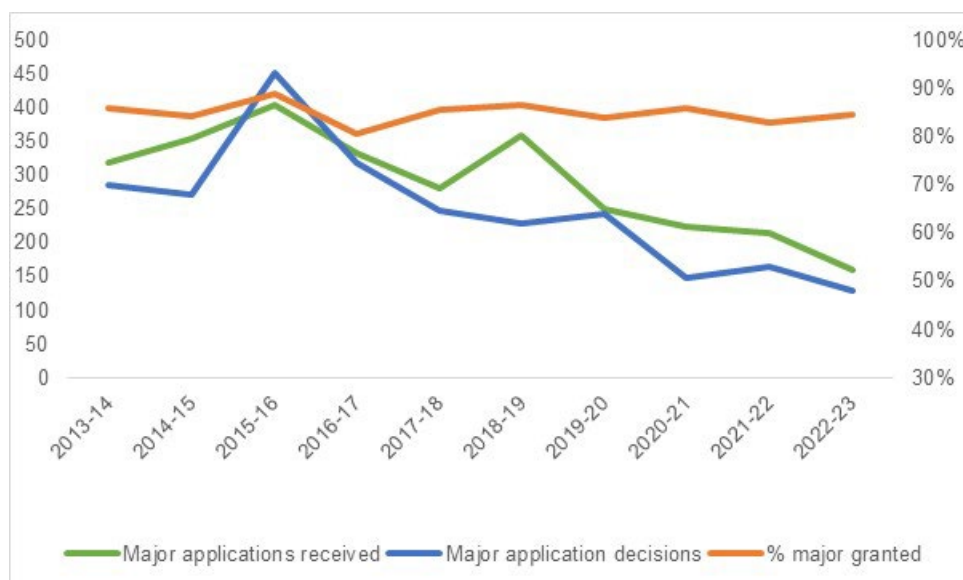


Sources: [New dwellings completed by period and tenure \(gov.wales\)](http://gov.wales); [Future-Need-and-Demand-for-Housing-in-Wales-REVISED.pdf \(wcpp.org.uk\)](http://wcpp.org.uk); [Estimates of housing need: 2019-based | GOV.WALES](http://gov.wales); [HPL_REPORT_2022_Q3_HG_DRAFT_3.pdf \(hbf.co.uk\)](http://hbf.co.uk).

4.31 Analysis of data on major residential applications in Wales,⁷² presented in Figure 4.6, shows that the number of planning applications and decisions made over the last 10 years has been falling in Wales, especially in recent years. Over the period between 2013-14 and 2018-19 the number of planning applications and decisions averaged 342 and 301 respectively. Over the period 2019-20 to 2022-23 the number of applications averaged 213 and the number of decisions 172. Over the last 10 years, major application approval rates varied between 81% and 89%.

⁷² In Wales, major residential applications are defined as follows: housing developments of 10 residential units or more; and housing developments of greater than 0.5 hectares where the number of units is not known.

Figure 4.6 Major residential planning applications, decisions and approval rates in Wales



Source: CMA analysis of various Welsh government development management quarterly surveys, see: Development management quarterly surveys | GOV.WALES

4.32 Analysis of the ratio of housing completions to the latest housing requirement set out in the most recently adopted LPA local plans across Wales is presented in Table 4.3. This shows that over the last five years, 13 out of 21 LPAs (62%) achieved housing completions equivalent to 50% or less of their local plan housing requirement whilst none achieved housing completions in excess of 100% of this. Over the past 10 years, 10 LPAs (48%) had a ratio of housing completions to local plan requirements of less than 50%, with no LPAs exceeding 100%.

Table 4.3 Distribution of housing completions to most recent local plan requirements across LPAs in Wales

Housing completions/latest local plan requirement	2017/18 to 2022/23	
	2017/18 to 2022/23	2013/14 to 2022/23
less than 50%	13	10
50% to 75%%	5	9
75% to 100%	3	2
Greater than 100%	0	0
Total	21	21

Source: CMA analysis of data provided by the Welsh Government

4.33 The analysis set out in this section shows that, across all three nations, the level of new housing delivery is below publicly-stated targets. In Wales, and to a lesser extent in Scotland, housing delivery is still below the levels achieved prior to the Global Financial Crisis in 2007-8.

- 4.34 To hit the publicly stated targets, the planning systems within each of the nations of GB need to grant enough planning permissions over a period of time to build the stock of unused permissions to required levels.
- 4.35 In England, the government has committed to delivery of 300,000 homes per year by the middle of the decade. Over the last 10 years the number of homes granted permissions would have been insufficient to achieve this. Moving forward the planning system would need to produce (perhaps significantly) in excess of 300,000 permissions each year over a sustained period to achieve the commitment.
- 4.36 In the case of Scotland and Wales, the limited available time series for the number of homes does not make it possible to conclude whether sufficient permissions have been granted over recent years to meet need. In more recent years, the number of permissions granted in both Scotland and Wales has exceeded need. However, as with the system in England, the Scottish and Welsh systems would need to sustain a number of annual permissions in excess of housing need over a number of years to meet this need.
- 4.37 The ratio of housing delivery to housing need varies significantly across LPAs. This means that any analysis of the GB planning systems must take account of differences local circumstances and how they are implemented at an LPA level. Our analysis of the issues in the GB planning systems from paragraph 4.38 reflects this.

Issues in the market

- 4.38 The analysis we set out in the preceding section shows, there is a link between planning applications granted and the number of homes that are built, certainly in the case of England. Although there will be other factors as well that are influencing the rate of building, which are not within the scope of this working paper.
- 4.39 We have identified a number of key issues with the planning system that may prevent more planning applications being granted, these being:
- (a) Lack of predictability;
 - (b) Length, cost and complexity of the planning process; and
 - (c) Insufficient clarity, consistency and strength of LPA targets, objectives and incentives to meet housing need
- 4.40 In this section, we cover each of these in turn and then describe recent relevant policy developments. We also consider how the planning system may disadvantage SME housebuilders in this market.

Impact of the planning system on land supply and housebuilding

4.41 The planning system is an important determinant of the supply of land for residential development and the number of new homes built.

4.42 We have analysed the distribution of various planning outcomes for major applications in each LPA, and how these outcomes relate to HDT performance. Although this analysis does not demonstrate a causal relationship, it is consistent with the view that there is a link between planning outcomes and housing delivery as proxied by the results of the HDT test. The analysis of the distribution of planning outcomes across LPAs, presented in table 4.4, shows that:

- (a) The LPAs with the highest delivery against their housing targets tend to process a higher number of applications relative to their housing stock; approve a higher proportion of those applications; have a lower proportion of their rejection decisions appealed; and lose a lower proportion of appeals;
- (b) The LPAs with the lowest delivery against their housing targets tend to process a lower number of applications; approve a smaller proportion of those applications; have a higher proportion of rejection decisions appealed; and lose a higher portion of those appeals.

Table 4.4 LPA HDT outcomes and planning outcomes

HDT 2021 outcome	Number of LPAs	Median value between 01/01/2018 and 31/09/2022 for major dwellings for:			
		Number decisions per 1000 dwellings	% applications approved	Number of appeals as % of rejected applications	% appeals successful
<75%	51	1.07	75%	58%	42%
75%-95%	43	0.84	85%	52%	39%
95%-150%	116	1.17	81%	46%	38%
150%-200%	65	1.55	85%	44%	33%
>200%	44	1.27	86%	49%	33%

Sources: CMA analysis of HDT data [Housing Delivery Test: 2021 measurement - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/housing-delivery-test-2021-measurement); [Planning Inspectorate Casework Database - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/planning-inspectorate-casework-database); [Live tables on planning application statistics - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/live-tables-on-planning-application-statistics)

4.43 For their part, housebuilders view the planning system as a crucial determinant of supply of land for their business and in turn how many homes they are able to build. For example, in its Strategic Land Delivery Plan, one housebuilder states:

‘In simple terms, the levels of planning consents and pull-through [of strategic land] is not keeping pace with the levels of site intake and the gap is widening. Whilst dysfunction in the planning system is a key factor, we need a much-increased focus on planning promotion and pull-through’

4.44 Similarly, in a strategy paper presented to its Board, one housebuilder states:

‘A key challenge facing the entire sector is our ability to retain sufficient / deliver additional outlets to maintain build rates and seek to deliver our disciplined growth strategy. The way in which the Planning System is operating at any given time is fundamental to land supply.’

Internal documents show that, while other factors such as shortages of labour play an important role, the planning system has a crucial impact on housebuilders’ ability to secure development land and build housing.

There is a lack of predictability and consistency in planning decision-making

4.45 For several reasons, planning decision-making lacks predictability and consistency. This creates uncertainty about which planning applications will be granted. When housebuilders choose to pursue residential development at a site, they incur a number of upfront sunk costs (such as the costs of identifying and investigating a site, securing an option on a site, site design, navigating the planning process) prior to planning permission being granted. When there is significant uncertainty about whether planning permission will be granted, housebuilders will be more reluctant to incur these costs and hence bring forward planning applications.

4.46 In this section, we set out the key causes of uncertainty in planning decision making, and the evidence on how this affects the willingness of housebuilders to bring forward planning applications and the delivery of housing.

4.47 Our analysis has suggested several factors which make the planning system significantly less certain and consistent, notably:

(a) **Policies that impact the planning process and the delivery of housing:**

The planning system is used as a means of implementing a range of new policies, most commonly environmental regulations (see from paragraph 4.48).

(b) **Continuous revision of the planning process:** Since the introduction of the NPPF in 2012, there have been three significant revisions before the current review, which started with the White Paper in 2020. The uncertainty arising from this review has yet to be resolved, with many changes proposed to be rolled out gradually on a ‘test and learn’ basis. There have also been significant recent changes in Scotland over the past few years (see from paragraph 4.56).

- (c) **Lack of up-to-date local plans (in England):** The LPA's local plan is a key factor in determining which land is allocated for development and therefore likely to get planning permission. As of May 2021, less than 40% of LPAs in England have an up-to-date local plan. Areas with older or no plans are associated with lower levels of planning applications and housing delivery (see from paragraph 4.66).
- (d) **Political and public attitudes to development expressed through the planning process:** Residential development is increasingly political and attitudes to development vary significantly by area, with the release of greenbelt land being particularly controversial. Partly as a result of this, planning outcomes and housebuilding vary significantly across LPAs (see from 4.84 paragraph).

Policies that impact the planning process and the delivery of housing

- 4.48 When asked about the key risks and uncertainties faced when bringing forward land for planning permission, all of the 11 largest housebuilders mentioned policy uncertainty. In its Statement of Scope response the HBF argued that policy, tax and regulatory changes were damaging the housebuilding market and listed a timeline of significant regulatory and policy changes that have impacted the market.⁷³
- 4.49 Changes to policy can change the economics of development as a site (as we explain in paragraph 4.101 these policy changes are often associated with increases the costs of development). Therefore, frequently policy changes can increase the uncertainty about the value that housebuilders will be able to realise at a site. This can make housebuilders more reluctant to incur the sunk costs required to develop a site, having a chilling effect on development activity.
- 4.50 Below we set out the most recent and upcoming policy changes that have impacted or will impact the planning system. This provides a clear indication of how frequently and significantly the policy environment within which planning decisions are taken is changing.
- 4.51 Significant recent and upcoming wider policy changes that impact the English planning system include:
 - (a) 2019 – Nutrient neutrality requirements imposed on development in the Solent, covering approximately 30 local authority areas. Natural England,⁷⁴ in

⁷³ See page 10-12 and Appendix 1 of: [Home_Builders_Federation.pdf \(publishing.service.gov.uk\)](#).

⁷⁴ [About us - Natural England - GOV.UK \(www.gov.uk\)](#).

reference to an EU court judgment, deemed that development cannot take place unless ‘nutrient neutrality’ can be demonstrated and take effect.⁷⁵

- (b) 2021 – Nutrient neutrality requirements extended to cover 74 LA areas in total, with more than 100,000 plots with planning permission estimated to have been impacted. Research by the HBF suggests that 145,000 homes were being delayed by the impact of this advice as of 30 June 2023.⁷⁶ The government had recently proposed a change⁷⁷ to the law to allow residential development to proceed in the affected areas, but this was subsequently blocked in the House of Lords.⁷⁸
- (c) 2023 – Biodiversity Net Gain (BNG) requirements for major sites are to take effect from January 2024⁷⁹, with new guidance on BNG, including the statutory biodiversity metric for calculating the requirement, expected to be issued in November 2023⁸⁰. The policy necessitates a 10% uplift in biodiversity on all new sites.⁸¹
- (d) 2024 – Building Safety Levy (BSL) expected to be introduced. This will be a £300m per year tax on all developments and paid by all house builders. The £3bn intended to be collected through the BSL will raise funds for the remediation of mid-rise buildings with cladding defects.⁸²
- (e) 2025 – Future Homes Standard due to be implemented with significant changes to energy efficiency requirements for new homes, necessitating a wholesale change of heating technology in new homes.⁸³

4.52 In Scotland, significant policy changes that have impacted the planning process include:

- (a) 2023 – Firstly, NPF4 gave national planning policy more weight in the determination of applications and production of plans by making NPF4 part of the development plan.
- (b) Secondly, NPF4 aims to ensure that at both application and plan making stages, climate change and nature are considered as high priorities. In this

⁷⁵See: [Nutrient Neutrality and Mitigation: A summary guide and frequently asked questions - NE776](#) ([naturalengland.org.uk](#))

⁷⁶ ‘Nutrient neutrality’ – four years of government failure ([hbf.co.uk](#))

⁷⁷ Nutrient neutrality announcement: explanatory paper - GOV.UK ([www.gov.uk](#)).

⁷⁸ Nutrient neutrality: update - GOV.UK ([www.gov.uk](#)).

⁷⁹ BNG requirements for “*small sites*” will come into force from April 2024 while implementation for nationally significant infrastructure projects “*is planned for 2025*” (Source: Chief planner letter to chief council planning officers dated 6 October 2023).

⁸⁰ Chief planner letter to chief council planning officers dated 6 October 2023.

⁸¹ [Biodiversity Net Gain for local authorities | Local Government Association](#).

⁸² [The Building Safety Levy: consultation - GOV.UK \(www.gov.uk\)](#).

⁸³ [The Future Homes Standard: changes to Part L and Part F of the Building Regulations for new dwellings - GOV.UK \(www.gov.uk\)](#).

context, one of the goals of the NPF4 is to limit urban expansion to optimise the use of land to improve the environment. Furthermore, related legislation changes singled out 'sustainable development' as a new purpose of planning.⁸⁴

- 4.53 The Scottish planning system has not had the equivalent nutrients, housing target, building safety and homes standard challenges the English planning system has faced.
- 4.54 In Wales, significant policy changes that have impacted the planning system include:
- (a) 2020 – Phosphorus Concentration. Natural Resources Wales published new targets to reduce the concentration of phosphorus in Special Areas of Conservation (SAC) across Wales. Requirements include that developments within the SAC River catchments that would generate an increase in wastewater must prove they do not contribute to increased phosphate.
 - (b) December 2022 – A Chief Planning Officer letter on biodiversity was published. It highlighted the role the planning system must play in meeting the challenges laid down by COP15 and in fulfilling the Section 6 duty in Wales to secure biodiversity enhancements.
 - (c) March 2023 – a consultation on changes to PPW on net benefit for biodiversity and ecosystems resilience strengthening policy on Sites of Special Scientific Interest, Trees and Woodlands and Green Infrastructure.
 - (d) 2023 – Action Plan on Relieving pressures on Special Areas of Conservation (SAC) river catchments to support delivery of affordable housing set out clear actions, timescales, and responsibilities to tackle pollution in SAC river catchments.
- 4.55 While wider policy changes impact uncertainty in the planning system, they also reflect other societal priorities besides housing supply, such as environmental and safety issues. These concerns and their desirability in a wider societal context go beyond the scope of this market study. However, we note that the number of policy changes set out above highlights how the context within which planning decisions and housebuilder investment decisions are made is constantly changing.

Ongoing changes to planning policy

- 4.56 In addition to the wider policy changes implemented via the planning system, changes to planning policy itself increase uncertainty for those engaging with the

⁸⁴ Section 3ZA(2) of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning Act (Scotland) 2019)

system. Some of the key changes to planning law, policy and guidance in **England** over the past couple of decades include:

- **The Town and Country Planning Act 1990:** is the main planning legislation in England setting out many components of the current framework and has since been amended significantly on multiple occasions by subsequent Acts, which are addressed below.
- **The Planning and Compulsory Purchase Act 2004:** which scrapped local plans and replaced them with a local development framework system which was intended to be more flexible. The frameworks were made up of local development documents setting out an LPA's planned use of land. They had to fit into a regional spatial strategy prepared by the Secretary of State.
- **The Planning Act 2008:** created a new system of development for nationally significant infrastructure projects covering certain types of energy, transport, water, wastewater and waste projects. The act established the Infrastructure Planning Commission and made provisions about the imposition of a Community Infrastructure Levy (CIL).
- **2011 Localism Act:** abolished regional planning, reintroduced local plans and introduced a comprehensive system of Neighbourhood Plans subject to public consultation and independent examination.
- **2012 NPPF introduced:** introduced sanctions to incentivise local planning authorities to adopt up-to-date local plans and gave developers the opportunity to secure permissions through appeals. The NPPF introduced a presumption that 'speculative' applications would be approved if they were sustainable, and if the local plan was not up-to date or a land supply sufficient for 5 years of housing need could not be demonstrated. It also introduced the concept of viability whereby required developer contributions could be challenged on the basis of the economic viability of a site. As shown below, three versions of the NPPF have been issued since 2012.
- **The Housing and Planning Act 2016:** contains widespread provisions on new homes, landlords and property agents, abandoned premises, social housing, planning (e.g. the provision of starter homes through planning permission).
- **The Neighbourhood Planning Act 2017:** strengthens neighbourhood planning by ensuring that planning decision makers take account of well-advanced neighbourhood development plans and by giving these plans full legal effect at an earlier stage.
- **2017 Planning White Paper and 2018 updated NPPF:** introduced the centralised Standard Method (SM) as the baseline for assessing local

housing need (previously this was based on a local 'objective' assessment). Also introduced the Housing Delivery Test where the presumption of sustainable development would apply to speculative applications where an LPA was not delivering more than 75% of its housing need target.

- **2020 Reform of the Standard Method:** essentially largely retained the existing standard method but introduced a new 'urban uplift' designed to incentivise brownfield development.
- **2020 Planning White Paper:** proposed radical reform of the planning system with a move to a more rules-based or zonal planning policy based on the classifications of land into one of four types of zone. Introduction of a nationally set target of 300,000 homes per annum, with 'binding' targets for local authorities which factor in land constraints.
- **2022 and 2023 Levelling up and Regeneration Act and proposed changes to the NPPF:** plans for a zonal system were dropped in favour of attempts to incentivise the production of more up-to-date local plans. Whilst commitment to 300,000 new homes a year remains, the 'binding' targets for LAs have been dropped, with it being made clear that the SM is advisory. Greater protections are also proposed for greenbelt land.

4.57 **In Scotland,** the Scottish Government has been progressing a programme of planning reform since 2015. Key legislative and guidance developments since then include:

- **2015: Independent review panel appointed:** An independent panel was appointed to carry out a review of Scotland's planning system in 2015.
- **June 2019: The Planning (Scotland) Act 2019** – introduced a stated '*purpose of planning*' (to manage the development and use of land in the long-term public interest) and made changes to planning processes. The Act also determines the future structure of the modernised planning system and included changes including making the National Planning Framework part of each development plan, introducing local place plans, and introducing the power to bring in an infrastructure levy.
- **December 2020: Clarification of the 5-year effective housing supply.** Clarification that the require 'effective' available local land supply should be an average of the land requirement over the 5-year period rather than, as some LPAs had been doing, adjusting the required supply to take account of over or under supply in previous years.
- **December 2020 – February 2023: Amendments to the presumption in favour of sustainable development.** In July 2020, the Scottish Government launched a consultation on proposed interim changes to the Scottish

Planning Policy, among which the Scottish Government had proposed removing the reference to a presumption in favour of sustainable development.⁸⁵ In December 2020, as a result of the consultation, the Scottish Government decided to instead retain a reworded version of the presumption, and amend paragraphs from the Scottish Planning Policy to avoid giving material weight to the presumption in some situations, for example when an LPA does not have in place up-to-date plans, or has not identified sufficient land supply. The policy aim behind the amendment was to ensure that LPAs understand that the Scottish Government focusses on sustainable development, rather than any development which may not be sustainable.⁸⁶ The amendments were subsequently reduced by a 2021 judgement of the Court of Session.⁸⁷ However, in the end the presumption was no longer retained in Policy 16 of the NPF4 when it superseded the Scottish Planning Policy (February 2023).⁸⁸

- **February 2023: Fourth National Planning Framework (NPF4) published.** It became the long-term plan for Scotland up until 2045 that sets out where development and infrastructure is needed. It replaced NPF3⁸⁹ and Scottish Planning Policy.

4.58 **In Wales**, some of the key changes to planning law, policy and guidance include:

- **The Town and Country Planning Act 1990** was the main planning legislation in Wales; however, its application to Wales has since been amended significantly, resulting in major differences between the Welsh and English planning systems, which are addressed below.
- **2002: Planning Policy Wales (PPW) was originally published:** It sets out the Welsh Government's planning policies, under which LPAs prepare their Local Development Plans (LDPs).
- **The Planning and Compulsory Purchase Act 2004:** inter alia, Part 6 of the Act covers the application of the planning framework to Wales and provided for the preparation of development plans in Wales.

⁸⁵ See Section 2, [Scottish Planning Policy – finalised amendments: December 2020](#)

⁸⁶ See Section 1, [Scottish Planning Policy - finalised amendments: impact assessments – December 2020](#)

⁸⁷ See: [Graham's The Family Dairy \(Property\) v Scottish Ministers \[2021\] CSOH 74 \(scotcourts.gov.uk\)](#).

⁸⁸ See: [Transitional arrangements for National Planning Framework 4: Chief Planner letter - February 2023 - gov.scot \(www.gov.scot\)](#).

⁸⁹ NPF3 was the spatial expression of the Scottish Government's economic strategy and plans for infrastructure investment. It was a strategy for all of Scotland that aimed to champion the countries successful places, supported change in areas where there had been decline, and also highlighted opportunities for rural development and investment in coastal areas and islands. Additionally, it brought together economic development, regeneration, energy, environment, climate change, transport, and digital infrastructure plans.

- **The Planning Act 2008:** Part 10 of the act adds certain matters within the field of town and country planning to the legislative competence of the National Assembly for Wales. The Welsh Ministers are given order-making powers to give effect in Wales to provisions in Part 9 which would otherwise have effect only in England.
- **The Planning (Wales) Act 2015:** inter alia, sets out an overarching statutory purpose to carry out sustainable development. The Act: requires the preparation of strategic development plans in certain regions⁹⁰, introduces a mandatory process of pre-application consultation for certain types of planning applications, and seeks to modernise planning enforcement (e.g., via the introduction of enforcement warning notices).
- **2018: PPW was significantly restructured to take account of the Well-being of Future Generations (Wales) Act 2015 [FGW Act] and to support the implementation of the Environment (Wales) Act 2016.** The FGW Act set out a legally binding common purposes in the form of seven wellbeing goals⁹¹ for national government, local government, local health boards and other specified public bodies to achieve. It also required that the 48 public bodies in Wales covered by the FGW Act use sustainable development principles, to address the long-term impact of their plans and policies, and work better with people, communities, and each other, in order to address problems including poverty, health inequalities, and climate change.
- **2020: Revocation of Technical Advice Note 1 (TAN1: Joint Housing Land Availability Studies)** Changes to the planning system followed a rationale that all new development should be identified through the Local Plan process, with only limited scope for windfall sites⁹². These changes included the removal of the requirement for a five-year supply of housing land.
- **February 2021: The latest version of PPW (Edition 11) was published.** PPW was updated to reflect publication of Future Wales: The National Plan 2040. To note, PPW now extends to 169 pages, is supplemented by a further 19 Technical Advice Notes (some of which of significant length) and is also intended to be read alongside Future Wales: The National Policy Plan 2040.

4.59 **Across all three nations**, continuous and frequent planning policy reform can create uncertainty within the planning system, which in turn materially affects how

⁹⁰ See sections 4-6 of the Planning (Wales) Act 2015 as originally enacted. Provisions in the Local Government and Elections (Wales) Act 2021 repealed the relevant sections of the Planning Act on regional planning so that responsibility for preparing SDPs resides with Corporate Joint Committees (CJCs) and not Strategic Planning Panels (SPPs). See also: <https://www.legislation.gov.uk/asc/2021/1/notes/division/3/8> and [planning-wales-act-2015-implementation-update-march-2021.pdf](https://www.gov.wales/planning-wales-act-2015-implementation-update-march-2021.pdf) (gov.wales)

⁹¹ A prosperous Wales; a resilient Wales; a healthier Wales; a more equal Wales; a Wales of cohesive communities; a Wales of vibrant culture and thriving Welsh language; and, a globally responsible Wales

⁹² Sites not specifically identified in the development plan.

it operates. One of the clearest examples of this is the impact that policy changes can have on LPA plan-making.

- 4.60 Research by the HBF⁹³ indicates that policy uncertainty since the White Paper was published in 2020, and particularly between September 2022 and September 2023, has slowed local plan-making significantly. They report that a ministerial statement on planning⁹⁴ and publication of the NPPF consultation⁹⁵ at the end of 2022 had a knock-on impact on both the number of local plans that were adopted throughout the year, and on the number of local plan consultations. It reported that, as of 11 September 2023, 62 LPAs had delayed or withdrawn their local plan.
- 4.61 Under the reforms to the plan-making process in England, the proposed new plan-making system will not be implemented until autumn 2024. With the new system proposing a recommended 30-month timeline from start to finish for the plan making process many LPAs without an up-to-date plan in place, may not have one in place before 2027.⁹⁶
- 4.62 The Scottish Government told us that they were aware that a number of LPAs had held back on preparing new plans given there were significant changes made through the 2019 Planning Act to procedures for plan making. They wanted to see the regulations and guidance in place, which came into force/were published in May 2023, before undertaking a plan review.
- 4.63 Housebuilders' internal documents reveal their concerns about how uncertainty over policy is impacting the planning system, and particularly the effect on LPA plan-making. For example:
- (a) One housebuilder in a strategy paper presented to its Board in October 2022 discussed how planning policy uncertainty has led to 'inertia' in the local plan-making process:
- The major cause of this [national uncertainty] has been the government's position in relation to planning reform..... All this uncertainty has done nothing to encourage LP progression indeed it has caused inertia in new Plan progression and existing Plan review.'
- (b) In its Executive Planning Report in Dec 2022, one housebuilder highlighted how in its view, the current political uncertainty in England was contributing to a fall in the number of planning permissions that have been granted:

⁹³ See: [Delayed local plans \(hbf.co.uk\)](https://www.hbf.co.uk)

⁹⁴ [Written statements - Written questions, answers and statements - UK Parliament](#)

⁹⁵ [Levelling-up and Regeneration Bill: reforms to national planning policy - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

⁹⁶ Although, LPAs who wish to progress a plan under the current legal framework do have the option to submit a plan for examination until 30 June 2025.

This data [showing a fall in the number of major planning application to its lowest level in a decade] is not a surprise given the resourcing issues being experienced by local authorities and delays caused by politically driven inertia in councils and lack of clarity in government policy around housing numbers’

- (c) In a report on planning reform prepared for its Board, one housebuilder sets out its view that some LPAs are using the current reform process as a reason not to update their local plans:

‘the principal planning risk is that LPAs use the continued uncertainty and lack of detail as a reason defer decision making on both local plan making and development management decisions.’

Lack of up-to-date local plans (England)

- 4.64 As we set out in the Background section above, the planning system is ‘plan-led’ and the local plan is a crucial document for identifying housing need and sites for development in a local area. Where an LPA does not have in place an up-to-date plan then the context within which planning decisions are made and housebuilders make decisions on investment in sites for development will be inherently less certain.
- 4.65 Our analysis of data on LPA housing delivery (as proxied by HDT scores) and the status of their local plan indicates that there is link between the two. Table 4.5 shows that, as of 31 December 2021, only 40% of LPAs had updated their plans in the last 5 years whilst 22% had not adopted a plan for more than 10 years or had no plan in place. LPAs that have not updated their local plan in more than 10 years, or that do not have a local plan in place at all, have also tended to undershoot their HDT. This analysis indicates that an up-to date local plan may support higher levels of housing delivery relative to need. However, the analysis of itself cannot be taken to imply causality. Below, we consider evidence from housebuilders and LPAs on the importance of an up-to-date local plan for housing delivery.

Table 4.5 Relationship between age of LPA local plan and HDT score

Age of LPA plan	No. LPAs with plan in this age range at 31 December 2021	Median HDT Score 2021
Less than 5 years old	128 (40%)	138%
Between 5 and 10 years old	111(34%)	138%
More than 10 years old	53 (16%)	91%
No plan adopted	21 (6%)	68%
N/A ⁹⁷	9 (3%)	N/A
Total LPAs included in analysis	313	133%

Source: CMA analysis of Planning Inspectorate data [Local Plan: monitoring progress - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/local-plan-monitoring-progress); and HDT data: [Housing Delivery Test: 2021 measurement - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/housing-delivery-test-2021-measurement)

4.66 Evidence that we have gathered from housebuilders and LPAs supports the view that an up-to date local plan may support higher levels of housing delivery relative housing to need.

4.67 Housebuilders use existing and emerging local plans to help them identify sites. For example, one housebuilder in a presentation to a Board strategy meeting covering site identification note ‘Land teams utilise these Local Plans to identify potential sites.....Teams also try and shape emerging local plans for the next plan period – this aids in identification of future strategic opportunities.’

4.68 Consequently, a lack of an up-to-date local plans results in a more uncertain context for housebuilders, and therefore can reduce the flow of land into the planning system and, subsequently, planning permissions and housing delivery. Housebuilders consider the absence of an up-to-date local plan as a constraint on the land supply. For example, in a paper on the political climate presented to its board, one housebuilder states:

‘Delays to plan making and a failure by councils to allocate sufficient land in areas to meet market demand has a direct impact on the land market, with a lack of supply driving up competition, land values and land-owner expectations.

4.69 Similarly in a presentation to its Board one housebuilder observed that ‘Local plan delays – only 39% of LPA’s have adopted a plan in the last five years.....lead[s] to reduced supply of quality sites with planning permission’

4.70 A number of LPAs also commented on the importance of having in place a local plan. For example, one LPA told us an up-to-date plan gives everyone some clarity on where you want development to be and helps to deliver it. It also gives the housebuilders the certainty that they look for and that enables them to make their investment decisions.

⁹⁷ Includes LPAs that do not need to produce a local plan such as development corporations and newly formed authorities that have not had the chance to produce a plan as of the time covered by the analysis.

- 4.71 However, a plan is not a panacea for delivering housing need. One LPA told us that despite having an up-to-date, well-evidenced local plan they were struggling to meet their housing need because two large strategic sites included in the plan had not delivered sufficient housing. This was mainly due to specific issues with viability at these sites despite extensive viability assessment of them at the plan making stage.
- 4.72 Where there is no up-to-date local plan in place in England the presumption of sustainable development will apply. This in theory gives housebuilders an avenue to bring forward off-plan developments to help meet housing need. However, the presumption is not a perfect substitute for an up-to-date plan. Off-plan development does not give the kind of clarity for local communities that LPAs highlighted as being important. Neither does the presumption apply in all cases where there is no up-to-date plan. In particular, it does not apply to development on footnote 7 land afforded protection by the NPPF (as we discuss further in paragraph 4.140).
- 4.73 In England, reviews of local plans at least every five years are a legal requirement⁹⁸ and the NPPF states strategic policies in local plans should be updated at least every 5 years if local housing need has changed significantly. However, less than 40% of LPAs have updated their plans within the last 5 years (as of 1 May 2023).⁹⁹
- 4.74 Updating a plan is not a straightforward task. DLUHC estimates suggest that the average time taken to produce a local plan is 7 years.¹⁰⁰ Our discussions with LPAs also indicated that developing a local plan takes substantial time and resources. One LPA said that producing the local plan had required up to 40% of planning resources plus consultancy input over several years.
- 4.75 A further LPA told us that preparing a local plan is not a cheap or easy endeavour and they have a significant budget for theirs. Even once a local plan has been produced, as we discuss further in paragraph 4.86, getting public and political agreement to adopt it can be far from straightforward.
- 4.76 We have also sought to understand how many LPAs in Scotland and Wales have up-to-date plans. We have, to the extent possible, made inferences about how up-to-date plans in these nations contribute to housing delivery.
- 4.77 In Scotland, prior to the introduction of NPF4 this year there was a statutory requirement to prepare plans at intervals of no more than 5 years. This was a slightly stronger requirement than in England, where the requirement is to review

⁹⁸ Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012.

⁹⁹ CMA analysis of Planning Inspectorate data.

¹⁰⁰ See paragraph 38 of [Levelling-up and Regeneration Bill: consultation on implementation of plan-making reforms](https://www.gov.uk/government/consultations/levelling-up-and-regeneration-bill-consultation-on-implementation-of-plan-making-reforms) - GOV.UK (www.gov.uk).

and, if necessary, update a plan every 5 years. Since NPF4 came into force, the statutory period for plan preparation is now 10 years.¹⁰¹ Guidance is that plans should not take 10 years to prepare; it instead suggests a 3-4 year period allowing more time for a focus on delivery of the plan.¹⁰² With the switch to the 10 year plan review period, current guidance suggests that amendment to legislation to allow plans to be updated in the interim will be introduced ‘in due course’.¹⁰³

- 4.78 Table 4.6 shows that 22 out of 35 (63%) LPAs have a plan that is less than five years old as of 31 March 2023. This is a much higher proportion than for England. It may be that the slightly stronger plan preparation requirements that were in place in Scotland prior to NPF4 contributed to this.
- 4.79 There is some indication that Scottish LPAs with more recently adopted plans achieve higher levels of housing delivery. Of the 22 LPAs with a plan of less than 5 years old, the median ratio of housing delivery to MATHLR for 2018-19 to 2022-23 was 112% compared to 94% from the 13 LPAs with plans of older than 5 years.¹⁰⁴ However, given the small number of LPAs and the significant difference between the circumstances faced by LPAs we cannot infer any causality from this. It is also possible that having more recently adopted plans than in England contributes to the finding that a relatively low proportion of Scottish LPAs’ housing delivery has significantly undershot their MATHLR over the past 5 years (see Table 4.2). However, many other aspects of the planning system and other market factors will contribute to this, so again it is difficult to infer any direct causality.

Table 4.6 Age of LPA local plans in Scotland

Age in years of Local plan at 31 March 2023	No. LPAs
Less than 5	22
5 to 8	10
8 to 10	1
10 or greater	2
total	35

Source: CMA analysis of data provided by the Scottish government

- 4.80 In Wales, the local plan sets out an LPA’s proposals and land-use policies for the future development of land in its area over a fifteen-year period. There is no requirement to formally update the plan within this period, but the local plan must be reviewed by an LPA at least every four years from the date the plan was adopted and produce a review report.¹⁰⁵ Since the Planning Act Wales (2015) came into force, local plans have been required to specify an end date after which

¹⁰¹ See: Section 16.1.a.ii. [Town and Country Planning \(Scotland\) Act 1997 \(legislation.gov.uk\)](https://www.legislation.gov.uk).

¹⁰² See: [Local development planning guidance - gov.scot \(www.gov.scot\)](https://www.gov.scot).

¹⁰³ Ibid.

¹⁰⁴ CMA analysis of data provided by the Scottish Government.

¹⁰⁵ See: [Development Plans Community Guide \(gov.wales\)](https://www.gov.wales).

it will no longer be extant – with the intention to encourage timely review. However, this only applies to plans adopted after this came into effect with the first plan end date not being until 1 July 2026.¹⁰⁶

- 4.81 As Table 4.7 shows, all but one of the 24 Welsh LPAs (96%) has adopted a local plan however, data provided to us by the Welsh government shows that thirteen LPA plans lapsed in either 2021 or 2022.¹⁰⁷ Five (21%) of plans were adopted in the last 5 years and a further five being adopted more than 10 years ago.
- 4.82 In Wales, in comparison to Scotland and England, a higher proportion of plans are more than 5 years old, and a high proportion of the plans that have been adopted have lapsed. This may, in part, be a consequence of how the plan system operates in Wales, given that unlike in England and (until recently) Scotland there is no requirement to review, and if necessary update, a plan every 5 years. In addition, because plans produced before 2015 did not have an end date a number of plans may have been allowed to lapse. In addition, the Welsh government has informed us that delays in the process to date have largely been attributed to Covid-19 and the ability to engage in the plan-making process and the failing phosphorous standards identified by Natural Resources Wales (NRW) in riverine Special Areas of Conservation (SAC) waterbodies.
- 4.83 It is possible that the older age of plans, and the fact that many plans have lapsed, contributes to the finding that no Welsh LPA has delivered housing at a rate that exceeds its plan target over the past 5 years (see Table 4.3 above). However, many other aspects of the planning system and other market factors will contribute to this, so it is difficult to infer any direct causality.

Table 4.7 Age of LPA local plans in Wales

Age of Local plan at 31 March 2023	No. LPAs
Less than 5	5
5 to 8	5
8 to 10	8
10 or greater	5
No plan	1
total	24

Source: CMA analysis of data provided by the Welsh Government

Political and public attitudes to development

- 4.84 Although England, Scotland and Wales all set out national planning policies, ultimately planning decisions are made at the local level by elected representatives and planning officers in the context of locally agreed local plans

¹⁰⁶ [Local Development Plan \(LDP\) end dates: letter to local authorities \[HTML\] | GOV.WALES.](#)

¹⁰⁷ I.e., when the specified period covered by the plan has ended.

and polices. Where local decision makers have discretion, they will have strong incentives to deliver developments in line with the preferences of the incumbent local population. In papers presented to its board, one housebuilder set out how they consider that local discretion can influence planning decisions:

‘Lobbying is a normal part of the planning process.....The decision maker must act reasonably and exercise their planning judgement in making their decision... In practice, this affords elected councillors who form the planning committee significant scope to approve or reject a scheme, even where it is recommended for approval by head of planning. Planning committees are therefore politically influenced, with individual members looking to make decisions that garner public support, or fulfil their promises made to the local electorate’

- 4.85 Indeed, the planning system is in large part designed to ensure that local preferences are incorporated into decision making. However, this does not necessarily lead to consistent decision making at a local level. It may also not encourage optimum outcomes at a national level; in particular, local-level preferences are unlikely to take account of any negative externalities they may impose outside their local area by choosing to provide fewer homes. This creates a significant tension between delivering housing that both meet national housing need and also reflect local preferences.
- 4.86 A high level of local objection to development can make it more difficult for an LPA to successfully draw up and implement a local plan – the foundation of local planning decisions, as discussed above. Some LPAs told us that they had difficulty getting plans adopted for political reasons, especially where the plan might require the release of green belt land to meet housing need. For example, one LPA told us that they had been trying to review their plan for a couple of years, but it was politically sensitive because the plan was likely to call for an increase in residential development. Another LPA told us that getting the local plan adopted took an extraordinary amount of effort and persuasion, with the plan only being adopted in 2020 following a process begun 10 years earlier. Some other LPAs told us that the process of agreeing a plan could be more complicated if it requires the release of greenbelt land.
- 4.87 It is notable from analysis presented in Table 4.8 that the LPAs with either a significantly outdated plan, or no plan at all, typically have much higher percentages of greenbelt land within their boundaries. This could, at least in part, be a consequence of the political sensitivities around agreeing plans that require the release of greenbelt land. Up-to-date local plans can be particularly important to facilitate the supply of land for development in high greenbelt LPAs because, as we explain in paragraphs 4.140, the presumption of sustainable development does not apply to green belt land.

Table 4.8 Relationship between age of LPA local plan and greenbelt land

Age of LPA plan	No. LPAs with plan in this age range at 31 December 2021	Median % Greenbelt in LPA
Less than 5 years old	128 (40%)	0.1%
Between 5 and 10 years old	111(34%)	2.9%
More than 10 years old	53 (16%)	18.0%
No plan adopted	21 (6%)	53%
N/A ¹⁰⁸	9 (3%)	N/A
Total LPAs	313	3.0%

Source: CMA analysis of Planning Inspectorate data [Local Plan: monitoring progress - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/collections/local-plan-monitoring-progress); and land use data: [Land use statistics: England 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/collections/land-use-statistics-england-2022)

- 4.88 However, not all LPAs faced very significant political resistance to getting plans adopted. One LPA told us that the process of getting the plan adopted was relatively smooth as the local administration was keen on facilitating growth in the area in the face of quite severe land supply constraints. Another LPA told us that whilst there was some resistance, attitudes within the area were broadly pro-growth which eased the plan making and adoption process.
- 4.89 As well as making it more difficult to adopt a local plan, local attitudes to development can influence decision making for individual planning applications. Several of the LPA planning officers we spoke to spoke about the high level of political engagement in decision making. Some expressed a view that the number of decisions that were considered by planning committees (as opposed to delegated to planning officers) was perhaps too high. In addition, some LPAs recounted examples of decisions overturned by committees against planning officer advice. However, it was observed by a number of LPAs that in a democratically accountable system it was inevitable that there would, and indeed should, be a high level of political engagement with planning decisions.
- 4.90 Housebuilders also observe that decisions on individual planning applications can be politically influenced. For example, in an internal paper on ‘Guidance on Current Planning Trends’ written in Jan 2022, one housebuilder stated ‘LPAs are not only less resourced than ever before but are continuously allowing local politicians to wield greater non policy based influence at the decision making stage.’ Similarly, in papers for its July 2022 Board, one housebuilder noted that ‘We also have more sites going to appeal due to local politics, particularly changes in control following the May elections.’
- 4.91 Areas where local attitudes are less receptive to residential development may become less attractive places for housebuilders to pursue development opportunities. Evidence from housebuilder documents indicates that local attitudes towards development may influence whether they choose to pursue development in an area. For example, in a land strategy document presented to its board, one

¹⁰⁸ Includes LPAs that do not need to produce a local plan such as development corporations and newly formed authorities that have not had the chance to produce a plan as of the time covered by the analysis.

housebuilder states 'local politics can materially impact the outcome and timing of planning and increase the attractiveness or risk associated with acquiring land within particular local planning authority areas'.

- 4.92 Political and public opposition to development can also increase the time taken to decide an application. In addition, it can increase the likelihood of an appeal, where an application in line with the local plans and policies is refused (with consequential cost and timing implications). In a document on land strategy provided to its Board one housebuilder noted that following 10 years of work an application at a site which had been allocated in a local plan had been turned down because of local politics leaving it no choice but to appeal the decision, causing an 18-month delay. In a paper on the political climate presented to its board, one housebuilder made reference to the possibility that 'Councillors may also look to defer making decisions as a delaying tactic'.
- 4.93 There is no consistent metric available to compare local attitudes to development against outcomes. We therefore cannot directly infer the extent to which political and public objection to development leads to lower housing delivery. However, it seems likely that planning outcomes and housing delivery would reflect, at least in part, local attitudes towards development. We would expect LPAs which are less receptive to development to have planning outcomes that reflect this, and that this in turn would result in lower levels of housing delivery. The analysis that we present in Table 4.5 above is consistent with this view.

Question 4.1

1. Do you agree that planning risk is a key issue for the planning system?
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?
3. Are there any other factors that we should consider?
4. Do you consider there to be any significant difference in the level of planning uncertainty between England, Scotland and Wales?

Length, cost and complexity of the planning process

- 4.94 A concern raised with us by the large housebuilders in particular was that the planning process is long, complex and costly, and is becoming increasingly so.
- 4.95 Higher costs of engaging in the planning and development process could threaten the viability of development at some sites. This is likely to deter planning applications, as well as slowing the delivery of homes. In addition, a longer planning process requires housebuilders to hold on to a larger quantum of land for a longer period of time than they would otherwise. It also requires them to manage

a longer period between funding and paying the upfront costs associated with initiating a development and realising the returns from their investment.

Cost and complexity of the planning and development process

- 4.96 The planning process has become increasingly costly and complex to negotiate. In addition, there are substantial and increasing policy related costs involved in the development process which could threaten the financial viability of development at some sites.
- 4.97 Recent analysis by Lichfields suggests that since 1990 the volume of evidence that is required to support a planning application has increased dramatically, as has the cost associated with making a planning application.¹⁰⁹ This was attributed largely to the increased policy requirements and evolution of technical and professional practices and also to increasingly risk averse LPAs who have lost expertise and experience from their planning departments.
- 4.98 We have undertaken our own analysis of data on direct external planning costs (LPA planning fees and consultancy costs – not including internal staff costs) provided by the largest five housebuilders. This analysis, set out in Table 4.9, shows that these costs can be substantial particularly for smaller sites when estimated on a per plot basis.

Table 4.9 Average direct external planning costs of the 5 largest housebuilders¹¹⁰

	Number of plots per application:				All applications
	0-50	51-100	101-500	>500	
Average direct cost per application	102,000	186,000	341,000	890,000	304,000
Average direct cost per plot	3,500	2,400	1,500	900	1,500

Source: CMA analysis of responses of housebuilder to question 59 of RFI data 23 March 2023.

- 4.99 The direct costs associated with making planning applications can be substantial ranging from around £100,000 per application to around £900,000 per application depending on the size of a site. On top of these costs there will be substantial internal staff resources that are devoted to progressing a planning application. These costs can represent a substantial upfront cost that needs to be funded by housebuilders throughout the development process on top of, as we explain below, large and increasing local and national policy related costs.
- 4.100 As we set out in Appendix A the planning system seeks to capture a share of the uplift in land value when a site is given planning permission. These ‘developer contributions’ fund infrastructure that is needed to support new residential

¹⁰⁹ [CL16160-04 LPDF Report - Sept23.indd \(lichfields.uk\)](#).

¹¹⁰ LPA planning fees and consultancy costs incurred during the planning application process.

development. In England these contributions came to a value of £7bn in 2018-19 (approx. £21k per plot given planning permission in England¹¹¹) and in Scotland the value of these contributions was £490m in 2019-20 (approx. £13k per plot given planning permission in Scotland¹¹²).

- 4.101 In paragraphs 4.48 to 4.55 above we discuss the large number of policy changes which have, and will continue to, impact on the planning system and the housebuilding market more generally. These changes can impose large costs on housebuilders, which can make it less desirable for them to bring forward land through the planning process. Using government impact assessments, the HBF has estimated the impact of a number of the recent and forthcoming policy changes.¹¹³ The HBF estimated the annual cost was around £4.5bn or approx. £19K to £23K per plot.
- 4.102 Land for residential development is typically valued on a residual value basis in accordance with Royal Institute of Chartered Surveyors (RICS) guidance.¹¹⁴ Under this methodology, the cost of developing a site including all costs of complying with a relevant policy are deducted from a site's gross development value (essentially the expected income from a site) to arrive at the land value. In accordance with this, the government typically assumes that the majority of the costs imposed by its policies will be passed on to landowners in the form of lower land prices.¹¹⁵ However, in its response to our Statement of Scope, the HBF contested this view arguing that the scale of new policy and tax requirements would threaten the financial viability of developing some sites as these costs would push the price of land below the level that landowners were willing to accept. They argue this will lead to fewer homes being built over the coming decade.¹¹⁶
- 4.103 Housebuilders' internal documents reveal some concern on their part that increasing regulatory costs might threaten the viability of some sites. For example,

¹¹¹ CMA analysis of data from: [Section 106 planning obligations and the Community Infrastructure Levy in England, 2018 to 2019: report of study \(publishing.service.gov.uk\)](#); and [DLUHC Open Data : Units granted planning permission on all sites, England \(opendatacommunities.org\)](#).

¹¹² CMA analysis of data from: [6. The Value of Developer Contributions - Planning - the value, incidence and impact of developer contributions: research - gov.scot \(www.gov.scot\)](#); and [Housing Pipeline Report \(hbf.co.uk\)](#).

¹¹³ Energy conservation: Part L, Accessibility: Part M, Future Homes Standard, Future Buildings Standard, Residential Property Developer Tax, Red diesel rebate removal, Biodiversity Net Gain, Nutrient Neutrality, Water Neutrality, and Electric Vehicle charging: Part S. See: [HBF Report - Building Homes in a Changing Business Environment](#).

¹¹⁴ See Section 6.1: [Valuation of development property \(rics.org\)](#).

¹¹⁵ In the impact assessment for the biodiversity net gain policy it states 'The estimated direct cost is £199.0m per year (2017 prices). This falls to £19.9m, once a 90% pass-through of costs to landowners through land prices has been considered – as is anticipated on the basis of industry evidence and economic theory', see: [Net gain impact assessment \(publishing.service.gov.uk\)](#).

¹¹⁶ See Page 17, Home Builders Federation Response to the CMA's Statement of Scope in relation to the Housebuilding market study Submitted March 2023: [Home_Builders_Federation.pdf \(publishing.service.gov.uk\)](#)

in a paper on the political climate presented to its to its board one housebuilder stated that:

‘The additional development costs incurred by continued regulatory reform in particular, raises potential viability concerns which could in turn threaten overall housing delivery and associated investment in skills and infrastructure over the longer-term’.

4.104 Similarly, in a paper presented to its Board on November 2021 one housebuilder stated that:

‘the cost of these additional [environmental] regulations ... threaten the viability of development in areas of the country the Government are targeting for ‘levelling up’.

4.105 At some point, increases in policy and similar regulatory costs could result in some sites that would otherwise be viable not being developed, if they rise to levels that means that sites do not provide a sufficient return to the housebuilder or landowner. The extent to which this is currently happening is difficult to determine, as it will depend on the specific circumstances in place at a given site (local market conditions, site characteristics, etc). However, it appears that the per plot costs can be significant in the context of the margins that housebuilders typically require to develop a site. Typically, housebuilders expect to achieve margins in the range of 15% to 25% on residential development sites.¹¹⁷ This equates to approximately £46,000 to £77,000 per plot at average house prices; so, for example, an additional £20,000 per plot regulatory cost would represent between 25% and 43% of typical housebuilder margins.

4.106 As we note above, the wider policy and regulatory choices made by government and their desirability in a wider societal context go beyond the scope the CMA set for this market study. However, there will be an inevitable tension between the costs that these policies impose on residential development and the viability of some residential sites and hence the supply of land.

Length of time taken to make planning decisions

4.107 In all three nations of GB, the length of time taken to makes planning decisions is substantial and is increasing.

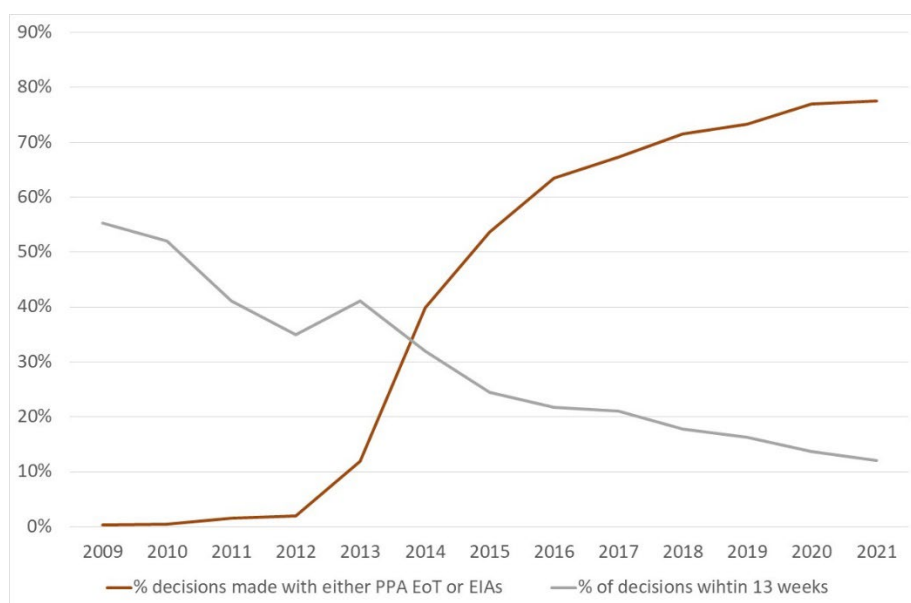
4.108 In England, fewer planning applications are being determined within the statutory time limit. The statutory time limit for a major planning application decision is 13 weeks, but longer can be taken if it is subject to a planning performance

¹¹⁷ See Section 3 RICS (2019): [performance-metrics-required-returns-and-achieved-returns-for-uk-real-estate-development.pdf](#).

agreement (PPA), extension of time (EoT) ¹¹⁸ or environmental impact assessment (EIA). ¹¹⁹ Our analysis of the planning application data for England, set out in Figure 4.7, shows that the percentage of major dwelling planning decisions that were made within the statutory 13-week deadline fell significantly between 2009 and 2021.

4.109 An increasing number of planning applications are being determined with a PPA, EoT or EIA to which the statutory deadline does not apply. However, this switch to determining more applications with a PPA, EoT or EIA is not the cause of increasing delay within the planning system, but rather the mechanism through which these delays are manifested. We discuss the fundamental causes of delay within the planning system below. We note that PPAs were introduced with the intention of providing greater certainty for housebuilders. However, the views of housebuilders on their effectiveness are mixed due on large part to the inconsistency in how they operate across LPAs.

Figure 4.7 Major residential planning decision statistics 2009 to 2021



Source: DLUHC District planning application statistics (PS2): [Live tables on planning application statistics - GOV.UK \(www.gov.uk\)](https://www.gov.uk/live-tables/planning-application-statistics)

¹¹⁸ Where it is clear that an extended period will be necessary to process an application the local planning authority and the applicant should consider entering into a PPA before the application is submitted. If application is already being considered and it becomes clear that more time required, then the local planning authority should ask the applicant to consider an agreed EoT. Where EIA is required then a decision should be made withing 16 weeks. See: [Determining a planning application - GOV.UK \(www.gov.uk\)](https://www.gov.uk/determining-a-planning-application).

¹¹⁹ An Environmental Impact Assessment (EIA) is required in England for certain types of development projects and is used to ensure that the local planning authority has full knowledge of the likely significant effects on the environment before deciding whether to grant planning permission for a project. The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 implement the European Union's EIA Directive in England. Similar regulations apply in Wales, Scotland, and Northern Ireland. However, while in England this will be required only for certain types of applications, according to [Natural Resources Wales](https://www.gov.uk/natural-resources-wales), an environmental assessment is required for most planning applications in Wales.

- 4.110 Our analysis of construction data as well as evidence from large housebuilders suggests that planning applications can take significantly longer than 13 weeks to determine. The average time taken to make an outline planning permission decision in England between 2020 and 2022 was well over a year. For a detailed or reserved matter application the average time taken was between 35 and 55 weeks.¹²⁰
- 4.111 Scotland and Wales appear to have similar issues relating to the length of the planning process. In Scotland, the most recent annual figures (for 2022-23) show that major planning application decisions made took on average more than 39 weeks to make.¹²¹ In Wales, work undertaken by Audit Wales shows that, in 2018/19, the average time taken to make a planning decision for a major planning application was more than 240 days, up from 206 days in 2014-15.¹²²
- 4.112 Planning delays can have a material impact on how housebuilders operate their businesses. For example, one housebuilder in July 2022 Board papers comments on how increasing planning delays (alongside other factors) require it to hold more land, but at the same time make it more difficult for it to maintain sales volumes (and hence receive a return from those land holdings). Several other housebuilders, make reference in their internal strategy and public investor documents to planning delays requiring them to hold more land. For example, one housebuilder, in an update to investors noted that: '[a] Frustrating planning environment, means [it's] beneficial to have a slightly longer landbank'.
- 4.113 The evidence that we have obtained from stakeholders indicates that a number of factors are driving up the length of the planning process. The main reasons identified were:
- (a) The increasing amount of regulation and policy impacting the planning system leading to increased time to navigate the system (see paragraphs 4.48 to 4.63);
 - (b) LPA resourcing constraints;
 - (c) Delays in receiving responses from statutory consultees;
 - (d) Increasing public and political engagement with the planning process (discussed above at paragraph 4.84); and
 - (e) The time take to negotiate agreements between LPAs and housebuilders to secure developer contributions towards local infrastructure (see Appendix A)

¹²⁰ CMA analysis of Glenigan data

¹²¹ See section 3.2 of: [Planning Applications Statistics 2022/2023: Annual and Quarterly \(October 2022 to March 2023\)](#) (www.gov.scot).

¹²² See: [The effectiveness of local planning authorities in Wales | Audit Wales](#).

LPA resourcing constraints

- 4.114 LPAs face increasing pressures on resources, both in terms of the funding of planning departments, and their ability to recruit qualified staff. This is a significant issue in all three nations of GB:
- (a) In England local authority expenditure on planning decreased by 43%¹²³ over the past decade and there is a shortage of qualified planners¹²⁴ as well as other relevant support professions.
 - (b) RTPI analysis of Scottish Local Government Financial Statistics 2009-10 and 2020-21 shows that the gross expenditure of planning authorities decreased in real terms by 38% over the period, while staffing levels in planning departments had reduced by a quarter.¹²⁵ In related research the RTPI has documented the shortage of qualified planners in Scotland.¹²⁶
 - (c) Audit Wales analysis shows that real net local authority expenditure on planning fell by 43% between 2008-09 and 2017-18.¹²⁷
- 4.115 All of the 17 LPAs we met with as well as Heads of Planning Scotland and the Planning Officers Society emphasised that resourcing - both in term of funding and recruitment of qualified planners and other supporting professions – was a key issue preventing faster processing of planning applications. All of the large housebuilders argued that LPA resourcing was a problem in their narrative response to CMA questions. They also noted that LPA resourcing was a problem in their internal documents. For example, in a strategy paper presented to its Board, one housebuilder states:
- ‘after a decade of austerity, we are left with the fewest resources / a shortage of skills necessary to do the job which has become increasing [sic] complex with regulatory burden, zero carbon, environmental requirements in a post Brexit / Covid world.’
- 4.116 In addition, in 2022 one housebuilder updated its 2018 Strategic Land Delivery Plan where it stated that one of the drivers for updating the plan was that:

¹²³ In its report [Planning Agencies: Empowering Public Sector Planning, September 2022](#) the Royal Town Planning Institute (RTPI) analysed the changes in total expenditure for every Local Authority planning team throughout England. Nationally, local authority net expenditure on planning fell by 43%, from £844m in 2009/10 to £480m in 2020/21, when adjusted to 2021 prices.

¹²⁴ See, for example, [RTPI | Local Authorities struggle as over a quarter of planners depart](#).

¹²⁵ See: [RTPI | Resourcing the Planning Service: Key Trends and Findings 2022](#).

¹²⁶ See, for example, the Heads of Planning Scotland and [the Royal Town Planners Future Planners Project Report \(June 2022\)](#) which discusses a shortage of planners in Scotland.

¹²⁷ See: [The effectiveness of local planning authorities in Wales | Audit Wales](#).

‘The planning system has become increasingly dysfunctional as a result of the shift of LPA officers to working from home, lack of public sector resources, and Government inaction on promised planning reforms’

- 4.117 A survey of SME housebuilders undertaken by the HBF in March 2023 found that 75% of respondents believed that local authority staffing shortages are the main cause of delays in the process.¹²⁸

Delays in receiving responses from statutory consultees

- 4.118 Planning law prescribes circumstances where LPAs are required to consult specified bodies (statutory consultees) prior to a decision being made on an application.¹²⁹ There are wide range of statutory consultees and their exact identity will depend on the circumstances of the application.¹³⁰
- 4.119 LPAs reported issues with getting statutory consultees to respond within the 21-day consultation period. Responses from statutory consultees were stated to commonly be late and, in many cases, returned well in excess of the required 21-day period. This was largely attributed to resourcing issues within the statutory consultee organisations.

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

¹²⁸ See: [Planning delays and rising costs crippling SME housebuilders \(hbf.co.uk\)](https://www.hbf.co.uk).

¹²⁹ See: [Consultation and pre-decision matters - GOV.UK \(www.gov.uk\)](https://www.gov.uk).

¹³⁰ Such consultees include the Canal and Rivers Trust, Coal Authority, Environment Agency, Forestry Commission, HSE, Relevant Highways Authority, Flood Authority, National Parks, Natural England, Rail Authorities, Sport England and Water and Sewerage undertakers. See table 2 of:

<https://www.gov.uk/guidance/consultation-and-pre-decision-matters#Statutory-consultees-on-applications> for more detail.

Insufficient clarity, consistency and strength of LPA targets, objectives and incentives to meet housing need

Local land supply and housing targets

- 4.120 Local land supply and housing targets drive how much land LPAs will need to allocate in plans and 5YHLS assessments for development. In a plan-led planning system, land that has been allocated within a local plan or a 5YHLS will be much more likely to achieve planning approval than land that has not. Consequently, how housing targets are set will significantly influence how many planning applications get approved and how many homes are built. If these targets are not set consistently with underlying estimates of national and local housing need then the planning system is unlikely to produce sufficient planning permissions to meet this need.
- 4.121 Each nation of GB has its own national methodology for assessing local housing need, which acts as a starting point for local land and housing targets. The approaches used in setting these targets vary significantly between the nations. Our analysis set out below shows that that local housing targets that these methods produce and the targets that are ultimately adopted into local plans may be inconsistent with underlying housing need.
- 4.122 In England, the centralised SM is intended to be a baseline for LPA housing targets.¹³¹ However, the current version of the SM has been subject to criticism.¹³² Two aspects which have garnered such criticism are the continued reliance on 2014 household projections, rather than using the more recent 2018-based projections, and the introduction of the urban uplift.
- 4.123 The 2014 household projections were used ‘in the interests of stability for local planning and for local communities’.¹³³ Using more recent household projections would likely produce significantly lower estimates of housing need at the national level and also large changes in need estimates for a number of LPAs.¹³⁴ Some of the LPAs we spoke to noted that using household projections from 2014 might lead to less accurate housing targets in their areas.
- 4.124 The current SM relies heavily on the urban uplift to ensure that local targets sum to close to the national housing target of 300,000 new homes per year. The intention behind the uplift is to ‘make the most of previously developed brownfield land over

¹³¹ See paragraph 61 of: [National Planning Policy Framework \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk).

¹³² See, for example: [The future of the planning system in England - Housing, Communities and Local Government Committee - House of Commons \(parliament.uk\)](https://www.parliament.uk); [Mangling the mutant: change to the standard method for local housing need \(lichfields.uk\)](https://www.lichfields.uk).

¹³³ See: [Government response to the local housing need proposals in “Changes to the current planning system” - GOV.UK \(www.gov.uk\)](https://www.gov.uk).

¹³⁴ See: [housing-need-and-the-standard-method-may-2020.pdf \(savills.co.uk\)](https://www.savills.co.uk).

and above that in the existing standard method'.¹³⁵ However, there is concern, by LPAs in particular,¹³⁶ that applying this adjustment to some urban areas in this way ignores the specific constraints on development that local areas face. In many of these areas, there may be insufficient brownfield (or indeed other) land to meet the additional housing requirement, especially given some had struggled to meet their housing targets even prior to the introduction of the urban uplift.

- 4.125 For most of the 20 cities where the uplift is applied, the change in the SM resulted in a housing requirement that was significantly in excess of the previous levels of housing delivery. This was especially the case for London: average annual delivery in the period 2017–20 in London had been 36,686 dwellings per year, whereas the standard method with the urban uplift would require 93,579 dwellings per year.¹³⁷ Two of the LPAs that we spoke to where the urban uplift already applied - or may soon be applied - said that its application produces unrealistic or impossible housing targets in their areas. The RTPi has also expressed scepticism about the urban uplift as 'the calculation of housing targets is already intended to take account of how relatively populous places are [before the application of the uplift]'.¹³⁸ Given the urban uplift is applied in many areas that struggled to meet their assessed housing need prior to its application and the very substantial increasing in housing requirements associated with the uplift it is doubtful that the requirements are realistic in all cases.
- 4.126 Whilst the SM is a baseline for local housing need when preparing a local plan, the NPPF allows for an LPA to deviate from the SM if 'exceptional circumstances justify an alternative approach'.¹³⁹ Whilst these exceptional circumstances are not defined, during plan examination generally the Planning Inspectorate takes into account circumstances such as limited land availability due to the presence of significant amounts of footnote 7 land. As a result, the housing requirements set out in LPAs' local plans are often significantly below the level that would be required by the SM. Our analysis, based on the latest published HDT data, suggests that the sum of local housing targets used in the HDT in 2021¹⁴⁰ was approximately 225,000 – significantly below the national annual target of 300,000.
- 4.127 Whilst there is no nationally set target for housing need or housing land supply, the MATHLR for each LPA in Scotland adds up to sufficient land supply for

¹³⁵ See: [Government response to the local housing need proposals in "Changes to the current planning system" - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/changes-to-the-current-planning-system).

¹³⁶ See: [Inside Housing - News - Councils hit out at government's 'unrealistic' new planning formula](https://www.insidehousing.co.uk/news/councils-hit-out-at-government-s-unrealistic-new-planning-formula).

¹³⁷ See Table 1: [The future of the planning system in England - Housing, Communities and Local Government Committee - House of Commons \(parliament.uk\)](https://www.parliament.uk/business/committees/committees-a-z/commons-select/housing-communities-and-local-government-committee/).

¹³⁸ See response to questions 13 of: [nppf-consultation-response-march-2023.pdf \(rtpi.org.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/114444/nppf-consultation-response-march-2023.pdf).

¹³⁹ Paragraph 61 of [National Planning Policy Framework \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/114444/nppf-consultation-response-march-2023.pdf)

¹⁴⁰ HDT targets cover a three year period, however specific values are calculated for each year, and the annual need values should be based on the lower of the need as set out in an up-to-date local plan and the standard method of the standard method where the local plan is not up-to-date. Note in 2021 only 8 months of the annual target was applied in the HDT due to covid and we have adjusted the underlying numbers accordingly to get a 12 month value.

approximately 200,000 homes (or 20,000 per annum) over a 10-year period. The initial default estimate for each LPA's MATHLR is based on the Scottish Government's housing needs and demand assessment (HNDA) methodology¹⁴¹ which requires the input of a variety of data regarding local demographic, affordability and wider economic trends to produce an estimate of local housing need.¹⁴² In our discussions with one of the largest housebuilders operating in Scotland they stated that they thought that the MATHLR values were unambitious, as did some other respondents to the NPF4 consultation. However, some respondents to the consultation thought the values were too high and did not reflect recent population decline.¹⁴³ In their response to the CMA update paper on the housebuilding market, Homes for Scotland, which has argued in the past for higher housing targets,¹⁴⁴ strongly criticised the HDNA tool for relying on secondary data and leading to targets that are 'way below the true need and demand for new homes.'¹⁴⁵

4.128 In Wales, LPAs are instructed to set out their housing requirement and land supply in their local plan. Such requirements must be based on evidence and clearly express the number of market and affordable homes the LPA considers will be required in their area over the plan period to meet the differing needs of their communities. A key part of this evidence is the recently introduced Local Housing Market Assessment (LHMA) tool.¹⁴⁶ This tool takes into account evidence on a wide range of local factors such as housing stock data, household projections, data on unmet housing need, and income.

4.129 Whilst the estimates of local housing need produced by the LHMA will inform the local plan, it is unlikely to equate directly to a housing requirement or the affordable housing target in a local plan. Our understanding is that LPAs, via an up-to-date Local Plan, set evidence-based housing, targets to deliver on the current housing issues an LPA is facing as well as its future aspirations. The final targets adopted in local plans will reflect local factors not taken into account within the LHMA such as the ability of the local construction industry to deliver housing and financial viability factors.

4.130 The discussion above highlights that a variety of different approaches are used to estimate local housing need and set local housing and land supply targets within

¹⁴¹ See: [npf4-housing-land-figures-method-paper.pdf \(transformingplanning.scot\)](#); [Housing Need and Demand Assessment \(HNDA\): practitioner's guide 2020 - gov.scot \(www.gov.scot\)](#).

¹⁴² See: [Housing Need and Demand Assessment \(HNDA\): practitioner's guide 2020 - gov.scot \(www.gov.scot\)](#).

¹⁴³ See: [7. Conclusion: Policy Changes - Scottish Planning Policy - finalised amendments: December 2020 - gov.scot \(www.gov.scot\)](#).

¹⁴⁴ Their view is that nationally the aim should be to consistently build 25,000 homes per annum, see: [HFS Manifesto 2021_printable FINAL.pdf \(taqt.co.uk\)](#)

¹⁴⁵ See Homes for Scotland's follow up response to the competition and markets authority update report on the housebuilding market study September 2023: [HFS response CMA Housebuilding Update Report September 2023.pdf \(sharepoint.com\)](#).

¹⁴⁶ See: [WG43846 \(gov.wales\)](#).

the three nations of GB. Like all methodologies of this kind, they can, and have, been criticised for the approaches they take to the evidence that is used and the outputs that they produce. We have not undertaken a comprehensive review of the various methodologies used by the nations (or more widely) to assess housing need. However, our high-level analysis suggests that there are a number of design choices that determine the extent to which a national methodology reflects underlying local housing need and leads to the adoption of local land and housing targets by LPAs that reflect underlying housing need. Some of the most important design choices are:

- (a) **The range of factors considered in the assessment of housing need** – methodologies need to incorporate an appropriate range of factors which influence housing need to ensure a comprehensive assessment, whilst balancing the need to ensure that it can be applied and understood by market participants;
- (b) **The nature of the evidence that is used** – using out-of-date data results in outputs that are not reflective current levels of housing need;
- (c) **The frequency at which the estimate is updated** – infrequent updating of targets, leads to targets which are less reflective of current housing need;
- (d) **The extent to which adjustments to achieve policy aims are incorporated in estimates of need** –The incorporation of adjustments that are not solely based on housing need, whilst being a matter of government policy, will inevitably mean that targets will ultimately be less reflective of underlying housing need; and
- (e) **The extent to which LPAs have discretion to deviate from the accepted methodology** – where LPAs have discretion to deviate from these based on local circumstances around, for example, local planning constraints and local deliverability considerations, this will inevitably mean that local targets deviate from the assessment of underlying housing needs.

LPAs have to balance multiple and sometimes conflicting objectives

- 4.131 LPAs face a number of different, in some cases conflicting, objectives when formulating local plans and local planning policies, as well as when making planning decisions. These objectives, and how LPAs balance them, will inevitably influence the build-out rate, type of residential development, and extent of development that is encouraged within an area.
- 4.132 As we discuss in paragraphs 2.7 to 2.8, the planning system aims to meet a number of different objectives beyond meeting housing need. LPAs have told us that planning policies addressing climate change matters and environmental

protection have become more important and prevalent, and that the need to provide affordable housing has become more acute over time. These types of objectives can, to some extent, conflict with meeting overall housing need. For example, as we set out in paragraph 4.101, national environmental policies can increase costs for housebuilders and potentially reduce the number of development sites which would otherwise be viable.

- 4.133 The extent to which various objectives are given prominence differs between the nations of GB. For example, the recently introduced NPF4 spatial strategy is very strong in putting sustainability and climate issues at the heart of Scottish planning policy and planning decision making,¹⁴⁷ to a degree that is not mirrored directly in current English or Welsh planning policy (although in the case of Wales the FGW Act does underpin policy decisions, including planning policy). In addition, unlike England, neither Scotland nor Wales have national all-tenure housing targets. However, both have national targets for the amount of affordable housing that is provided, which England does not.
- 4.134 Planning policy in each nation allows LPAs a degree of discretion in how they prioritise the different objectives and how they implement them at a local level. Each LPA will have different populations with different preferences as well as different housing markets, planning constraints and planning priorities. Our view is that LPAs in England are likely to have more discretion than those in Scotland and Wales in this regard given, as we discuss in the background section, the greater scope of national planning policy in these nations and its status as part of the local plan.
- 4.135 We had meetings with 17 LPAs across GB and they all mentioned meeting housing need as a key objective of their local plans and local policies. Sustainability and environmental considerations, and providing affordable housing were also frequently mentioned. Less commonly mentioned was placemaking or building beautiful homes. However, it was apparent that the priority given to these factors varied.
- 4.136 In a paper on the political climate presented to its board, one housebuilder noted that the way these objectives are balanced at all levels of decision making is fundamental to the land supply and how land is used, and is important for the security of their business:

‘The planning system is pivotal in delivering a wide variety of government policy objectives. Striking the balance between economic, social, and environmental objectives represents a key challenge given the differing and often competing or opposing private and political interests of communities, planning authorities, regional

¹⁴⁷ [National Planning Framework 4 - gov.scot \(www.gov.scot\)](http://www.gov.scot).

authorities, government, and Parliament. Planning is fundamental to the liberation and use of land to secure these objectives and is therefore of upmost importance to the future security of our business.'

- 4.137 How these various objectives are prioritised at the national and local level is largely political, and so beyond the CMA's focus in this market study. However, we note that the choices made at a national level and by LPAs when prioritising and balancing these objectives inevitably influences the build out rate, type of residential development, and extent of development that is encouraged in an area.

Incentive mechanisms to encourage LPAs to meet housing need

- 4.138 Incentive mechanisms can play a role in helping to ensure that LPAs maintain sufficient focus on meeting housing need.
- 4.139 In England the main incentive mechanism is the presumption of sustainable development ('the presumption'). We set out details of how and when the presumption applies in the Background section. The presumption works to boost housebuilding activity in two ways: it incentivises LPAs to have an up-to-date local plan and to meet housing targets to avoid the presumption applying, and if they do not, it opens up new avenues for development through speculative applications. As we describe in paragraph 4.140, the presumption was introduced in England as part of the NPPF in 2012 and it is linked with an increase in planning permissions and housing delivery. One housebuilder described how the introduction of the NPPF and the presumption in favour of sustainable development created many new development opportunities outside of the local plans, something which benefited land promoters in particular:

'The introduction of NPPF in 2012, with the presumption-in-favour of development in areas with no local plan or 5YHLS, created the biggest shift in the strategic land market in the last 40 years. Moving the market from one dominated by housebuilders securing options, to one dominated by land promoters offering landowners a planning promotion agreement whereby they would secure planning permission and then sell the site on the open market to the highest bidding housebuilder. This new 'presumption' created many hundreds of new off plan planning opportunities in the period up to 2019.'

- 4.140 However, the incentive effects of the presumption are not the same for all LPAs. Speculative applications will usually not be granted on land afforded protections by the NPPF, such as green belt land or AONB. Therefore, for LPAs with a high proportion of this land within their boundaries the extent to which the presumption will 'bite' will be lower. Housebuilders' internal documents show they consider this

will impact the incentives of LPAs to produce a plan as well as land supply and housing affordability. For example, in a paper presented to its board one housebuilder described how this affects the incentives of LPAs to prepare a local plan:

‘Given this level of protection [for greenbelt] land, and limited use of sanctions against councils failing to review their development plans, there is little incentive for planning authorities to undertake plan reviews, particularly where this would involve a need to release land to meet local housing requirements.....The resultant impact is a significant shortfall of housing land supply in areas of high demand, fuelling the housing and affordability crisis, together with increasing land values due to lack of supply.’

4.141 Similarly in a strategy paper presented to its board one housebuilder states:

‘some key LPA’s [sic] have yet to put a plan in place at all protected by Greenbelt or other designations whilst many of those needing urgent review have high housing needs that are effectively ‘locked up’. These areas are protected from the presumption in favour of development which is triggered if land supply is less than 5 years.’

4.142 In England, there is also a direct financial incentive for LPAs to build homes in the form of the New Homes Bonus scheme, which was introduced in 2011. This is a non-ringfenced grant paid by central government to local councils for adding homes to their council tax base. The New Homes Bonus is intended to:

‘create an effective fiscal incentive to encourage local authorities to facilitate housing growth. It will ensure the economic benefits of growth are more visible within the local area, by matching the council tax raised on increases in effective stock. This will redress the imbalance in the local government finance system, whereby resources for growth areas did not keep pace with growth.’¹⁴⁸

4.143 Grant payments from the New Homes Bonus across all LPAs for the period 2023/24 scheduled to be around £310m.¹⁴⁹ For context, this compares to local government spending of £11.7bn in 2021 (the latest available data)¹⁵⁰ on housing (£3.6bn) and community development (£8.1bn), or alternatively spending of £7bn of spending by local government on infrastructure in 2021.¹⁵¹ The overall aims and incentive effects of the scheme are relatively modest with the aim being to have provided an additional 140,000 homes over the first 10 years of its operation

¹⁴⁸ See, page 6: [The Empowerment Fund \(publishing.service.gov.uk\)](https://publishing.service.gov.uk).

¹⁴⁹ See: [New Homes Bonus provisional allocations 2023 to 2024 - GOV.UK \(www.gov.uk\)](https://www.gov.uk).

¹⁵⁰ See: [Local government annual expenditure: ESA Table 11 - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk).

¹⁵¹ \$£6.7bn, see: [Infrastructure in the UK, investment and net stocks - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk).

(although the NAO suggests that the actual figure should have been 108,000).¹⁵² For context a total of 108,000 new homes is approximately 7% of the total number of new build homes completed during the same period (approximately 1.63m).¹⁵³ We are unaware of any definitive assessment of whether the aims of the scheme have been achieved.

- 4.144 In Wales and Scotland there are currently no sanctions equivalent to the presumption for LPAs that are not hitting specified targets. Further, as mentioned above, unlike the English system, in Scotland and Wales there is currently no statutory or policy-level equivalent to the presumption in favour of sustainable development. In Wales until March 2020 LPAs were required to attach ‘considerable’ weight to the lack of a 5-year housing land supply in determining planning applications for housing.¹⁵⁴ However, this requirement was removed in March 2020 following a review, due in large part to the land supply situation in many Welsh LPAs¹⁵⁵ meaning that they attracted a significant number of speculative applications. In Scotland, a similar provision in Scottish Planning Policy to give ‘material consideration’ in decision making to a lack of up-to-date local plans and/or land supply was removed in December 2020, in favour of more local control over development through the local plan.¹⁵⁶ Although this was quashed by a subsequent court decision¹⁵⁷ the decision to remove a reference to the presumption in favour of sustainable development was effectively reinstated when Policy 16 of NPF came into effect, which did not retain the presumption.¹⁵⁸ Our understanding is that there are no directly equivalent reward schemes to the New Homes Bonus operating in Scotland and Wales.
- 4.145 Incentive mechanisms, such as the presumption, can play a role in helping to ensure that LPAs maintain sufficient focus on meeting housing need. However, such mechanisms come with trade-offs since they lead to reduced local control over housing development by facilitating speculative applications. The changes to policies in Scotland and Wales mentioned above were a response to a reduction in local control.

¹⁵² See: [10122-001-New-Homes-Bonus_HC-1047.pdf \(nao.org.uk\)](#)

¹⁵³ CMA analysis of DLUHC data on net additional dwellings: [Housing supply: net additional dwellings - GOV.UK \(www.gov.uk\)](#).

¹⁵⁴ See: [Technical Advice Note \(TAN\) 1: Temporary dis-application of paragraph 6.2 | GOV.WALES](#).

¹⁵⁵ The latest published data shows that in 2018/19 19 out of 25 Welsh LPAs could not demonstrate a five year land supply. See figure 8: [planning-services-annual-performance-report-2018-to-2019_0.pdf \(gov.wales\)](#).

¹⁵⁶ See: [7. Conclusion: Policy Changes - Scottish Planning Policy - finalised amendments: December 2020 - gov.scot \(www.gov.scot\)](#).

¹⁵⁷ See: [Graham’s The Family Dairy \(Property\) v Scottish Ministers \[2021\] CSOH 74 \(scotcourts.gov.uk\)](#).

¹⁵⁸ See: [Transitional arrangements for National Planning Framework 4: Chief Planner letter - February 2023 - gov.scot \(www.gov.scot\)](#).

Local planning constraints

4.146 In LPAs with an acute shortage of viable sites for residential development meeting housing need can be a huge challenge. From our discussions with LPAs this is particularly likely where an LPA area includes a large proportion of NPPF footnote 7 land which has some protections from development (discussed further in paragraph 4.140). Urban areas experience similar challenges but for different reasons: being densely populated they tend to have fewer sites available for development, while the developable sites they do have are often complex and costly to develop.¹⁵⁹ We spoke to a number of LPAs who said they face severe land supply constraints as a due, at least in part, to significant urbanisation and the presence of greenbelt land. In the case of one LPA, being both mainly urban and bounded by coastline limits the supply of land. Other factors such as the presence of land with flood risk and protected landscapes will influence the availability of land for development. Some other LPAs we spoke to with different characteristics were less likely to report significant issues with land supply in their areas.

4.147 Inevitably housebuilders will target areas they see as offering the best opportunities. One feature they may take into account when deciding which areas to target is local constraints on land supply. This is reflected in housebuilders' internal documents, for example in an internal memo on its approach to strategic land searches, one housebuilder stated:

'There will also be Districts which are very heavily constrained for one reason or another e.g. Green Belt, AONB, SPA's etc, or where the housing requirements have historically always been low. While these areas should not be discounted, they should fall into the lower priority category to allow the focus to be on those Districts where there are higher levels of housing requirements and/or are less constrained.'

4.148 Similarly in its Group Land Policies and Procedures, one housebuilder states:

'Land Departments should be aware of local and national policies that will affect the criteria of potential opportunities such as AONBs, Green Belt, Conservation Areas, Character Assessment, Neighbourhood plans, Natural England guidance (e.g. nutrients), etc.'

4.149 As Table 4.10 shows the LPAs that deliver least well against the HDT tend to have a significantly higher proportion of greenbelt land within their boundaries and/or a higher portion of land that is already developed. This may indicate that LPAs with high levels of greenbelt and/or urbanisation face constraints on land supply that

¹⁵⁹ Brownfield sites may be difficult to development due to factors such as demolition and remediation costs, difficult ground conditions and contaminated land.

make it more difficult for them to deliver housing. However, this finding may also be linked to LPAs with higher levels of greenbelt tending to be less likely to have an up-to-date local plan (as we discuss in paragraphs 4.86 to 4.87).

Table 4.10 HDT performance and proportion of greenbelt and developed land by LPA

2021 HDT test score	Median % greenbelt land	Median % developed land	Median % Greenbelt land + developed land
0% to 75%	46%	23%	73%
0.75% to 95%	2%	23%	54%
95% to 159%	0%	10%	38%
150% to 200%	6%	9%	23%
200%	4%	13%	30%

Sources: CMA analysis is HDT and land uses data: [Housing Delivery Test: 2021 measurement - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/housing-delivery-test-2021-measurement); [Land use statistics: England 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/land-use-statistics-england-2022)

4.150 An additional local issue raised by some LPAs and stakeholders in Scotland and Wales was that it can be difficult getting housebuilders, especially the larger one, to develop homes in these areas. This is especially the case in rural areas where the cost of development is higher, and the scale of developments are relatively small.

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

The impact of the planning system on SME housebuilders

4.151 We are taking forward analysis of the broader barriers to entry and expansion in the housebuilding market, and the impact that these have on SME housebuilders, as part of this market study. In this paper we focus on the impact of the planning system specifically on SMEs.

- 4.152 Other studies have found that the number of SMEs operating in the market and the number and proportion of homes built by SMEs has declined markedly over the past few years¹⁶⁰ and that SMEs state that the planning system is their biggest barrier to entry and expansion.¹⁶¹
- 4.153 Our analysis suggests that the planning process has a significant impact on smaller housebuilders. The uncertainty and complexity of the planning system, coupled with the length of time taken to obtain approval, particularly affects SMEs in the following ways:
- (a) The complexity and cost associated with making a planning application tends to be similar regardless of site size, meaning they are disproportionately large for SMEs, since they tend to develop smaller sites.
 - (b) SMEs are less able to mitigate uncertainty, risk and delay in the planning system by having multiple sites in various locations in their development pipeline, as large builders do.
 - (c) The time taken to make planning decisions can adversely affect the finance terms available to SMEs. This is exacerbated where there is uncertainty about whether a planning application will be approved.
- 4.154 We describe recent analysis by Lichfields which suggests that since 1990 the volume of evidence that is required to support a planning application has increased dramatically, as has the cost associated with making a planning application in paragraph 4.99.¹⁶² We also have undertaken our own analysis of data on direct external planning costs (mainly LPA planning fees and consultancy costs – not including internal staff costs) provided by the largest five housebuilders.
- 4.155 SME builders will typically develop smaller sites. Our analysis, set out in Table 4.9 above, shows that these costs are significantly greater for smaller sites on a per plot basis. On a per-plot basis sites of 50 plots or less tend to be significantly more expensive to take through the planning process (£3,500, compared with £1,500 for sites with 101-500 plots, and less than £1,000 for sites with more than 500 plots). Although this evidence is from the five largest builders and will not be directly representative of the costs incurred by SMEs, the figures suggest that, plot for plot, smaller builders will likely pay more to take their sites through the planning process. Analysis from Lichfields, based on interviews with SME housebuilders, suggests that they typically rely heavily on consultants at the application stage,

¹⁶⁰ See chapter 4: [House of Lords - Meeting housing demand - Built Environment Committee \(parliament.uk\)](#).

¹⁶¹ See: [Planning delays and rising costs crippling SME housebuilders \(hbf.co.uk\)](#).

¹⁶² [CL16160-04 LPDF Report - Sept23.indd \(lichfields.uk\)](#).

perhaps to an even greater degree than large housebuilders, as they have less in-house expertise to rely on.¹⁶³ This is likely to add to their costs.

- 4.156 As part of our analysis, we have received information from 19 SME housebuilders located across GB (out of a total of 47 we contacted) to get an understanding of the key challenges they face. Ten of these responded that delays in the planning process were a big issue for their businesses, whilst nine respondents mentioned inconsistency and unpredictability in the planning system as an issue. In a recent report the HBF explained that SMEs are more susceptible to unpredictable planning decisions and planning delays because of their smaller scale and geographical scope.¹⁶⁴ SME housebuilders will typically depend on a small number of sites, therefore planning related delays or disruption to a site will have a significant impact upon their businesses.
- 4.157 Planning delays can also impact the cost or availability of finance for a project. Five respondents to our RFI said that the time taken to achieve planning permission affects the time debt is carried for, which can increase the cost of financing a project. In addition, the Federation of Master Builders states that many lenders will not provide finance until planning permission has been achieved. Any impact of planning delays on cost or availability of debt finance will disproportionately impact SMEs who, in contrast to larger housebuilders, typically rely heavily on project specific debt finance.¹⁶⁵
- 4.158 Data on the size of sites being submitted for planning permission is consistent with a trend of declining SME activity. In 2022-23, 55,300 housing units (from 10,500 applications) were given planning permission on sites of fewer than 50 plots (25,500 units on sites of fewer than 10 plots and 29,800 on sites of 10 or more plots). This accounted for only 20% of the total number of units given permission, although sites of fewer than 50 plots accounted for 90% of total residential applications.¹⁶⁶ The average size of sites given planning permission has also been increasing over time. CMA analysis of data published by the HBF suggests that in England, Scotland and Wales the average size of a residential site seeking planning permission has increased significantly on a per-plot basis over the past 7 years.¹⁶⁷ Data presented in Figure 4.8 shows that the moving annual average number of plots per planning application has increased between the second quarter of 2015 and the second quarter of 2022 from: 13 to 22 in England; 13 to 28 in Scotland; and 10 to 20 in Wales.

¹⁶³ See page 17: [CL16160-04 LPDF Report - Sept23.indd \(lichfields.uk\)](#).

¹⁶⁴ [HBF_Report_-_SME_report_2023v2.pdf](#).

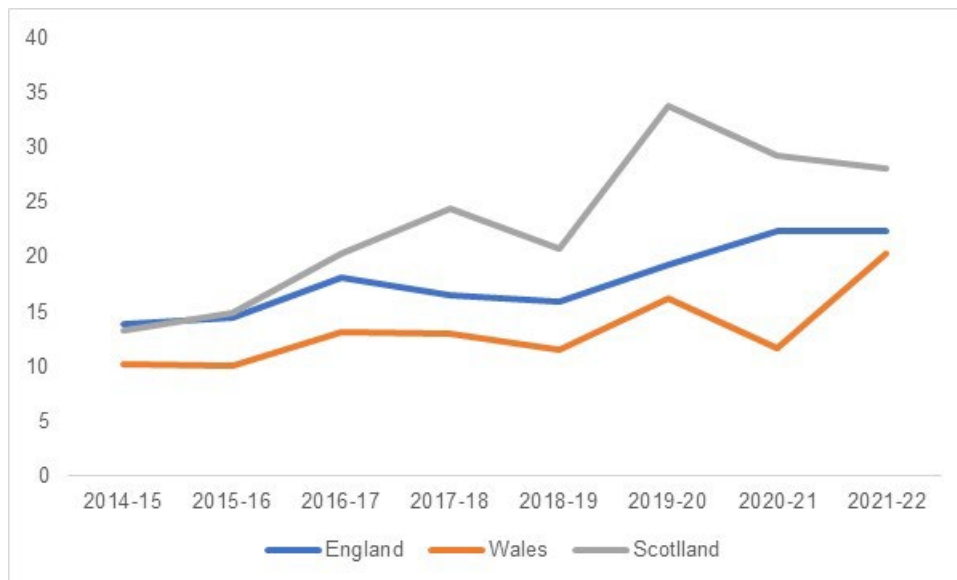
¹⁶⁵ HBF response to RFI dated 31 August 2023

¹⁶⁶ See table 4 of: [Planning applications in England: January to March 2023 - statistical release - GOV.UK \(www.gov.uk\)](#).

¹⁶⁷ CMA analysis of data published by the HBF: [HPL REPORT 2022 Q3 HG DRAFT 3.pdf \(hbf.co.uk\)](#)

4.159 In addition to this potentially being indicative of a challenging environment for SMEs, it could be a result of LPAs favouring larger sites given the economies of scale for them associated with processing larger-site applications, and the resource challenges they face. We would like to understand this result further.

Figure 4.8 Average number of plots per residential planning application in England, Scotland and Wales between 2014-15 and 2021-22



Source: CMA analysis of data published by the HBF: [HPL REPORT 2022_Q3_HG_DRAFT_3.pdf \(hbf.co.uk\)](#)

4.160 Several of the responses that we received to the SoS argued that the planning system presented a particular barrier to the delivery of custom and self-build homes, which are typically built by small and medium sized housebuilders.¹⁶⁸

4.161 The custom and self-build market was the subject of a recent government-commissioned, independent review which was published in August 2021.¹⁶⁹ This review identified the planning system as a key barrier to greater provision of custom and self-build housing in the UK.

- (a) It identified a number of barriers to self-build and custom housing provision, such as planning delays, planning complexity and planning risk which overlapped with the issues for SME housebuilders set out above.

¹⁶⁸ See: [Custom_Build_Homes.pdf \(publishing.service.gov.uk\)](#); [National_Custom_and_Self_Build_Association.pdf \(publishing.service.gov.uk\)](#); [Richard_Bacon_MP.pdf \(publishing.service.gov.uk\)](#); [Richard_Bacon_MP.pdf \(publishing.service.gov.uk\)](#)

¹⁶⁹ See: [Self-build and custom housebuilding independent review \(publishing.service.gov.uk\)](#).

- (b) It also identified specific issues with how the planning system deals with ‘serviced plots’¹⁷⁰ as being a key barrier that prevented more custom and self-build housing being built.¹⁷¹

4.162 We note that in Scotland and Wales, in many LPA areas there is likely to be a greater representation of SME housebuilders compared to many English LPAs for the reasons that we set out in paragraph 4.150. However, SME housebuilders in these areas will face similar barriers to their growth arising from the planning systems in those nations such as those set out in this section.

Question 4.4

1. Do you agree with our analysis of how the planning system may be having a disproportionate impact on SME housebuilders?
2. Do you agree that we have identified the key issues faced by SMEs due to the planning system?
3. Do you consider that the current planning system is incentivised to deliver housing on larger sites? If so, what are the implications of this for the housing delivery?
4. Are there any other aspects of the planning system that have an impact on SME housebuilders that we should consider?
5. Do you consider there to be any difference between how the planning system impacts SMEs between England, Scotland and Wales?

Recent Policy Developments

4.163 Planning policy in GB will be subject to further changes in the coming years. In particular, in England the process of making changes to the NPPF and the implementation of the LURA are ongoing, while in Scotland changes resulting from the recent adoption of NPF4 are bedding in. In this section we discuss the policy changes currently on the table, and some of their potential implications for the planning system in the context of the analysis set out above.

LURA/NPPF changes in England

4.164 One of the main issues with the planning system identified in our analysis is a lack of up-to-date local plans in place in England. The proposed LURA/NPPF reforms

¹⁷⁰ A plot that is ready to build on with all the infrastructure needed to start building a home already in place. It will already have the utility connections – water, gas, electricity, and mains sewage, broadband and telephone – as well as access from the highway.

¹⁷¹ The review concluded that ‘the UK planning system makes running a private land development business selling serviced plots difficult given planning permission is closely linked to what is actually built’. This means that separate planning permissions must be sought for each new building on a site providing serviced plots (separate to any permissions attached to the site itself).

include changes aimed at streamlining the plan making process.¹⁷² Some of the key proposals include:

- (a) Greater guidance, standardisation and digitisation in the plan making process;
- (b) A new process for plan making – there is an ‘expectation’ the plan making process will take 30 months and LPAs are required to set out how they will achieve this at the outset of the process;
- (c) Introduction of new National Development Polices intended to replace many of the ‘general’ policies typically found in local plans, allowing for more streamlined plans;
- (d) Introduction of two interim gateway assessment windows to engage with the Planning Inspectorate during the plan making process to uncover issues prior to its final examination; and
- (e) Proposal to ‘simplify and amend’ the test of ‘soundness’ through which plans are assessed by the Planning Inspectorate by removing the requirement for them to be ‘justified’.

4.165 The government consultation on the detailed changes to plan making were only published on 25 July 2023 (with the consultation closing on 18 October 2023). Therefore, we have not received much specific comment from stakeholders on the details of these proposals. Many of the proposed changes seem sensible steps to streamline the plan making process. However, it will clearly require a significant change in behaviour to reduce the time taken to prepare a local plan from the current average of 7 years to the proposed 30-month timetable.

4.166 In addition, the government has consulted on changes to the NPPF which propose to remove the requirement for LPAs with an up-to-date local plan to undertake annual assessments of their 5-year housing land supply.¹⁷³ This is intended to provide a strong incentive for LPAs to have an up-to-date local plan in place.

4.167 Neither the government response to the consultation setting out the proposed changes to the NPPF nor the consultation responses have been published as yet. However, a number of responses to the consultation have been shared with us or have been made public. The reaction to the proposed changes to the NPPF appears mixed. The LGA was supportive, as it would reduce the administrative burden for local authorities, limit speculative development and ‘planning by appeal’, and give communities greater certainty around the future development of

¹⁷² See: [Levelling-up and Regeneration Bill: consultation on implementation of plan-making reforms - GOV.UK \(www.gov.uk\)](#).

¹⁷³ See paragraph 4: [Levelling-up and Regeneration Bill: reforms to national planning policy - GOV.UK \(www.gov.uk\)](#).

their local areas.¹⁷⁴ However, housebuilders for the most part strongly disagreed with the proposal, viewing the land assessment mechanism as ‘vitally important’ in securing a consistent and deliverable housing supply outside of the local plan process. Although they could see the logic behind it the RTPI were also sceptical about the proposal as they viewed regular review of the land supply plan to be ‘a matter of best practice’.¹⁷⁵

4.168 The level of resourcing of LPA planning departments was another key issue that we identified in our analysis. Currently the government is consulting on proposed changes to planning fees and support for planning departments.¹⁷⁶ The key proposals are to:

- (a) Increase planning fees by 35% for major applications and 25% for all other applications;
- (b) Introduce additional fees for bespoke or ‘fast track’ services;
- (c) Make an annual inflation-related adjustment to planning fees; and,
- (d) Create a cross-sector working group with representatives from local government, the private sector and professional bodies to build capacity and capability strategy across local planning authorities.

4.169 In addition, the government is seeking views on whether the additional income from the proposed fee increase should be ringfenced for spending within the local authority planning department and whether there should be changes to the ‘free-go’ for repeat applications. The proposal to increase planning fees was broadly welcomed by LPAs, housebuilders and other stakeholders.¹⁷⁷ However, in and of itself it may not solve the problems with LPA resourcing. Unless planning fees both cover the costs of running planning departments and are ringfenced for planning departments, there is a risk that they will be used to supplement other local authority budgets.¹⁷⁸ In addition, as we discuss in paragraph 4.114 there are very significant issues with LPAs’ ability to recruit qualified planners as well as other related professions which will not be solved directly by increasing fees.

¹⁷⁴ See, for example: [Levelling-up and Regeneration Bill: reforms to National Planning Policy Consultation | Local Government Association](#).

¹⁷⁵ See response to question 1: [nppf-consultation-response-march-2023.pdf](#) (rtpi.org.uk).

¹⁷⁶ See: [Increasing planning fees and performance: technical consultation - GOV.UK \(www.gov.uk\)](#)

¹⁷⁷ See paragraphs 9 and 11 of: [Technical consultation: Stronger performance of local planning authorities supported through an increase in planning fees: government response - GOV.UK \(www.gov.uk\)](#)

¹⁷⁸ These concerns were referenced in the discussion of responses to the Government consultation, see paragraphs 10 and 30 of [Technical consultation: Stronger performance of local planning authorities supported through an increase in planning fees: government response - GOV.UK \(www.gov.uk\)/](#)

- 4.170 A number of proposed changes to the NPPF are relevant to issues raised by our analysis of LPAs' incentives, local target setting and local planning constraints.¹⁷⁹ For example:
- (a) A change to make it clear that the SM for estimating local housing need is not mandatory or (as is currently the case) a starting point to be deviated from only in 'exceptional circumstances', but instead is 'an advisory starting-point to inform plan-making';
 - (b) A change to indicate explicitly that a wider set of local characteristics, such as demographic factors, may justify the use of an alternative to the SM (examples given include areas with a high percentage of elderly residents, or university towns with an above-average proportion of students);
 - (c) A strengthening of green belt protections by explicitly making clear that the release of green belt land is not required to meet housing need and, if this is necessary to meet a target, then a target below need can be adopted; and
 - (d) A change to make it clear that 'building at densities significantly out of character with the existing area' is not required if it is necessary to meet need.
- 4.171 Housebuilders have expressed concern that these changes, taken together, will lead LPAs to set lower housing targets when they next update their local plans, relative to where they would have set them under the current NPPF. For example, in its response to the NPPF consultation one housebuilder submitted that:
- 'The introduction of the proposed changes would give councils greater flexibility to depart from the standard method for assessing housing need, and provide policy support to reduce housing requirements where authorities are constrained by Green Belt and where meeting need in full would mean building at densities considered significantly out of character with the existing area.'
- 4.172 The LGA broadly welcomed these changes, largely on the basis that they allowed LPAs to take into account local circumstances in plan making.¹⁸⁰ The reaction from LPAs we spoke to was mixed, with their views largely depending on their current local circumstances.
- 4.173 At the time of writing the government has not published any assessment of the impact of the proposed LURA and NPPF changes on housebuilding, and boosting housebuilding activity is only one of a number of objectives. While an evaluation of the impact of the package of proposals is beyond the scope of this study, it is likely

¹⁷⁹ See: [Levelling-up and Regeneration Bill: reforms to national planning policy - GOV.UK \(www.gov.uk\)](https://www.gov.uk).

¹⁸⁰ See responses to question 7 and 9 of: [nppf-consultation-response-march-2023.pdf \(rtpi.org.uk\)](https://www.rtpi.org.uk).

that its impact will differ depending on local circumstances. Some of the measures are likely to increase housebuilding in some areas, whilst other changes may suppress housebuilding in others.

- 4.174 We consider that the changes could increase the number of LPAs able to put in place up-to-date local plans. This could potentially have a positive impact on housebuilding by providing a more certain planning environment for housebuilders. However, this impact may be offset to some extent by a reduction in the level of ambition from some LPAs when they set their housing targets. Overall, it is difficult to say with any certainty what effect the proposed changes to the English planning system will have on housebuilding. However, there is a risk that the changes may result in fewer planning permissions and fewer homes being built.

Effect of NPF4 on the planning system in Scotland







- 4.175 In Scotland, as outlined in 3.18, NPF4 was adopted in February 2023 and introduces a number of changes to the planning system, including a new emphasis on the transition to net zero.
- 4.176 Our engagement with Scottish LPAs indicated that in their view NPF4's focus on sustainability would likely increase the cost and complexity of the planning process.
- 4.177 Housebuilders also raised concerns that because of the delays to the preparation of new plans under NPF4, which will lead to most new LDPs only being adopted by 2028, there will not be enough deliverable land in the meantime, where current plans are reaching the end of their terms.

5. Options for reforming the planning system

Introduction

- 5.1 As set out in Section 4, we have seen evidence of three emerging concerns with the planning system which may be limiting its ability to support the level of new housing that policymakers believe is needed:
- (a) Lack of predictability;
 - (b) Length and complexity of the planning process; and
 - (c) Insufficient clarity of incentives.
- 5.2 We have also found that the problems in the planning system may be having a disproportionate impact on SME housebuilders.
- 5.3 Recognising the respective roles of the CMA, and national governments in England, Wales and Scotland, we consider in this section a number of options to address our emerging concerns and reform the planning system, covering:
- (a) The planning system, meaning the overarching rules and framework underpinning planning decision-making;
 - (b) The planning process, meaning the administration and operation of the framework in place; and
 - (c) Supporting measures to support the effective implementation of our options for reforming the planning system and the planning process.
- 5.4 The range of options we consider for changing the planning system include objective target setting to provide a housebuilding target more closely aligned with housing need; requiring LPAs always to have up-to-date and target-compliant local plans to support local delivery of national housebuilding targets; and reducing the extent of discretionary decision-making in the planning system to provide more certainty for housebuilders regarding which developments will be permitted.
- 5.5 On the planning process, we consider both adjusting the definition of mandatory consultees and the effective enforcement of consultees' response deadlines as possible options for streamlining the planning process.
- 5.6 We then consider measures that would support the effective implementation of the options mentioned above. These are the alignment of planning fees with LPAs' planning costs to secure sufficient resourcing to administer an effective planning regime; and targeted guidance and support for SME housebuilders to help them navigate the planning process and thereby participate in a streamlined process.

- 5.7 We consider that there is no single reform that would, on its own, address all of our emerging concerns in relation to the planning system. We therefore consider that the options we set out should not be considered as individual reforms, but rather as potential components of a wider package by policymakers.
- 5.8 With this in mind, we consider that the options set out below have varying likely timescales for implementation. The planning system measures would likely require additional primary legislation and would therefore be implemented in the longer-term over the four-to-five-year length of a typical parliamentary term. Before the planning system measures could be effected, the UK, Scottish and Welsh governments may be able to put into effect the other measures, with the planning process measures likely requiring consultation with affected mandatory consultees over a medium-term two to three year timeframe and the supporting measures, which are capable of delivering improvements to the current regime without legislative change, deliverable in the short term of one to two years.
- 5.9 Our analysis in Section 4 is concerned with the impact of the planning system on the housebuilding market as a whole, and the options we consider in this section would address issues faced by all housebuilders. Nevertheless, as set out from paragraph 4.153 above, the uncertainty of the planning system and the length of time taken to obtain approval disproportionately affects SMEs. It therefore follows that the reforms we consider below would also help SME housebuilders compete on a more level playing field than at present.
- 5.10 The diagram below sets out how the options together would address our emerging concerns.

		Principles			
Options		Predictability	Efficiency	Incentives	Level playing field for SMEs
Short-term	 Support for SMEs Greater government & LPA support to SMEs to navigate the planning process		✓		✓
	 Planning fees Planning fees set to cover costs and hypothecated for planning departments	✓	✓	✓	
Medium-term	 Defined consultees LPAs only <u>have to</u> consult with defined consultees		✓		
	 Consultee deadline LPAs only required to consider statutory consultees' views if on time	✓	✓		
Long-term	 Objective target setting National housebuilding target set in an effective way that better reflects need		✓	✓	
	 Local plan enforcement LPAs monitored so local plans are up to date and accurately reflect the national target	✓		✓	✓
	 Rules-based system Streamlined planning with a more rules-based system and reduced discretionary decision-making	✓	✓		✓

5.11 We have considered the planning systems in each of England, Scotland and Wales and our emerging view is that the options below are appropriate for consideration across all three nations. We nevertheless recognise that how the options are taken forward by the respective governments may be different.

5.12 We consider each option below. The options should be considered as our emerging thinking and we will continue to develop our thinking in preparation for the publication of our final report. With this in mind, we invite stakeholders to use this working paper to provide informed responses to our emerging thinking.

Planning system reforms

5.13 In this section we consider a range of options to reform the overarching rules and framework that underpin decision-making in planning. These options are:

- (a) Objective target setting;
- (b) Monitoring and enforcement of local plans; and
- (c) Streamlining the planning system.

System Option 1: Objective target setting

Summary of option

5.14 We consider that the national housebuilding target could be set in a way that more accurately reflects housing need. This could be achieved by using a methodology that is easy to understand and uses reliable and up-to-date information. Whatever methodology is chosen, the target should be assessed at regular intervals to ensure it remains reflective of need, there should be limited discretion for the government to adjust the original calculation, and local targets should be calculated so that they sum to the national target.

How this option addresses our emerging concerns

5.15 In paragraph 4.130 we set out our emerging thinking on the features that result in sub-optimal outcomes in the current target-setting process, which include the range of factors incorporated into the target, the nature of evidence used, the frequency of updates, the application of adjustments, and the degree of local deviation from the national target permitted.

5.16 In England, the Standard Method (SM) is the baseline for LPA housing targets.¹⁸¹ As set out in paragraph 4.122, it has been subject to criticism in particular due to its continued reliance on 2014 household projections, rather than more recent 2018-based projections, and the urban uplift.¹⁸² As set out in paragraph 4.115, the NPPF allows an LPA to deviate from the SM in 'exceptional circumstances'. These circumstances include limited land availability due to the presence of significant amounts of footnote 7 land.¹⁸³ As a result, housing requirements set out in LPAs'

¹⁸¹ The Standard Method (SM) is the baseline for LPA housing targets and is an assessment of local housing population growth which is then adjusted for affordability and in some cases, there is an 'urban uplift'.

¹⁸² The urban uplift applies a 35% increase to local targets for 20 cities with the aim of increasing development on brownfield land.

¹⁸³ The NPPF provides that there is strong reason for restricting the overall scale, type or distribution of development in areas or assets of particular importance. Footnote 7 defines these as: habitats sites and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an

local plans are often significantly below the level that would be required by the SM. Our analysis suggests that the sum of local housing targets used in the HDT in 2021 was approximately 225,000, significantly below the 300,000 national target.

- 5.17 In Scotland, as set out in paragraph 4.127, there is no nationally set target but the MATHLR, based on the Scottish Government's HNDA methodology, adds up to sufficient land supply for 20,000 homes per annum.¹⁸⁴ The HDNA has faced some criticism for setting targets below housing need and relying on secondary data, although others have argued that the values were too high.
- 5.18 In Wales, as set out in paragraphs 4.128 to 4.129, LPAs are instructed to set out their housing requirement and land supply in their local plan, based on evidence. A key part of this evidence is the LHMA tool which takes account of evidence on a wide range of local factors. While this will inform the development plan, the housing requirement in a development plan will reflect local factors not taken.
- 5.19 These criticisms of the current regime indicate that a better methodology - which is more likely to result in a target that accurately reflects need would have the following features:
- (a) **Ease of understanding** – ensuring that the assessment of housing need is easily implementable and has results that are readily understood would allow for the target to be more easily accepted and its outputs to be more easily disseminated.
 - (b) **Using reliable evidence** – using up-to-date and robust evidence would ensure that the target will more closely reflect current housing need. In addition, using evidence from credible and, where possible, publicly available sources would help ensure that the results are more easily understood and accepted.
 - (c) **Regular assessment** – regular calculation of the housing target would help to ensure that the target is as accurate as possible. There is a balance to be struck here, however, as LPAs need a degree of stability in the national target so that they can effectively plan to deliver their local housing target for the medium and long term. Updating the target too frequently could lead to increased uncertainty at a local level, as well as the national and local target losing credibility. To achieve the right balance the target could, for example,

Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest); and areas at risk of flooding or coastal change.

¹⁸⁴ The Minimum All Tenure Housing Land Requirement (MATHLR) is the minimum amount of land, by reference to the number of housing units, that is to be provided by each planning authority in Scotland for a 10-year period. The initial default estimate for each LPA's MATHLR is based on the Scottish Government's housing needs and demand assessment (HNDA) methodology, which requires the input of a variety of data regarding local demographic, affordability and wider economic trends to produce an estimate of local housing need.

be updated whenever updated national household projections are available, but no more frequently than this.

- (d) **Unadjusted outputs** – housing policy is a matter for government and incorporating aspects of policy targets such as brownfield land use may be an appropriate way of achieving policy aims. However, reducing the incorporation of other policy aims in the methodology through adjustments would result in the target being more reflective of underlying housing need. Therefore, adjustments should be kept to a minimum with limited scope for discretion for the government in making such adjustments, which should themselves follow a prescribed methodology in relation to defined issues.
- (e) **Local alignment with national target** – limiting the extent to which LPAs are able to deviate from the agreed methodology would result in local targets that are more closely aligned with the national target (see our consideration of an option concerning enforcement of local plans' contribution to the national target from paragraph 5.21 below).

How this option could be implemented

5.20 We consider that the national governments in England, Scotland and Wales would be best placed to determine an appropriate methodology to set a national housing target for each nation, and therefore should continue to do so. In determining an appropriate methodology, the governments will need to consider:

- (a) How LAs could effectively align their local plan with the national target; and
- (b) Whether and, if so, how the target should reflect the need to address existing levels of supply as well as future housing need.

Question 5.1

1. Should the UK, Scottish and Welsh governments be considering changes to their various existing methods of assessing housing requirements? If so, should providing certainty, stability and consistency to the housebuilding market feature?
2. Are the features we set out in paragraph 5.19 appropriate for determining an improved methodology for target setting?
3. What is the most appropriate method of forecasting housing need – nationally and locally?

System Option 2: Monitoring and enforcement of local plans

Summary of option

5.21 The LPA's local plan is a key mechanism in determining which land is allocated for development and therefore likely to get planning permission. We consider that LPAs could be effectively monitored to ensure that their local plans are up to date and accurately reflect how they intend to meet local housing need and contribute towards the national housebuilding target. This could be achieved by, for example, LPAs having in place their new plan upon expiry of the previous plan and ensuring that only those sites that are deliverable within the plan period are included in the plan. Where LPAs do not have up to date local plans in place, we consider that appropriate enforcement action could be taken to ensure that this is rectified as soon as feasible.

How this option addresses our emerging concerns

5.22 As set out in section 4 above, we have found that:

- (a) Many LPAs, in particular - but not exclusively - in England, lack up-to-date local plans and there appears to be a correlation between the age of a plan and the levels of housing delivered in that locality. As of May 2021, fewer than 40% of LPAs in England have an up-to-date local plan, Areas with older or no plans are associated with lower levels of planning applications and housing delivery;
- (b) when preparing local plans, local authorities face conflicting incentives, such as the presumption of sustainable development in England not applying to land afforded protections by the NPPF such as green belt land, as well as planning constraints such as existing dense urbanisation and green belt boundary areas. This is in part reflected in LPAs allocating a large number of housing sites in local plans that, due to such constraints, are not deliverable within the period the plan covers; and
- (c) problems with the planning system disproportionately impact SME housebuilders. In particular the uncertainty and complexity associated with the planning system, coupled with the length of time take to obtain approval can have a disproportionate negative impact on SMEs.

5.23 We consider that the effective monitoring and enforcement of local plans will increase the likelihood of local authorities meeting local housing need, which will contribute, in aggregate, to governments meeting national housebuilding targets. This is because local authorities will have greater incentive to meet local housing need, and housebuilders will have clearer sight of local need, thus enabling them to align their activity to where there is greater need. This in turn provides a more

supportive environment for building new homes, as having an up-to-date local plan in place provides greater predictability to housebuilders about which sites in a local area will be granted planning permission.

- 5.24 We consider that this increase in predictability would be particularly beneficial for SME housebuilders, as they will be able to focus their activity on those local areas where there is greater potential for housebuilding. This would reduce the extent to which SMEs need to engage in speculative planning applications, which typically favour larger housebuilders who are able to take on and mitigate the greater risk of planning refusal through diversification of sites.

How this option could be implemented

- 5.25 LPAs need to have clear incentives to have an up-to-date local plan in place. Central government could do more to achieve this. Incentives could include steps such as ringfencing funds that LPAs can use only if they have an up-to-date plan, making it harder for LPAs to reject planning applications if they do not have a plan in place or do not have an up-to-date plan in place, the scope for central government to take over decision making authority in a local area until a plan is made, or as a last resort imposing a local plan on the LPA.
- 5.26 There may also be other funding levers that government could consider, such as imposing a penalty on the LPA or withdrawing funding. Although this would ensure that the LPA's financial incentives are aligned with meeting local need, the loss of funding could have financial implications for the LPA, which could cause it further difficulties in meeting local housing need. We have recognised in this working paper that resourcing constraints are a currently significant factor constraining the production of local plans, and that there is insufficient clarity of incentives facing LPAs. Therefore, a more appropriate approach could be to reward LPAs who have an up-to-date local plan in place rather than financially penalising those that do not, although the provision of such financial incentives would need to be appropriately funded.

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?
2. We note in Section 4 above that land supply constraints, such as urbanisation or greenbelt land, affect the availability of sites for local plans. These constraints would not be directly changed by financial incentivisation. How could land supply constraints be managed in an effective way?

System Option 3: Streamlining the planning system

Summary of option

5.27 We have found that the lack of predictability in the planning system may impact the willingness of housebuilders to bring land through the planning system. We consider that the planning system could be streamlined by moving towards a rules-based system and limiting the extent to which the planning system is subject to discretionary decision-making. This is similar to proposals brought forward by the UK government in its August 2020 White Paper (Planning for the Future), as set out above in paragraph 3.33.¹⁸⁵

How this option addresses our emerging concerns

5.28 We have found that:

- (a) uncertainty in the planning system is a key factor impacting housebuilders. Given the costs associated with securing land and taking it through the planning system, uncertainty about whether planning permission will be achieved will reduce the expected return to housebuilders of doing so, so some potential applications will no longer be viable;
- (b) as the planning system has evolved, the obtaining of planning permission has become increasingly subject to policy considerations at a local and/or national level (and/or regional in Wales and Scotland);
- (c) this means there is a wide variety in the outcomes of the planning system in different areas reflecting, at least in part, local attitudes to development. We have found that local areas which attract fewer planning permissions, approve a lower proportion of planning permissions, and/or face more appeals, tend to have lower housing output; and
- (d) the planning system is increasingly lengthy and complex and the consequent uncertainty and complexity disproportionately impacts SME housebuilders. A longer planning process requires housebuilders to hold on to a larger quantum of land for a longer period of time than they would otherwise and manage a longer period between paying the upfront cost associated with initiating a development and realising the returns from their investment. This, coupled with a higher cost of engaging in the planning process, is likely to deter planning applications as well as slowing the delivery of homes where an application is made.

¹⁸⁵ It proposed to reform the planning system with a move towards a rule-based or zonal planning system based on the classifications of land into identifying 'Growth', 'Renewal' and 'Protected' zones.

- 5.29 A move to a rules-based system, whereby planning permission for sites that meet specified criteria is granted in the majority of cases with no or limited review and only a limited number of cases require greater discretion, would provide greater predictability to housebuilders. This will enable them to prepare their applications more effectively and would provide them with greater certainty in their developments being permitted. It would also create a more efficient system where the majority of permissions will be granted more quickly, thus releasing more land for development in a timely manner. We note that the LURA will take a comparable approach to developer contributions, by removing the scope for negotiation of the amount that housebuilders must contribute and transforming this into a mandatory, locally-set levy.
- 5.30 The greater certainty provided by a rules-based system would be particularly beneficial to SME housebuilders, who are less equipped to engage in speculative housebuilding and less able to use diverse site portfolios to spread the risk arising from unpredictability in planning decisions.

How this option could be implemented

- 5.31 There are a number of ways in which this option could be implemented:
- (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 (or is sustainable, as applicable). This approach would enable housebuilders to plan and commence developments in a timely manner and enable LPAs to focus their resources on those developments that are not within scope of the local plan and comply with their rules and therefore require greater scrutiny via a planning application. There is, however, a risk that the loss of extended scrutiny could result in housebuilders commencing construction on developments that at a later stage are discovered to not be within scope of the local plan or not to comply with the LPA's rules, resulting in increased costs and delays during the period where the development is reassessed by the LPA. The requirements of the high-level plans would also have to be carefully calibrated such that they provide the requisite information to check compliance, without requiring so much information that the distinction to a full planning application is lost.
 - (b) Developments that are within scope of the local plan and comply with the LPA's rules (or where no plan is in place, are sustainable) could be permitted automatically, provided the housebuilder submits a planning application, and construction could only begin when planning permission has been granted by

the LPA. This approach would provide LPAs with greater control over developments in their area and mitigate the risk of construction commencing on developments which are not within scope of the local plan or do not comply with the LPA's rules, although the requirement to submit a planning application would lengthen the planning process.

- (c) Developments that fall within 'permitted zones', as designated by the LPA in their local plan, could be built without the need for the housebuilder to submit a planning application. Housebuilders would, however, be required to submit planning applications for developments that fall outside the 'permitted zones'. This approach would enable LPAs to target construction in those areas that meet local need and focus their resources on scrutinising those developments that are not within the 'permitted zones', improve the efficiency of the planning process and enable housebuilders to target their developments according to the 'permitted zones' in any given locality. There is, however, a risk that the loss of scrutiny over developments in 'permitted zones' may result in housebuilders commencing construction on developments that do not meet LPA rules, resulting in increased costs and delays during the period where the development is assessed by the LPA. Further, there is likely to be a need for LPAs to consult with key stakeholders to determine the 'permitted zones' which may lengthen the planning process.
- (d) Only those planning applications that are not within local plans and do not meet LPA rules (or otherwise are not clearly sustainable) could be reviewed by Councillors. The government(s) would need to carefully consider, and likely consult on, the criteria to determine when planning applications do not require review by Councillors. This approach would enable the majority of applications to be granted without extensive review, thereby increasing the efficiency of the planning process and enabling LPAs to focus their resources on those planning applications that require greater scrutiny. However, this may place greater pressure on LPA officials as they would need to place greater scrutiny over those planning application that would no longer require review by Councillors.

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?

Planning process reforms

5.32 In this section we consider a options to reform the process through which the rules of the planning system are carried out at a procedural level. These options are:

- (a) Defined mandatory consultees; and
- (b) Effective monitoring and enforcement of deadlines for statutory consultees.

Process Option 1: Defined mandatory consultees

Summary of option

5.33 In each nation, planning law requires LPAs to consult statutory consultees before a decision is made on a planning application. LPAs have reported issues in getting statutory consultees to respond. LPAs could only be required to consult with a clearly defined set of consultees, although this would not prevent LPAs from consulting with other stakeholders, if they choose to, or other stakeholders from providing their views to the LPA.

How this option addresses our emerging concerns

5.34 We have found that statutory consultees do not typically respond as required within the 21-day consultation period. We consider that the restriction of mandatory consultation to a limited set of stakeholders would result in a more efficient planning process, as LPAs would be able to focus their resources on engaging with those mandatory consultees and only engage with other stakeholders on a discretionary basis.

5.35 Delays in the planning process have a disproportionate impact on SME housebuilders as they are required hold on to a larger quantum of land for a longer period of time than they would otherwise and manage a longer period between paying the upfront cost associated with initiating a development and realising the returns from their investment. Reducing delays, by narrowing the required engagement with consultees, would therefore benefit SME housebuilders in particular.

How this option could be implemented

5.36 The UK, Scottish and Welsh governments could determine the mandatory consultees, which would ensure consistency within each nation. However, LPAs may be better placed to determine the key stakeholders in their locality. Therefore, it may be more appropriate for the government to determine the criteria that LPAs must consider when determining the appropriate mandatory consultees in their local area. This approach would ensure that the LPA takes into account the views

of key local stakeholders including local residents affected by developments where relevant.

Process Option 2: Effective monitoring and enforcement of deadlines for statutory consultees

Summary of option

5.37 As discussed in paragraph 5.34, LPAs reported issues with getting statutory consultees to respond within the 21-day consultation period. We consider that LPAs could only be required to take into account the views of statutory consultees if they provide their views within the mandatory 21-day period. If statutory consultees do not respond within 21 days, the LPA can deem them to have consented to the planning application.

How this option addresses our emerging concerns

5.38 We have found that statutory consultees do not typically respond as required within the 21-day consultation period. Responses from statutory consultees were stated commonly to be late and, in many cases, returned well in excess of the 21-day period. This was largely attributed to resourcing issues within statutory consultee organisations. We consider that the adherence to the 21-day statutory timeframe would improve the efficiency of the planning process, as LPAs would not need to take into account late responses or utilise their resources to engage with those statutory consultees who submit their representation after the statutory deadline. It would also reduce the incidence of late representations which lengthen the planning process. Consequently, housebuilders would have greater certainty over the timing of the planning process.

How this option could be implemented

5.39 There are various measures that LPAs could take to support the effective monitoring and enforcement of the statutory consultation window, including but not limited to giving clear and advance notice to statutory consultees of the change in approach, issuing regular reminders to statutory consultees during the 21-day period and a final notice close to the end of the 21-day period, and issuing notices of deemed consent upon expiry of the deadline. The regular reminders would mitigate the risk that LPAs do not receive useful input from important stakeholders. Such reminders could also play a role in mitigating the risk that the input from statutory consultees is rushed, particularly where those consultees are themselves resource constrained. Options for supporting statutory consultees' adjustment to stricter enforcement should be considered in the method of implementation and decision on what ongoing support to them is offered by the government.

Supporting measures

- 5.40 In this section we consider options to support and enhance the effectiveness of the options regarding the planning system and process set out above. These options are:
- (a) Alignment of planning fees with LPA funding requirements; and
 - (b) Additional support for SME housebuilders.

Supporting Option 1: Alignment of planning fees with LPA funding requirements

Summary of option

- 5.41 In each of England, Scotland and Wales, LPAs are facing increasing pressure on their resources, as discussed in paragraph 4.114 above. We also heard from all 17 LPAs we met with, as well as Heads of Planning Scotland and the Planning Officers Society, that such resourcing constraints play a key role in preventing faster processing of planning applications. In response to this, one option to consider would be to set planning fees at a level that covers the LPA's costs and hypothecate them for LPAs such that their funding is ringfenced from the wider funding available to the local authority.
- 5.42 The UK Government is currently consulting on proposed changes to planning fees, as set out from paragraph 4.168 above. The key measures would be to:
- (a) Increase planning fees by 35% for major applications and 25% for all other applications;
 - (b) Introduce additional fees for bespoke or 'fast track' services;
 - (c) Make an annual inflation-related adjustment to planning fees;
 - (d) Create a cross-sector working group with representatives from local government, the private sector and professional bodies to build capacity and capability strategy across local planning authorities; and
 - (e) Ringfence the additional fees income for local planning authorities.
- 5.43 These proposals aim to address the same issues that we have set out in Section 4 above regarding resourcing constraints for LPAs. The option we set out here does however go further, since the UK Government proposals:
- (a) Would not increase planning fees to the level that covers LPAs' costs;
 - (b) Would only ringfence the additional fee income rather than all of the fee income; and

- (c) Would only apply in England.

How this option addresses our emerging concerns

5.44 We have found that the time taken to process planning applications in each of England, Scotland and Wales has increased significantly and that a substantial cause of this is that LPAs face increasing pressures on their resources both in terms of the funding available to them and their ability to recruit appropriately qualified staff. The appropriate configuration and hypothecation of planning fees could ensure that LPAs have the necessary resources to review planning applications in an efficient manner and provide greater certainty and predictability regarding the timeframes for the planning process. In addition the ringfencing of LPA funds from the wider funding available to the local authority could ensure that the planning process is not adversely impacted by other financial and resourcing pressures facing the LPA, noting the risk that higher planning fees could be used to supplement other local authority budget areas if they are not ringfenced as mentioned in paragraph 4.169 above.

How this option could be implemented

- 5.45 Each LPA could set its planning fees to align with the costs incurred by its planning department, to enable the accurate recovery of costs incurred by the LPA. However, this approach may increase planning costs for housebuilders, which may be particularly challenging for SME housebuilders for whom planning fees can represent a larger proportion of their costs.
- 5.46 Alternatively, each LPA could set its planning fees to align with the costs incurred by its planning department but those fees could be varied according to the size of the development. This approach would particularly benefit SME housebuilders who, as mentioned in paragraph 1.46 above, face proportionately higher per plot planning fee costs than larger housebuilders. However, it should also be considered that fees set in this way may affect the viability of larger developments.
- 5.47 Since increased planning fees would be an increased cost for housebuilders, we note that there is potential for these increases to be passed through to consumers as higher prices, reflecting the cost of building houses that meet local need. However, it is our current view that any such pass-through would be limited due to the constraint imposed on new housing prices by the prices of existing housing stock, and may instead be passed back to landowners through lower land prices (particularly if the likely costs are well-understood as a result of clear pricing schedules).
- 5.48 We noted above from paragraph 4.114 that LPAs across GB face resourcing constraints due to shortages of qualified planners as well as budgetary constraints. It may therefore be that, to maximise their impact, increased planning fees would

need to be accompanied by an improved ability to recruit suitable members of staff. We would welcome representations on how this could be achieved.

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

Supporting Option 2: Additional support for SME housebuilders

Summary of option

5.49 Our analysis in Section 4 suggests that the planning process has a significant impact on SMEs, in that the costs of making an application are disproportionately large, SMEs are less able to use large site portfolios to mitigate risk, and the time taken to make planning decisions can adversely affect the finance terms available to SMEs. In response to this, the government(s) and local authorities could provide greater support to SME housebuilders to help them effectively navigate the planning process.

How this option addresses our emerging concerns

5.50 We have found that the problems with the planning process have a significant and disproportionate impact on SME housebuilders, as discussed in paragraph 4.153. The provision of greater support to SME housebuilders could help them effectively navigate the planning process, thus increasing the efficiency of the process and reducing the barriers to entry and expansion they face when compared to larger housebuilders.

How this option could be implemented

5.51 There are a number of ways in which LPAs could provide greater support to SME housebuilders. These could include: publishing targeted guidance on the planning process; offering regular drop-in advice sessions and pre-application meetings to SME housebuilders; designating specialist planning officials for SME housebuilders, and providing regular support and updates throughout the planning process, as well as feedback following completion of the process. National governments could ensure that SME housebuilders get appropriate support from local authorities by providing additional funding to those LAs who provide the necessary support to SME housebuilders.

5.52 Each of the ways in which SME support could be given, whether or not it involves national government support for LPAs, would involve additional work and therefore expense. This expense would need to be funded either by LPAs themselves, by the central government in each nation, or a combination of these.

Question 5.5

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

6. Consultation questions and next steps

- 6.1 The CMA welcomes comments on this working paper, and in particular on the questions below.
- 6.2 We will carefully consider any feedback received in response to this working paper and take it into account as we develop our final report, which we are required to publish by 27 February 2024.

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?
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?
3. Are there any other factors that we should consider?
4. Do you consider there to be any significant difference in the level of planning uncertainty between England, Scotland and Wales

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

Question 4.3

1. Do you agree with our analysis the 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?
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?
3. Are there any other issues relating to targets, incentives of planning constraints that we should consider?

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?

Question 4.4

1. Do you agree with our analysis of how the planning system may be having a disproportionate impact on SME housebuilders?
2. Do you agree that we have identified the key issues faced by SMEs due to the planning system?
3. Do you consider that the current planning system is incentivised to deliver housing on larger sites? If so, what are the implications of this for the housing delivery?
4. Are there any other aspects of the planning system that have an impact on SME housebuilders that we should consider?
5. Do you consider there to be any difference between how the planning system impacts SMEs between England, Scotland and Wales?

Options for reforming the planning system (Section 5)

Question 5.1

1. Should the UK, Scottish and Welsh governments be considering changes to their various existing methods of assessing housing requirements? If so, should providing certainty, stability and consistency to the housebuilding market feature?
2. Are the criteria we set out in paragraph 5.19 appropriate for determining an improved methodology for target setting?
3. What is the most appropriate method of forecasting housing need – nationally and locally?

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?
2. We note in Section 4 above that land supply constraints, such as urbanisation or greenbelt land, affect the availability of sites for local plans. These constraints would not be directly changed by financial incentivisation. How could land supply constraints be managed in an effective way?

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?

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

Question 5.5

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

6.3 Responses should be provided no later than 5pm on **Wednesday 6 December 2023** to:

1. **Email:** housebuilding@cma.gov.uk
2. **Post:** Housebuilding Market Study
Competition and Markets Authority
The Cabot
25 Cabot Square
London
E14 4QZ

6.4 Please ensure that all personal data, other than your contact details, is redacted or excised from your response and any documents you submit to us.¹⁸⁶

6.5 The CMA intends to publish responses to this consultation or, where appropriate, a summary. Therefore:

¹⁸⁶ Personal data is defined in the UK General Data Protection Regulation (Article 4(1)) as 'any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person'.

- Please supply a brief summary of the interests or organisations you represent, where appropriate.
- Please consider whether you are providing any material that you consider to be confidential and explain why this is the case. The factors that the CMA must have regard to in these circumstances are set out in Appendix A. Please provide both a confidential and non-confidential version of your response where applicable.

6.6 If you are an individual (ie you are not representing a business or other organisation), please indicate whether you wish your response to be attributed to you by name or published anonymously.

6.7 An explanation of how the CMA will use information provided to us can be found in Appendix B, which is published alongside this working paper. This Appendix sets out how the CMA may use information provided to it during the course of this market study, including where it may need to refer to information in order to pursue enforcement action against a business in this sector.

Appendices

Appendix A: Process for securing developer contributions

Overview

- A.1 In GB the planning systems attempt to capture a share of the ‘planning uplift’ in the form of developer contributions. When land is granted planning permission it receives a substantial uplift in value. The landowner therefore receives a significant positive benefit from the actions of public authorities. The planning systems aim to recapture some of this uplift in value to reinvest in local infrastructure, a policy approach known as land value capture.¹⁸⁷
- A.2 New residential development often puts strain on existing local infrastructure (such as hospitals and schools) to support the expanded population. This externality will not necessarily be addressed by housebuilders unless they are required to do so by the planning system. In addition, pressure on local infrastructure from new development is thought to be one of the main causes of local opposition to development in GB, which, as we describe from paragraph 4.84, may influence housing delivery within a local area. Therefore, helping to ensure funding of local infrastructure through developer contributions is important function of the planning system.
- A.3 An analysis of the system of developer contributions must acknowledge its potential impact on land supply. Policies on developer contributions can potentially impact the land supply in a local area. As land for residential development is typically valued on a residual value basis in accordance with Royal Institute of Chartered Surveyors (RICS) guidance,¹⁸⁸ the costs of complying with the policies for developer contributions should typically be deducted from the land price. If the costs associated with these policies, in combination with other costs, reduce land prices below a level at which some landowners are willing to sell, then some land will not be brought forward for residential development.¹⁸⁹
- A.4 In this appendix we present some analysis of how the systems for obtaining developer contributions in the nations of GB are working. This includes:
- (a) an overview of the system for securing developer contributions;

¹⁸⁷ See: [Flyer-Land-Value-Capture.pdf \(oecd.org\)](#).

¹⁸⁸ See Section 6.1: [Valuation of development property \(rics.org\)](#).

¹⁸⁹ In the impact assessment for the biodiversity net gain policy it states ‘The estimated direct cost is £199.0m per year (2017 prices). This falls to £19.9m, once a 90% pass-through of costs to landowners through land prices has been considered – as is anticipated on the basis of industry evidence and economic theory’, see: [Net gain impact assessment \(publishing.service.gov.uk\)](#).

- (a) the value of developer contributions that are obtained;
- (b) the challenges faced by LPAs in securing developer contributions; and
- (c) proposed reform to the system for securing developer contributions in England.

Overview of the systems for securing developer contributions

- A.5 Developer contributions are secured through legal agreements to provide planning obligations (s106 agreements in England and Wales, s75 agreements in Scotland). Planning obligations are legal obligations entered into by the developer of a site with an LPA to mitigate the impacts of a development proposal to make it acceptable in planning terms.¹⁹⁰ Planning obligations are generally made in the form of in kind or cash contributions towards categories of infrastructure such as affordable housing, highways, open space, education and health.
- A.6 Local plans and policies should set out the contributions expected from new developments. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure).¹⁹¹ Viability planning practice guidance states that these policies should not undermine the delivery of the plan.¹⁹²
- A.7 Viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it, including reasonable returns for housebuilders. The guidance states that assessment of site viability should primarily be undertaken at the plan making stage to ensure the plan is deliverable. Assessing the viability of plans does not require individual testing of the viability of every site identified as being suitable for development within a plan. Plan makers can use site typologies to determine viability at the plan making stage. Where up-to-date policies have set out the contributions expected from development, planning applications that fully comply with them should be assumed to be viable by decision makers. It is up to an applicant for planning permission to say why the particular circumstances of a site justify an adjustment to required developer contributions on viability grounds. In practice this involves the developer making a viability case to the LPA as part of the planning application process.

¹⁹⁰ See: [Planning obligations - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/planning-obligations). Broadly, this means to ensure that it is compliant with all relevant national and local plans and policies.

¹⁹¹ Paragraph 34: [National Planning Policy Framework - 3. Plan-making - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/national-planning-policy-framework-3-plan-making-guidance).

¹⁹² Paragraph 34: [Viability - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/viability).

- A.8 In addition to planning obligations, in England some LPAs secure some developer contributions via the Community Infrastructure Levy (CIL). This is a locally set levy on new development charged based on the floor space of the development.¹⁹³
- A.9 The systems for securing developer contributions and the viability assessment process in Scotland and Wales are broadly similar to that outlined above for England. However, there is no equivalent to the CIL currently operating in Scotland and Wales.

The value of developer contributions

- A.10 In this section we set out information on the total amount of developer contributions and how this varies by area.

Total amount of contributions secured

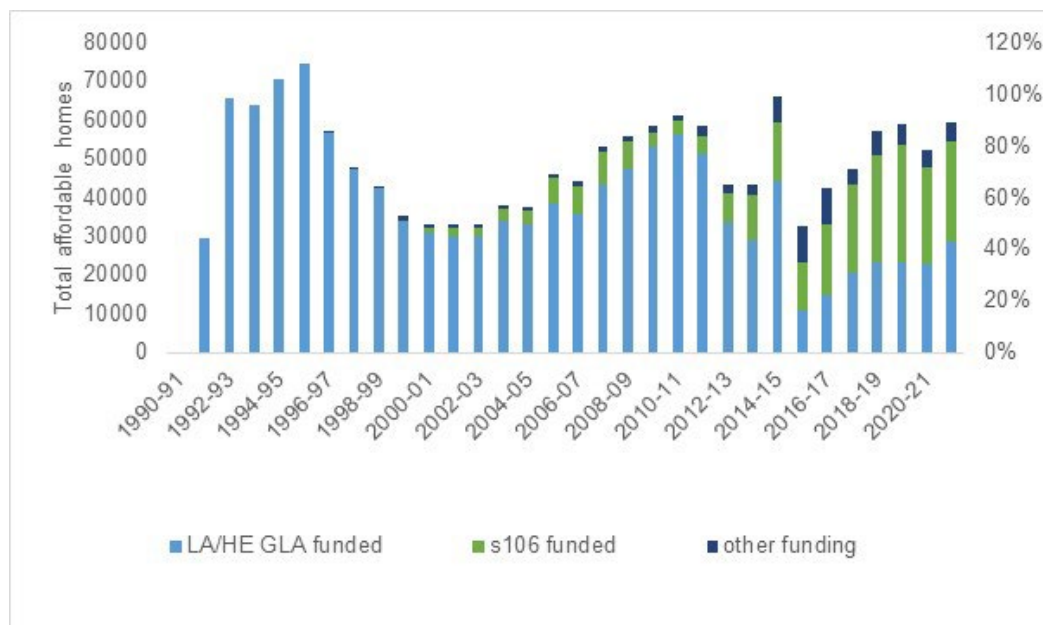
- A.11 Developer contributions in England were £7bn in 2018-19, with around two-thirds coming in the form of affordable housing.¹⁹⁴ Developer contributions are a significant source of funding for affordable housing. As Figure 6.1 below shows, in 2020-21 developer contributions secured via Section 106 agreements funded approximately half of all affordable housing provided in England. In Scotland in 2019-20 it was estimated that approximately £490 million worth of developer contributions were agreed, of which £310m was for affordable housing and £180m towards other infrastructure.¹⁹⁵ We note that no similar recent analysis has been published for Wales.

¹⁹³ [Community Infrastructure Levy - GOV.UK \(www.gov.uk\)](https://www.gov.uk).

¹⁹⁴ [Section 106 planning obligations and the Community Infrastructure Levy in England, 2018 to 2019: report of study \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

¹⁹⁵ See: [10. Annex 3: Analysis of Survey Data - Planning - the value, incidence and impact of developer contributions: research - gov.scot \(www.gov.scot\)](https://www.gov.scot).

Figure 6.1 Affordable housing provision in England 1990-91 to 2020-21 by funding type



Source: CMA analysis of data from: [Live tables on affordable housing supply - GOV.UK \(www.gov.uk\)](https://www.gov.uk/live-tables-on-affordable-housing-supply)

A.12 Developer contributions represent significant sums to contribute to funding of local infrastructure. For context:

- (a) In England, if developer contributions were maintained at the level of 2018/19 (£7bn) in 2021, this would be equivalent to 46% of total expenditure by local government on housing and community development (£15.6bn in 2021) or almost twice the amount spent on housing alone (£3.6bn in 2021)¹⁹⁶. Alternatively, it is approximately the same amount spent by local government on infrastructure in 2021.¹⁹⁷
- (b) In Scotland if developer contributions were maintained at the level of 2019/20 (£490m) this would be equivalent to 34% of local government net expenditure on housing in 2021 (£1.4bn)¹⁹⁸.

A.13 It is not possible to conclude from these comparisons how successful developer contributions are in mitigating the impact of new development. This is because there are differences in the types of expenditure included in the figures, and the fact that local government expenditure is mainly focused on the existing population rather than new development.

A.14 It is also difficult to determine the extent to which contributions are successful in capturing a fair or reasonable share of the planning uplift in land value, while

¹⁹⁶ See: [Local government annual expenditure: ESA Table 11 - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk).

¹⁹⁷ £6.7bn, see: [Infrastructure in the UK, investment and net stocks - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk).

¹⁹⁸

ensuring that sufficient supply of viable supply is maintained. Estimating the value of the planning uplift – and hence the share accounted for by developer contributions – would require detailed data on land prices (before and after planning permission is granted) in areas where development has taken place, which is not readily available. The impact of local policies on land supply as this will vary significantly from area to area. It will depend on a variety of a local factors such as the level at which local requirements for developer contributions are set, the availability and characteristics of the land and market conditions. We do note some housebuilder internal documents reveal concern that the scale of various policy related costs threatens the viability of some sites (see from paragraph 4.96).

Variation in contributions by area

- A.15 The size of developer contributions varies significantly from area to area. In England, the South East, South West and London regions account for 61% of the total value.¹⁹⁹ In Scotland the five largest contributing authorities, all in the central belt, accounted for about 43% of agreed contributions in 2019-20.
- A.16 From our discussions with LPAs it is clear that the extent to which LPAs are able to secure developer contributions depends on local circumstances – in particular, the nature of the local housing market, and the volume and type of sites that are available for residential development in that area. Where the housing market is less buoyant and/or sites are more difficult to develop (often brownfield sites where, for example, ground contamination or site remediation is an issue) the financial viability of sites is much more of an issue and hence the contributions that can be achieved will be more limited. Several LPAs said their ability to raise developer contributions was severely restricted by local issues with brownfield sites and/or low land/house prices. For example, one said viability in its area is an ‘absolute killer’ due to a combinations of severe land supply constraint, brownfield sites and relatively low land prices.
- A.17 An LPA’s ability to raise contributions will reflect their local characteristics. However, these characteristics will not necessarily be reflecting the need for contributions at the local level. LPAs which have more limited ability to raise contributions may still have to fund significant levels of infrastructure provision.

Challenges faced by LPAs in securing developer contributions

- A.18 In this section we set out our analysis of the extent to which the process to secure developer contributions adds significant difficulty to the planning process, and how far LPAs struggle to secure developer contributions.

¹⁹⁹ [Section 106 planning obligations and the Community Infrastructure Levy in England, 2018 to 2019: report of study \(publishing.service.gov.uk\)](#)

Delay to the planning application process

- A.19 As a starting point, we note that planning obligations are very common. Our analysis of data from the five largest housebuilders shows that of all planning applications they submitted in GB in 2020, 2021 and 2022, 84% of outline applications and 82% of detailed planning applications required negotiation of a S106 or S75 agreement.
- A.20 Negotiating legal agreements to secure developer contributions can cause significant delay to the planning application process, especially where developers challenge the level of contributions by submitting a site-specific viability assessment. This is backed up by survey evidence from English and Scottish LPAs. This evidence shows that 61% of 125 English LPAs surveyed agreed that negotiating a S106 creates a delay in the planning process whilst 20 strongly agreed.²⁰⁰ In addition, 46% of the 35 Scottish LPAs said that agreeing a S75 affects planning delay a “moderate amount”, whilst 36% said it impacts it a “great deal”.²⁰¹
- A.21 Even for small sites, negotiating a S106 agreement may take considerable time. Lichfields analysed the planning process for a sample of small sites in London. The sample is made up of 60 planning permissions for between 10 and 150 dwellings. The sample constitutes 2,666 homes including 485 affordable homes. Lichfields found that even once the decision to grant permission has been made at planning committee, with the S106 heads of terms as part of the committee report, it took a further 23 weeks (median) to finalise the S106 agreement and issue a planning permission.²⁰²

Viability challenges to the required developer contributions

- A.22 Historically, there have been some concerns that housebuilders can misrepresent the true viability of a site when submitting a site-specific viability assessment, which might allow them to suppress the level of contributions that are secured by LPAs. In addition it has been suggested that developers, particularly large developers, have a resourcing advantage when dealing with LPAs which makes it more difficult for LPAs to properly challenge site-specific viability assessments submitted by developers.²⁰³

²⁰⁰ See from para 4.12 of [Section 106 planning obligations and the Community Infrastructure Levy in England, 2018 to 2019: report of study \(publishing.service.gov.uk\)](#)

²⁰¹ See table 26: [Planning - the value, incidence and impact of developer contributions: research - gov.scot \(www.gov.scot\)](#)

²⁰² See: [\(See Lichfield's : small-sites-unlocking-housing-delivery_sep-2020.pdf \(lichfields.uk\)](#)

²⁰³ See, for example: [Research_Viability_and_the_Planning_System_Research_January_2017.pdf \(towerhamlets.gov.uk\)](#); [Development viability assessment and the provision of affordable housing. A game of “pass the parcel”? - CentAUR \(reading.ac.uk\)](#).

- A.23 Housebuilders may be incentivised to ensure that planning applications are compliant with local policies on developer contributions to reduce the risk and delay of the planning process.
- A.24 Housebuilders' internal documents show that they understand that ensuring that planning applications comply with all local plans and policies, including those on developer contributions, can increase the speed at which planning applications are processed. For example, one housebuilder's 12 golden rules for 'achieving smooth and speedy planning permissions' refer to the need to ensure compliance with: 'all necessary legal and policy requirements'; 'the development plan'; and 'section 106 and/or CIL Regulation 122/123'. In one housebuilder's best practice guidance document for the pre-planning and planning stages of its development process it states that:
- 'NPPF requires decision makers to approve planning applications that accord with an up-to-date development plan without delay.
- Our starting position must therefore consider whether the proposed development accords with the development plan and general development management policies within it.
- Non-compliant schemes represent a greater risk in terms of time, costs and overall prospects of success of securing a satisfactory planning permission from the Local Planning Authority or, if necessary, at Appeal.'
- A.25 Our analysis did not indicate that there is a widespread problem with large developers attempting to suppress the level of contributions that they make by submitting site-specific viability assessments. For one thing, despite the high prevalence of S106/S75 agreements in our data from large housebuilders, the submission of site-specific viability assessments with planning applications was relatively rare. Our analysis of data from the 5 largest housebuilders suggest that they submitted viability assessments with less than 15% of the outline planning applications they submitted in GB in 2020, 2021 and 2022.
- A.26 In addition, our understanding from our discussions with LPAs is that it is common practice for an LPA to appoint external experts to review site-specific viability assessments and then recover the costs from a developer. The vast majority of the 17 LPAs we spoke to follow this practice, whilst some LPAs used the district valuer as a source of independent expert advice. This should, to some extent, level the playing field between LPAs and developers.
- A.27 We have found limited evidence that housebuilders are using the viability assessment process to suppress the level of contributions they make on a widespread basis. However, this is not the same as concluding that more contributions cannot be achieved, at least in certain circumstances. Indeed, the relatively low levels of challenges to required levels of contributions from

housebuilders may be indicative that there is scope for some LPAs to ask for higher contributions. Depending on the local area and site characteristics there may be scope for LPAs to ask for, and achieve, higher levels of contributions in some cases.

Proposed reform to the system of developer contributions in England under the LURA

- A.28 The LURA largely replaces the system of planning obligations and the CIL with a mandatory Infrastructure Levy (IL) charged against development value with the level of the levy set locally by LPAs.²⁰⁴ Key aspects of the changes include:
- (a) The Act replaces the current system (CILs and section 106 agreements) with a new Infrastructure Levy.
 - (b) s106s will continue for more complex and larger sites with the exact details of how this might work yet to be determined;
 - (c) Affordable housing to be funded through the levy with the possibility that onsite provision can be offset against the levy;
 - (d) Unlike the CIL system, the new Infrastructure Levy will be mandatory. Regulations will levy IL charges on all sites viable above a minimum £sqm locally set threshold – rates will be set as a percentage of gross development value and paid at the sale of the properties;
 - (e) The rates and thresholds will be set and raised by LPAs, meaning that rates are tailored to local circumstances such as local plan policies for infrastructure and affordable housing and site viability considerations;
 - (f) The Act will require local authorities to prepare infrastructure delivery strategies. These will set out a strategy for delivering local infrastructure and spending Levy proceeds; and
 - (g) Levy to be introduced through a test and learn approach rolled out gradually across LPAs over a number of years.
- A.29 The stated intention of the reform is that the new levy will be a more efficient and transparent system. Efficiency should in theory be encouraged by removing the requirement to negotiate s106 planning obligations. Transparency should be improved because charging schedules will make the expected value of a contribution clear up-front. In addition, 'The government is committed to the Levy

²⁰⁴ See: [Technical consultation on the Infrastructure Levy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/technical-consultation-on-the-infrastructure-levy).

securing at least as much affordable housing as developer contributions do now'.²⁰⁵

- A.30 The Government commissioned some research to look at the potential implications of introducing the IL.²⁰⁶ This work concluded that although the proposal will remove some of the complexity from the process by removing the requirement to negotiate S106 developer contributions on a case-by-case basis, some complexity will remain. In particular, there will be significant new challenges for local authorities in making decisions about the levy, especially the rates and thresholds that are applied. The work also concluded that there is potential for the IL to raise more than the existing arrangements; whether this can be realised depends not just on rates and thresholds chosen locally but also on how market participants react, especially landowners, land promoters and developers.
- A.31 One housebuilder told us that they were happy with making contributions either through Section 106 agreements or through the proposed infrastructure levy as long as the policies were clear and there was sufficient certainty for them about what the likely payments would be. When we spoke to LPA planning officers most had not had time to digest the technical consultation on the details of the levy and therefore were not in a position to comment upon it. However, we note the response from the Planning Officers Society (POS) to the government consultation. The POS favours making the current system work better over the proposed reform. POS criticisms of the proposed reform included that; a significant degree of complexity will remain in the system as it remain; setting the levy at a level that will ensure that developments remain viable may lead to rates being set at the lowest common denominator; the reforms shift risk to the LPA to forward fund infrastructure that is necessary to enable developments to proceed; and the reforms remove the ability for the current system to optimise the level of contribution on a site-by-site basis.

Conclusion

- A.32 There are undoubtably some imperfections in the current system, prior to changes in the LURA coming into effect, of developer contributions. In particular, it can be complex and time-consuming to agree the necessary legal agreements and negotiate any site-specific adjustments to developer contributions. However, it is fairly successful in securing large amounts of developer contributions, although the extent to which it does so varies substantially by area and not necessarily in relation to the need for investment in infrastructure.
- A.33 It is very difficult to assess whether the current system secures a fair or reasonable proportion of the planning uplift, as this will depend on decisions and

²⁰⁵ See: [Technical consultation on the Infrastructure Levy - GOV.UK \(www.gov.uk\)](https://www.gov.uk).

²⁰⁶ See: [Exploring the potential effects of the proposed Infrastructure Levy \(publishing.service.gov.uk\)](https://publishing.service.gov.uk).

market conditions on an area by area and a site-by-site basis. It has not been feasible to go into this level of detail within the context of this Market Study. Even had we attempted to do so data limitations (particularly with regard to local land prices for different types of land) would likely undermine such analysis.

- A.34 Our analysis did not indicate that there is a widespread problem with developers we had sought information from suppressing the level of contributions that they make by submitting site-specific viability assessments. GB-wide, the proportion of planning applications submitted by large developers that include a site-specific viability assessment is low and developers may have limited incentives to submit viability assessments. However, this does not mean that greater levels of contribution could not be achieved by some LPAs depending on the local and site level circumstances.
- A.35 There are undoubtedly potential costs and benefits associated with the proposed reforms to the system in England. The extent to which the benefits outweigh the costs, depends not just on rates and thresholds chosen locally but also on how market participants react to the changes.