

# **Research on the nature of planning constraints**

## **Summary of report to the House of Commons Communities and Local Government Committee**

**March 2014**

### **Aims of the research**

This research analysed the impact of planning constraints on the provision of new housing. It aimed to identify pinch points in the planning system through case study research across comparable local authorities, tracing the processes from the developer's decision to put forward an application through to the start of construction. It was a short, focused piece of research.

### **Methods**

Secondary data was used to identify similarities between local planning authorities (LPAs) and to analyse outcomes. There were six preliminary in depth interviews with major housebuilders. Three pairs of authorities were identified where conditions are similar but processes and outcomes are different. LPA planning officers were interviewed and four development schemes were selected in each LPA (small, medium, large and mixed housing applications) for detailed examination. These were preferably schemes where construction had started or was complete, and the developer of each scheme was also interviewed for their experience of the application process.

### **Literature review**

The literature review showed that delivering new homes is a complex process shaped by numerous factors. Constraints on housebuilding are not solely related to the planning system, but relate to issues of land supply, availability of finance, housebuilder business models and the availability of labour and materials. There is already a large body of evidence about the nature and impact of different planning constraints.

## **Key findings from the research:**

### **1) Nature of land acquisition**

The nature of land acquisition makes a difference to the speed at which sites are built out. Land traders may purchase long term strategic land and secure an outline planning consent on the site, but will sell the land on to housebuilders who are likely to make a reapplication to the LPA because they want to change the scheme e.g. to include their own standard house designs, or to achieve a lower housing density. The size of a site can make a difference as smaller builders are not able to compete with the major housebuilders for development on large sites, unless such sites are divided into smaller parcels.

### **2) Review of systems and changes in culture**

The case study LPAs with high approval rates of new housing development and with speedy decision making had all undergone an internal review of their planning processes which led

to changes in their approach and overall culture. There was now a focus on improving customer service, reducing waste in systems and fostering a culture of trust and openness with applicants. In most cases the changes had followed from consultation with housebuilders and agents about what would improve the application process.

The case study LPAs which appear to have slow decision making processes, reflected in being below average in meeting their planning performance targets, gave clear reasons why this was the case. One LPA which has a very high approval rate of applications had reviewed its approach and had concluded that the targets were not helping. Instead they decided to focus on customer service and on getting applications for good development through the planning application process in partnership with developers regardless of how long this might take.

One LPA does not have a formal pre application process so all discussions with developers, all amendments and putting in place of necessary arrangements such as negotiating Section 106 (S106) agreements, is taking place within the statutory period, meaning that the targets are not met, but approval rates are high. Two LPAs that have slow decision making statistics do not have a five year land supply or adopted plan, both have high appeal rates and both have elected members who frequently do not support officer recommendations to approve development and have strong local opposition to new housebuilding.

The LPAs with above average processing of applications within the statutory period and high approval rates have a strong emphasis on pre application discussions and most aspects of the application, including the S106 agreement, are put in place before the application is formally submitted. They have clear leadership from the top and supportive elected members.

### **3) Planning performance targets**

The speed of decision making and the refusal rate of applications are two indicators of how processes and outcomes differ between authorities. However, it is clear from the research that the planning performance targets do not tell the whole story; they may mask both good and bad practice and can be misleading about practice and outcomes without more information about what actually occurs in each LPA. The targets are regarded as useful in certain circumstances, but it was widely felt that LPAs need to focus on providing good customer service, not just on meeting targets.

The actual time taken to reach a planning consent may not necessarily be different between LPAs which meet the targets and those which do not. The difference may be what takes place within and outside of pre application discussions, unless appeals on decisions are involved which take much longer.

In one case study LPA the lack of a formal pre application process means that the LPA cannot hit the targets as all the detailed work cannot be completed within 8/13 weeks. This does not mean that the same discussions are not taking place as in the LPAs that do hit their targets, but in these LPAs they are within pre application or post determination discussions and so this time is not reflected in the statistics.

The research highlighted some examples of poor practice that housebuilders find very frustrating. This includes LPAs refusing an application because the target for a decision within the statutory period would not otherwise be met, with a request for the developer to reapply with the same application.

Overall, the time might not vary from a developer first contacting a LPA and consent being granted between LPAs meeting their targets and those which do not. However, both developers and LPAs believe that it is better to have pre application discussions and formal applications which are likely to be approved within the statutory period, than refusals of applications and re applications simply to meet targets.

#### **4) Open for business and leadership from the top**

The interviews with housebuilders and LPAs found that within the LPA it is important to have strong pro-development leadership from the top, from Chief Executive level down to planning officers. The case study LPAs which are 'open for business' have high approval rates. Development is welcomed and elected members are supportive of officer recommendations. In some cases officers are 'empowered' to use delegated powers on occasion in order to speed up the outcomes.

#### **5) Pre application discussions**

Housebuilder views on pre application processes were mixed. Pre application discussions can be costly and take up a lot of time, meaning the formal application is registered quite late in the overall process. They can require a lot of information to be collated and supplied by the applicant which some housebuilders looking to secure outline planning consent see as a burden.

On the one hand housebuilders were very positive about LPAs which they felt were quick to respond, easy to contact, made clear what they were looking for in an application, carried out any necessary consultation and engagement with other parties and worked with the developer to produce an application that would be approved once it was formally submitted. However, they (and some of the LPAs) were critical of LPAs where they felt planning charges were acting as a revenue stream without an increase in resources or customer service. Housebuilders commented on the large costs and time taken during pre application discussions and on the amount of information required. It was also pointed out, however, that the time from pre application to application is not just down to the LPA, the developer may be slow in taking an application forward because of changing market conditions.

#### **6) Staff skills and resource constraints**

The loss of experienced planning officers and constraints on resources, meaning that officers struggled to cope with workloads or were only available part time, were highlighted as a source of delay. For major developments, some LPA planning officers were unfamiliar with handling very large applications and this could lead to delays.

#### **7) Delays caused by consultation with stakeholders**

Consultation takes time and can be a source of delay. Planning applications can require input from a number of different stakeholders and receiving feedback in a timely manner can be difficult. Environmental matters in particular were highlighted as a considerable source of

constraint and delay, especially where objections on environmental grounds were continually being made against all proposed development in the district.

#### **8) Delays caused by elected members**

Delays are caused when elected members refuse applications that planning officers have recommended for approval, often after lengthy pre application discussions. LPA officers in some areas said that members made decisions based on non technical reasons, sometimes in response to local politics and nimbyism. This can place great pressure on planning officers. Some LPAs provide ongoing training for members which has a positive impact.

#### **9) Appeals - lack of a five year land supply and an adopted plan**

Appeals are both costly and slow. The lack of a five year land supply and an approved plan makes a LPA vulnerable to appeals. Housebuilders and LPAs said that there are some LPAs where it is expected by all parties that an application will go to appeal to get consent, where elected members do not want to make planning decisions and where local nimbyism to new development is strong.

#### **10) Delays in post determination processes**

One of the sources of delay in new housebuilding can be the large costs and time taken by post determination processes. This relates mainly to the speed at which S106 agreements are put in place and the speed in discharging conditions. Housebuilders felt that some LPAs lack the capacity to process S106 agreements quickly and do not respond fast enough to acknowledge the discharge of conditions.

The negotiating and signing of S106 agreements can be slowed by delays by both LPAs and developers. However, the process was thought to be smoother and faster when the S106 was negotiated during pre application discussions and was ready by the time of application.

Some LPAs lack sufficient resources to proactively monitor development post consent and any monitoring is done reactively in response to complaints.

#### **11) Delays caused by site issues**

Some delays on new housebuilding are caused by LPA or site specific issues such as high levels of contamination which are more difficult and uncertain sites to develop. Many of the housebuilders interviewed felt that there will always be a place for small housebuilders in the market because there will always be small sites that the larger builders are not interested in. However, some raised the issue of the loss of smaller builders through the recession and mentioned the financial constraints on small housebuilders in buying land and funding development.

#### **12) Issues with house design and quality**

Both LPAs and the housebuilders themselves highlighted some areas where the housebuilders could perhaps make changes which would speed up processes and make applications more likely to be successful. These suggestions were mainly around improving housing and scheme design and consultation with stakeholders and local people to gain support for new development. There were also delays on the part of housebuilders in negotiating S106 agreements. LPAs also said that some developers would submit outline

applications with little detail, or applications without any pre application discussion, that were not policy compliant and therefore slow down the process from application to consent.

### **13) Build out rates**

Although beyond the control of the planning system, build out rates on developments are shaped by the rate at which housebuilders believe that new homes can be sold. This is particularly the case for large builders. Build out rates can also be constrained by shortages of materials and skilled labour lost in the downturn.

### **14) Impact of delay**

The major housebuilders described long delays in achieving consents and all illustrated how the whole process had become substantially elongated over the last two decades. Delays occur in pre application discussions, from registration to determination (though several pointed out that the 13 week rule had had an impact), and after determination, during discussions on S106 matters (which can take nine months) and pre commencement conditions. The time taken up in pre applications and post consent discussions far outweighs the time taken up from the formal registration of an application and its determination.

However, planning authorities operating well can shave 18 months off the process from starting pre applications to opening the first show house.

### **15) Policy change**

The major housebuilders generally thought the NPPF had been positive and most urged that the government should not bring in further change. However, changes that would be welcomed include:

- Lessening the detail needed at pre applications and determination
- Introducing customer relationship management processes in LPAs
- Having performance targets for big applications
- Reducing non statutory consultations
- Meeting members early in the process i.e. before determination
- Making it a legal requirement to have and to keep up to date a local plan
- More training for elected members

But several pointed out that if there was no local plan nor a five year supply they were likely to get permission under the NPPF approach.

### **16) Speed of decision making and planning approval for new housing**

Based on the evidence from the case studies in this research, the key factors in achieving speedy, successful planning consents appear to be:

- An adopted local plan and five year land supply.
- Planning applications that are sufficiently detailed, policy compliant and, particularly for large schemes, have been consulted on with local people.
- A pro development attitude amongst Chief Executives, planning officers and elected members.

- A culture within a planning department of dialogue with developers and a focus on providing good customer service.
- Sufficient capacity and skills within planning departments, particularly in dealing with large sites.
- A clear pre application process but with the capacity for developers to discuss a potential project informally with LPAs.
- Efficient consultation processes.
- Early negotiation of S106 agreements.
- Efficient discharging of conditions post consent.

### **Contacts**

This research was conducted by the Cambridge Centre for Housing and Planning Research, University of Cambridge.

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