

Beechwood Homes Ltd  
Beechwood House  
Wyllyotts Place  
Potters Bar  
Herts EN6 2HN

Telephone: 01707 664432  
Fax: 01707 664245

Barker Review Team  
1 Horse Guards Road  
London SW1A 2HQ

5 August 2003

Dear Sirs

### **Barker Review of Housing Supply**

Beechwood Homes are quality builders of repute whose area of operation is the North Home Counties and North London. We build a variety of units from large detached dwellings to one bed room flats. Indeed such is the quality of our developments that they are much sought after on both the new and second home market.

We are a medium sized company with ambitions to grow, take on more staff and to contribute fully to the economic health of the country. However our efforts to grow are being thwarted by the lack of good quality sites on which to build.

Primarily this is down to the operation of the planning system which we believe seriously hinders the supply of housing land. Thus this review of housing land supply is very timely and we trust will result in key reforms to enable a steady supply of land that in turn, will enable the provision of a decent home for everyone, particularly in the south east.

I now deal with the issues as raised.

#### *Issue 1: Is land supply overtly constrained?*

- 1. Is there a shortage of suitable land for development? Are there any factors which reduce land owners willingness to sell?*

There is no shortage of land for development. However, there is a shortage of suitable land because of the way the planning system regulates land supply. Lack of up to date development plans, general inefficiency or lack of staff in planning departments, nimby attitudes by councillors and residents, all have an impact on suitable land coming forward.

Also the procedures of government on call ins and the time it takes for decisions to be reached also has an effect. For example we recently had a call in for two dwellings where the local planning authority supported the scheme. We know that the Inspector's

decision has been received by the ODPM but we have been told that it will be another 13 weeks before a decision is made!

This situation affects both previously developed land (PDL) and Greenfield land. But the most difficulties we have are on PDL because inevitably, there are existing residents and properties that are affected by redevelopment. There should be a presumption in favour of Brownfield land to enable this land to come forward quicker for development.

One myth that does need to be nailed is the notion that developers and house builders acquire more land than they need or propose to develop. Acquiring and promoting land is very expensive. Whilst it is true that land banks are built up to ensure a steady supply of land is maintained, by and large if planning permission is granted for development, then construction starts in a relatively short space of time. This is certainly the case in our experience and we would suggest for most small to medium builders.

As regards factors that reduce a land owners willingness to sell, we find that it is primarily the costs that are associated with achieving planning permission that reduce the land value which has the most effect. The incentive for a landowner to sell for housing or any other development for that matter is the amount of additional revenue that can be generated over and above the existing use value.

Excessive or unreasonable planning obligations for affordable housing without appropriate public subsidy, education contributions, highways and a whole host of other requirements have a cumulative effect is reducing the amount that can be paid to a land owner to such an extent that there is no longer an incentive to sell. This is particularly the case in respect of PDL where the purchase price paid has to be more than the existing use value. If the planning obligations sought are unrealistic then this will deter landowners from bringing sites to the market.

*2. Are there problems associated with land assembly particularly Brownfield land?*

Yes. At the end of the day the availability of land is dependent on the landowner's willingness to sell. In the case of land assembly where there are a number of landowners involved, it can take years for all of them to come together. Clearly, compulsory purchase powers should be used more to facilitate land assembly in the case of reluctant landowners as this would speed up the site assembly process.

*3. Does the practice of optioning land restrict the overall supply of land?*

Certainly not in our experience. As mentioned above, the cost of optioning and holding the land as well as promoting it through the planning system can be very steep. We look to develop as soon as planning permission is granted.

*4. Is optioning necessary? If so why?*

Our response is related to our previous answer. Because of the costs involved which is entirely at our own risk, there has to be certainty that we will have control of the land when planning permission is granted. Otherwise the landowner can put the land out on the open market once planning permission is granted and we will have expended time and money with no tangible return. Options are generally short term in any event except for options

on Greenfield land which can take longer because of the need to promote it through the local plan process.

Optioning also ensures that land is by and large promoted since the agreements have specific performance wording to this effect.

Finally, given the costs involved, many landowners do not have the finance or the expertise to promote land. Again, optioning ensures that this occurs.

*5. Is the land allocated for housing in local development plans sufficient to meet housing need?*

Quite clearly the answer is no given the scale of the shortage of housing, particularly in the south east. Interestingly when local authorities carry out housing need surveys that try to look at the level of need in their own districts so as to underpin affordable housing policies, these frequently show that the actual level of need for housing generally exceeds the amount of housing provided for in local plans.

One argument put forward by local authorities is that they do provide sufficient allocations to meet housing need but it is the market that does not build. In response we would say that sometimes this is because the allocations are in the wrong areas or that there are severe problems with the sites allocated that cannot be overcome without initial funding being provided that the market is unwilling to take on. This coupled with inevitable onerous planning obligations make such sites unviable for development thus rendering such allocations of land meaningless as practical development opportunities.

*6. Is the RPG housing shortfall explained by a shortfall in the number of appropriate planning applications?*

Section 53a of the 1990 Town and Country Planning Act requires development to be in accordance with the development plan unless material considerations dictate otherwise. If the allocations of land are insufficient, impractical or unrealistic; if policies in the plan are particularly restrictive (which can be the case in plans that are not up to date) or excessive and onerous planning obligations are demanded; then all this will limit development opportunities coming forward which in turn result in a shortfall in planning applications.

There is a perverse game played by local authorities when housing numbers are being distributed. There is a political imperative to ensure the numbers allocated to them is the lowest they can achieve, even though the need for additional homes may be significant. They do this by putting forward arguments that they do not have the capacity to take new development to the extent required. The perversity is that when the housing numbers are finally determined and it becomes clear that there was capacity to take more, local authorities will do all they can to ensure that the housing numbers they have been allocated through the structure plan or regional planning process are not breached.

A good example of this practice is the activities of Three Rivers district council in the county of Hertfordshire. They argued at the Structure Plan Inquiry that they should not have to take much housing because of capacity constraints. They were subsequently allocated a fairly low housing requirement figure. However when it became clear over

time that capacity did exist and that reasonable applications for development on PDL meant that their housing figure would be exceeded, they introduced a moratorium on new housing development except in very special circumstances on the premise that they wished to conserve housing land.

However, such an approach ignores the way the market works particularly on PDL sites where the opportunity for development has to be taken then and there. Otherwise the landowner may put the land to an alternative use or even maintain and improve the existing use. So far from conserving housing land, such land is in fact lost to other uses.

Issue 2: What constraints face the industry and which are the most significant?

*7. Do house builders face difficulties accessing finance?*

As established and reputable house builders, we are fortunate that we do not have any problems accessing finance.

*8. Do shortages of essential skilled workers exist, can alternative production techniques overcome this problem?*

Shortages of skilled workers do exist but this is due to the arbitrary nature of the house building industry where land supply is restricted. If there was a steady flow of land, then skilled workers would not leave the industry to seek employment elsewhere.

Alternative construction techniques can help to overcome a lack of skilled workers and to speed up the construction of homes but it is consumer fears that are the biggest problem that has to be overcome if such techniques are to prove successful.

*9. Do attitudes to risk deter investment in land for housing?*

Clearly house builders do take a risk when investing in land for housing but generally this has not proved to be an obstacle. The amount of risk and the potential reward is the crucial factors in determining whether development is worthwhile. Other factors that have an affect are issues such as the price of the land; when and if planning permission will be granted; construction costs; and sales prices that can be achieved.

*10. Do internal rates of return deter additional investment either in land or alternate production methods?*

The cost of remediation and the high price of land do have an effect on investment decisions. As regards alternate production methods, we would use them if they enabled profitable rates of return to be achieved.

*11. Is there potential for increasing the use of alternative manufacturing methods? Is this potential affected by consumer preference or the attitude of mortgage lenders and insurers.*

As indicated above there may be scope to increase the use of alternative construction methods but we do believe that consumer concerns as well as the attitude of mortgage

lenders and insurers does have an impact because of the untried and thus perceived untrusted construction techniques. Consumers and the other agencies do have conservative views on these matters which have become entrenched because of previous failed and discredited construction methods. As we are very much a consumer orientated industry, such fears and concerns have to be taken into account when considering what construction methods are used.

It should be noted that governmental delays in securing planning permission create more of a shortage than the speed at which the industry builds.

*12. It has been suggested that the economies of scale are not sufficient in the UK to make these off site production techniques a viable option? Is this the case?*

We do not know enough about this to make meaningful comment.

*13. Are the working capital requirements and cash flow implications of modular building a barrier to their use?*

Again we do not know enough about this construction technique to comment.....which may be a reason why they are not widely used.

*14. Are there particular problems in developing Brownfield land due to contamination or dereliction? To what extent are such problems obstacles to development decisions? How much more expensive can this make Brownfield land?*

We would agree with other developers that there are few easy Brownfield sites left to develop remaining and that problems like contamination and dereliction do impose a considerable cost on developing the site. Despite all the tests that can be undertaken to try and establish the degree and extent of contamination, there is always the risk that the full extent will not become known until development starts. This uncertainty makes the development of such sites more risky. Also there is the additional risk of liability in the future if the measures taken to deal with contamination prove to be unsuccessful over time.

Not only is there the cost involved in dealing with the contamination that could make the site unviable for development, there is also the consideration of the marketing of the site. Consumers are becoming more wary of where they want to live and heavily contaminated sites will put off people from buying and living on such sites. In those situations, it may be better for such sites to be used for other less sensitive uses than housing.

### Issue 3: How policy and its application influence housing developments

One issue that should be included in this section is the way that different agencies have their policies and procedures that either slow up the determination of a scheme or impose such costs on it that the viability of the scheme is threatened. For example, highways can take up to 2 years to approve details which is completely unacceptable

*15. Are there problems with the interpretation of planning guidance by local authorities, if so what are they and why?*

Yes, there undoubtedly are. Most local authorities will seek to apply national guidance to their own particular circumstances and then claim that these circumstances will mean that they can disregard national guidance. Issues concerning character and design standards are particularly problematic with different authorities interpreting national guidance in a different way. Also in the case of affordable housing, local authorities apply the guidance differently in respect of thresholds applied and the amount of affordable housing sought.

Additionally, many local plans are out of date by the time they are adopted. It does not help when new national planning guidance is published following adoption which can and often conflicts with the adopted plan. This presents problems of interpretation for both developers and local authorities.

All this means is that applications take longer to negotiate and process or end up at appeal.

What is required is clear and more unequivocal national planning guidance. If local authorities want to depart from national guidance because of special circumstances then this should be done through the local plan process. Such an approach could also have the added effect of speeding up the development plan process. It would also result in more consistent appeal decisions.

We also need a sea change in culture amongst local authorities so that development is viewed as a positive thing particularly on brown field sites. This is sorely lacking amongst most local authorities who in the main act negatively to housing proposals.

*16. Are there any particular aspects of planning policy which do not properly reflect the wider social and economic costs and benefits of housing?*

Planning Policy is essentially concerned with land use but in terms of housing development, it is probably the one use that almost every aspect of social and economic costs are considered but is then disregarded in favour of environmental and political costs. However, we believe that less is made of the economic and social benefits of housing especially when it comes to taking decisions on the provision of housing land and on planning applications. It seems to us that local authorities try to limit the amount of housing for political ends and cite infrastructure and environmental costs as cardinal reasons for refusing housing development.

At the heart of planning policy should be the requirement for local authorities to meet housing need in their areas which should be inviolable.

*17. Does the planning system provide incentives to develop Brownfield land?*

The planning system in our view actually deters the development of Brownfield land because of the application of onerous planning standards or policies designed to maintain character and density which could limit the amount of land available for development. Other designations such as listed buildings and conservation areas also have an impact. Added to this, the requirement for affordable housing and other planning obligations does act as a disincentive.

An example of this is a site we own that we have appealed the planning application. The council initially accepted the principle of residential development but when the planning application was submitted they decided they would rather see a mixed use scheme on the site involving more land in a comprehensive scheme. A comprehensive scheme would mean us buying more land. Also it would mean more housing could be provided but then affordable housing policies would apply which would make the scheme unviable. The unrealistic expectation of the local authority has forced us to go to appeal on the application.

*18. Is planning guidance applied appropriately?*

Planning guidance is open to interpretation and all parties would claim that they are applying guidance appropriately. In our view it is not applied appropriately because of the political judgement that colours its application. Housing development is perceived to be a necessary evil amongst existing communities and their elected councillors. It is therefore restricted as much as possible. It is within this overall restrictive context that planning guidance is applied.

We recently had a planning application for 6 houses go to planning committee with the endorsement of officers. It complied with both national and local plan guidance and was located within the urban area. However, because of existing resident opposition, councillors on the planning committee tried to find ways to refuse the scheme. It was only the resolute view of the planning officer who dealt with the application that there were no material planning reasons to refuse the scheme that ensured that the scheme was finally approved; and then by the casting vote of the committee chairman!

If the government wish to see how planning guidance is applied at the local level, it should attend local development control committees to see how much opposition is directed to fairly straightforward and reasonable planning applications for housing. It would then learn directly why there has been such a drop off in housing completions thus adding to the shortage of housing particularly in the south east.

*19. Is the current reform programme sufficient to address inefficiencies in the planning system?*

In a word – No. The planning system essentially comprises two elements, the development plan system and the development control system. What were needed were modest changes to the development control system to enable quality decisions to be reached in the quickest possible time and not whole scale changes to development plan system as well. This could have been undertaken without the need for primary legislation. There is real and significant concern amongst the industry that the amount and radical changes put forward by the government will slow the system down further.

*20. Are section 106 agreements an effective means for addressing and mitigating the impact of developments*

We consider that S106 agreements have a role but they should be directly related to the development concerned and should be processed much more rapidly than they currently are. It is extremely frustrating that a S106 agreement can take much longer to process than a planning application even where the terms have been agreed.

Also in our experience, local authorities tend to use S106 agreements when conditions to an application would suffice. Further guidance on the scope and application of S106 agreements should be provided by the government.

*21. Do Section 106 agreements create perverse incentives?*

Undoubtedly S106 agreements can be used to enable development that otherwise would not normally be allowed e.g. the provision of affordable housing or other community benefit that otherwise would not have been provided. But at the end of the day, in such situations, it is the local authorities that have the upper hand in deciding whether the application and S106 agreement is acceptable.

*22. Do building regulations restrict development?*

Only insofar that they add to the cost of new development which has to be taken account in the construction cost. It is the cumulative affect of all these factors i.e. planning obligations, costs of contamination and dereliction remediation that could ultimately make a scheme unviable.

NHBC do provide an admirable service in approving details in a timely fashion.

*23. Do regulations governing the change of use effect the use of existing buildings for housing?*

Yes. Planning policy and regulations that restrict changes of uses from employment, community uses and conversion of existing housing do limit the capacity of potential housing. More flexibility is required to enable this potential to be realised.

*24. Are there market failures you can identify affecting the development of environmentally sustainable housing, regeneration of the urban areas and protection of the countryside?*

We do not think it is market failures as such. The fact of the matter is that the house building industry is the same as any other industry in that a reasonable return has to be demonstrated. If a return can be demonstrated then such projects will be undertaken. The objectives mentioned are not mutually exclusive but in order to show a reasonable return, there may be the need to allow enabling development or government subsidies should be provided.

*25. How does the tax regime influence the use of land? For example the tax treatment of new build homes differs from that for conversions of existing housing stock – does this preclude certain types of development? Does taxation prevent the most efficient and effective use of land?*

The government does take a large amount of money in taxes from the development. There is stamp duty on the purchase of land and new homes. There is capital gains tax paid by vendors. Again these are all costs that have to be factored into the evaluation of whether a scheme is viable.

As for VAT on new homes, we are concerned that this would add to the purchases costs that would put new homes at a disadvantage when compared with second hand homes. Therefore this should be avoided.

There is a clear case for the current VAT on conversions to be rescinded to encourage more conversions of the existing stock.

#### Issue 4: Why has the industry not expanded provision of affordable housing or housing for rent?

The provision of affordable housing is fraught with complications that inevitably mean that house builders are not too enamoured with it.

Speaking for ourselves, we have tried to avoid the provision of affordable housing wherever possible because of the lack of return. If sufficient subsidy was available to cover the full cost of the provision of affordable housing, then we would not have a problem of providing affordable housing. As it currently stands the expectation is that the developer and landowner will cover the full cost of the affordable housing. If a subsidy is available at all, it barely covers the cost of building the affordable housing.

Thresholds at which affordable housing is sought is extremely problematic. At present general government guidance is that sites under 25 dwellings or 1 hectare are exempt. However, above this threshold, local authorities can seek a percentage of affordable housing to be provided. Generally this is around 25% of the overall scheme. Thus we go from a situation of providing no affordable housing at 24 dwellings to 25% of the scheme (i.e. 6 affordable housing units) at 25 dwellings. Where is the logic and reasonableness in that? It is no wonder that developers and landowners would propose schemes at just below the active threshold.

One suggestion would be to have a sliding scale of affordable housing after the appropriate threshold is achieved. For example at 24 units there would be no affordable housing sought but at 25 units, 1 unit would be sought. Thereafter, 1 unit of affordable housing would be sought for every 5 units of private sector housing. Obviously there would still need to be account taken of site development costs but this as a general rule would encourage developers to provide affordable housing and not penalise them when they get near the threshold figure. Also as a general principle, the thresholds should be higher for Brownfield sites because of the site costs associated with developing such sites.

Local authorities also want to see social rented housing and frown on low cost or shared ownership schemes as meeting housing need. The dominance of affordable rented housing should give way to shared equity and other discount schemes to enable home owning aspirations to be met.

Also there are management issues with housing associations that complicate matters further.

As for the private rental sector, we are house builders and not a property management company. That is why we have not gone into this particular sector. In any event onerous VAT legislation would preclude renting by the house builder.

I trust my comments are helpful. Please do not hesitate to contact me should you wish to discuss any aspect further. We look forward to hearing your conclusions in due course.

Yours sincerely

Jeremy Peter  
Planning Director  
(Email: [jeremy.peter@beechwood.co.uk](mailto:jeremy.peter@beechwood.co.uk))