

AL/LS

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Ms Kate Barker
Review of Housing Supply
1 Horse Guards Road
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Dear Ms Barker

Barker Review of Housing Supply

The house building industry as a whole completes some 23,000 dwellings per annum in Scotland (80% of which are provided by the private house building industry without recourse to public subsidy) with the gross value of the production being over £2 billion.

In broad terms the house building industry in Scotland: -

- has a net output amounted to £2,220 million,
- is responsible for an output which represents 3.4% of GDP,
- generates retail spending which amounts to a further £100 million per year,
- generates very considerable contributions for the Government in the form of corporation tax, stamp duty on land transactions, landfill tax, aggregate tax,
- employs directly 71,500 people, and
- is responsible for the creation or protection of 136,000 jobs when multiplier effects are taken into account.

These figures demonstrate that the house building industry makes a major, and perhaps not sufficiently recognised, contribution to the Scottish economy. An economically viable house building industry is necessary for the promotion of economic expansion in that it facilitates the movement of population and employment to growth areas. More generally, a healthy industry is required to enable the Scottish Executive to achieve its aim of establishing "a vibrant housing market that provides sufficient good quality, affordable, warm housing in a variety of tenures, to meet the needs of individuals and community aspirations."

Most of the new housing required must inevitably be provided by the private house building industry. It will, however, only be possible for the industry to

make a full contribution to the achievement of the Scottish Executive's objectives in the area of housing policy – and will consequently only be possible for the Executive to achieve its overall housing and social justice objectives – if the industry has the assurance of a fully adequate supply of land being available when required.

At present the planning system operates in such a way as to impose delays and excessive restrictions on the supply of land for housing, with the result that builders are unable to satisfy in full the demand for new housing. The inevitable consequence of this situation is that house prices spiral upwards, thereby exacerbating the problems associated with the provision of affordable housing. There is clearly a need for significant improvement in the operation of the planning system and a need for greater certainty about the release of adequate supplies of land for housing.

This was the reason for Homes for Scotland pressing so hard for the improvements to be incorporated into the Executive's most recent guidance published as Scottish Planning Policy 3. Homes for Scotland was particularly disappointed that the Executive moved away from the position contemplated in a consultative draft of that document which stipulation that the housing land requirement must be provided for in full on the basis of an agreed 7-year effective supply.

While some local authorities argued that a 7-year supply is difficult to achieve we did not accept that that was a reason for setting aside the requirement.

When we raise the issue of land supply with corporate policy officials in local government they recognise the need to get agreement with the industry both on the effectiveness of the housing land supply and the scale of the release needed to allow the industry to raise the capital investment required to finance policy ambitions in terms of housing provision.

That is in marked contrast to the views generally expressed by planning officials charged with the task of identifying the supply. Regrettably the "planning" view prevailed when guidance was published.

Homes for Scotland continues to take the view that the encouragement of investment goes to the heart of the matter. Whether it is an individual planning authority wishing to see greater diversification of the housing choices available in its area or Scottish Executive Ministers' clearly articulated desire to see more "good quality, affordable warm housing" we must address the issue of how we create the certainty that will allow the house building industry and its financial backers to identify a land supply that is robust enough to allow the industry to invest with confidence.

The private house building industry stands ready to work with local authorities to identify sites which would contribute to the achievement of the 7-year agreed effect supply target. A lead on this matter is, however, required from Government.

Developer Contributions

In addition to uncertainty relating to land supply, the economics of the house building industry are also relevant to the issue of planning gain.

While certain aspects of the house building industry are at present profitable, there remains a fragility which could expose the industry if the country faces a recession. At the moment we are perhaps at or near the top of the current economic cycle and in that context we have examined the published accounts of nine of the major companies operating in Scotland. They are operating on margins ranging from 4.4% to 10.2%. This is in stark contrast to commercial developers in other sectors who would be expecting something in the order of 16 or 17% before they would contemplate the commercial risk.

When we looked more closely at the figures we discovered that the country's three largest companies, who all reported record profits, were in fact reporting margins of 8.8%, 7.9% and 6.7% in their published annual reports for the last year (ending 2002). One major company reported net profits of 3.7%. In considering these figures it is important to bear in mind that they include the notional profits from the increase in the value of land holdings and are not drawn exclusively from house building activities. We cannot confirm the position in respect of our private companies but would not anticipate performances which differ greatly from the public companies.

What appears as profit is to a considerable extent made up of increases in the value of companies' historic land holdings, fuelled by planning restrictions on the release of land for new housing. As existing land holdings are developed, the companies have to have recourse to reserves and borrowing to fund the purchase of new land. Indeed, it could be argued that this element of profit amounts in fact to a loss because the new land will almost inevitably come in at a price well in excess of the value of the land being replaced. There are, therefore, no grounds for believing that house builders can continue to absorb ever-increasing demands for developer contributions without putting their mainstream operations in jeopardy.

Notwithstanding the economic realities faced by our industry, there remains a belief in some quarters that the industry is unduly profitable or making excessive returns. This together with restrictions on the finance available to local authorities has led planning authorities to make increasing demands for developer contributions towards infrastructure provision. When some of these demands have been drawn to our attention we are left with the conclusion that they are quite outrageous, bearing little or no relation to the scale or nature of the development in question. The situation has now been reached where companies are becoming alarmed about the implications for their future viability by the demands being made on them.

There remains a need for more definitive guidance to local authorities in this area.

Affordable Housing

Many of the considerations applying to developer contributions relate also to the issue of affordable housing. There is, however, a significant difference in that, unlike infrastructure provision, the requirement for affordable housing does not arise as the result of a builder putting a development in place, but is the reflection of a social need.

We are advised that, under Scots Law, it is wholly inappropriate for a planning authority to attempt to oblige a developer to enter into a Section 75 agreement (Scotland's equivalent to a Section 106 agreement) to make provision for affordable housing. In particular we believe that: -

- It is unlawful to reject an otherwise acceptable housing proposal because it does not contain an element of affordable housing
- No nexus exists between a planning application for a housing development and affordable housing need, which exists irrespective of the planning application.
- Affordable housing need does not arise as a consequence of a planning application for mainstream housing, therefore there is no detriment to be remedied.
- It is inappropriate for a planning authority to attempt to coerce a developer to enter into a Section 75 agreement to provide affordable housing.
- Planning consent for mainstream housing should not be withheld pending agreement on the provision of affordable homes a practice that is tantamount to selling a planning consent.

Nevertheless, the private house building industry recognises that there is a need in Scotland for the provision of affordable housing and starter homes, and that the industry has a contribution to make towards meeting that need. There is no unwillingness on the part of the industry to take on this role, but we believe that there are a number of issues which require to be resolved if an effective policy in this area is to be developed. We also believe that all developments such as retail developments, and not simply housing projects, should be placed under the same obligation to contribute towards the provision of land for affordable housing.

We believe that a solution to the supply of land for affordable housing can be found by Government recognising that: -

- 1 Planning authorities should identify a significantly increased land supply to meet demand and need in full and should use specific large scale land releases to procure a full range of house types including starter homes and affordable housing.

- 2 When supported by a robust, tested housing needs assessment, a planning authority should be entitled to reserve a proportion of a development site to be made available for affordable housing.
- 3 Land made available for affordable housing under a Section 75 Agreement should be valued for affordable housing.
- 4 An independent valuation should be required for the transfer of Land designated for affordable housing, as planning authorities do not have power to require a capital asset to be transferred at no-cost or at less than commercial value.
- 5 Where land for affordable housing is reserved under a Section 75 Agreement, any arrangement to develop that land must stand separate from the consent for the housing covered by the original planning application.
- 6 Effective integrated housing development could be achieved through partnerships with Registered Social Landlords or by allowing developers to build an appropriate range of starter homes utilising reduced values for land allocated for affordable housing.
- 7 Integrated design of all housing elements in a development should be encouraged, as should phased and orderly building programmes.
- 8 To ensure consistency of practice across Scotland in achieving their objectives, the Scottish Executive should direct rather than guide local authorities on these key aspects of delivering affordable housing effectively.

It is evident that there is a need for guidance to be drawn up with a view to ensuring that a standard approach is applied across Scotland and that house builders know what local authorities can reasonably expect of them. It is equally evident, given the fact that all concerned are very largely dependent on the private house building industry for the provision of affordable housing, that the industry should be involved with representatives of the Scottish Executive, local authorities and Communities Scotland in the drafting of the required guidance. To that end Homes for Scotland is encouraged by the willingness of the Scottish Executive to engage with Homes for Scotland in these matters.

The provision of affordable housing is not simply a planning matter. Housing finance also comes into the equation. Homes for Scotland has noted that, because of restrictions on the finance available, the provision of affordable housing by registered social landlords will be confined to a few priority areas identified by Communities Scotland. Outwith the priority areas affordable housing should encompass low cost market, or subsidised, housing irrespective of tenure.

Demand side issues in Scotland

Homes for Scotland has noted with interest the view that the problems in England and Wales relate in the main to supply side issues. While uncertainty over supply causes major difficulties in Scotland there are parts of the country where demand side issues cloud the debate.

In pressurised housing markets an unresolved debate about “exporting” demand is used by planning authorities to delay supply side decisions. For example in Edinburgh (which faces house price inflation similar to the South-east of England) and the Lothians there is a considerable debate about the extent to which demand should be “exported” to the northern part of the Scottish Borders area, into Central Scotland or north of the Forth Estuary into Fife. This inconclusive debate is used to frustrate supply side decisions. A similar situation exists in the Aberdeen area.

Water and Drainage

Scotland is facing a major crisis in terms of under investment in its water and drainage infrastructure. Scottish Water’s investment programme will not allow housing development to continue at its present level far less at the increased numbers that Ministers have agreed are necessary, and the result is a looming housing crisis in Scotland.

The position with Scottish Water investment demonstrates the very opposite of joined up government. On the one hand Scottish Ministers are allowing Scottish Water’s investment programme to be reduced in real terms, subjecting it to stringent fiscal and environmental regulation, and setting priorities that put coping with new development (of all types, schools, hospitals and industrial development as well as new houses) at the foot of the list

On the other hand the same Scottish Ministers are calling for more new houses, promoting regeneration, and, of critical importance, have approved structure plans and, in doing so have identified and approved a housing land supply which they are now rendering sterile by a failure to adequately resource Scottish Water to service that land.

It is, of course, not just the development industry that is alarmed by the consequences of what is happening. Local authorities throughout Scotland are aghast at the restrictions on new development that have had to be imposed – restrictions that will remain in place for several years.

Scottish Water’s published assessment of £600m needed to remove existing constraints on new development grossly underestimates the true position since it takes account only of existing known development proposals. New developments emerge all the time, and local authorities are constantly reviewing their local development plans but no assessment has yet been made of these locations.

From the information presently available to Homes for Scotland, we estimate that over 5 years housing land supply has been removed at a stroke.

This is a matter that needs to be resolved at the highest level, and soon, and we have called upon Ministers to become closely involved.

Conclusions

Homes for Scotland is aware that evidence has been presented to the Inquiry indicating that approaches to planning and land supply matters in Scotland might provide a key to alleviating problems south of the Border. That view is not shared by the house building industry in Scotland, nor do we believe it is shared by the Scottish Executive since they are committed to introducing major changes to the planning system in Scotland.

However, legislative change alone will not improve the position. The land-use planning system once operated on the basis of a presumption in favour of development. That, at least in Scotland, has now gone to be replaced by a presumption against development on the part of many planning authorities.

If investment is to be encouraged and targeted to ensure that Scotland's housing stock is replenished at a rate faster than the current 1% per annum, Government will have to take the lead and change the planning system and the overall policy environment from one which seeks to regulate and control development to one which encourages and facilitates investment.

Yours sincerely

Allan Lundmark
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