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Research  
Paper**

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# **PLANNING RISK AND DEVELOPMENT**

**How greater planning certainty would affect  
residential development**

**LSE** London

**UCL**

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**This report is part of the RTPI's 'Better Planning' programme. The Better Planning programme provides practical advice and intelligence to RTPI members and others, in ways which demonstrate how planning is part of the solution to major social, economic and environmental challenges.**

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# Executive Summary

Government has been forced to adopt a range of policy measures in response to the housing supply and affordability crisis in England. These include changes to the planning system and a raft of financial incentives. The assumption underpinning these initiatives is that the sluggish supply response is mainly due to regulatory barriers, and in particular to the operation of the planning system. In 2015 the Government pledged to introduce zoning-style mechanisms into the planning system. The goal was to reduce planning uncertainty and its associated cost, and thereby speed up housing development. This would allow local authorities to grant permission in principle on brownfield sites available for housing. The pledges were translated into legislation in the Housing and Planning Act 2016, which introduced the mechanism of permission in principle for the development of land (PiP). This is a form of partial planning permission in advance for specific sites, irrespective of ownership and before any development proposal is put forward.

This research explores the assumptions behind policies such as PiP, which aim to give certainty at the Local Plan stage. In doing so, it seeks to understand how uncertainty about planning permission may contribute to the observed inelasticity of housing supply when faced with increasing demand.

## The research

The implicit theory of change behind a move to a more zoning-based system is as follows:

- a) Obtaining planning consent constitutes a significant risk in housing development, increasing developers' required rate of return and the cost of finance;
- b) Granting planning permission at Local Plan stage would reduce that risk and its associated cost, allowing developers to build with lower expected rates of return;
- c) Thus permission at Local Plan stage would lead to an increase in the supply of housing.

Our research process explored the assumptions behind this theory of change. In particular, we reviewed the relevant literature on risk in housing development and planning risk.

We conducted 12 interviews with developers (including major private housebuilders, SME builders and housing associations), providers of finance and local authorities. The interviews explored their views on the main elements of risk in the planning process. They also explored how these are priced when they occur, how this varies, and the implications for development.

We undertook a further 11 interviews with planners, professional bodies and development consultants. These explored whether and how attempts to introduce greater planning certainty would affect their perceptions of planning risk and the implications for development. In particular, we explored this in relation to the recently introduced PiP.

We also organised two workshops (one in London, one in Birmingham) for planners, developers, land promoters and finance providers. These tested our understanding of the way planning permission at local-plan stage would affect planning risks and consequently the financial calculations of those involved in housing development and ultimately housing supply.



## The findings

- The financial cost of risk is highest before planning permission is obtained and declines thereafter. **Increasing certainty in the earliest stages of the development process would have the greatest benefits.**
- However, delays and the need to revisit planning permissions are also seen as extremely costly, especially on large sites. **Accordingly, developers include the probability of such problems and their cost into the returns they require.**
- Developers generally base required returns on experience rather than on sophisticated risk modelling. **Any reduction in planning risk will take time to feed through into developer behaviour.**
- **Small and medium-sized builders could benefit most from a zoning-type system**, if it meant that lenders were more willing to provide finance on the basis of a permission given in the plan.
- There are political elements to planning risk. Local communities often oppose not just the principle of development, but object to particular features of proposed schemes. Elected members of local-authority planning committees may reject planning applications even if they meet all legal and policy requirements. **Moving to a more zoning-type system would mean having these political discussions at the plan making stage—or more likely, revisiting them when details of proposed schemes emerged.**

Our findings about Permission in Principle (PiP) in particular were:

- PiP will provide some certainty about the range of development that will be allowed, but will leave the developer and planning authority to negotiate detailed conditions. **PiP will reduce but not eliminate planning risk. Similarly, it will reduce but not eliminate delay**, since the negotiation of conditions is often the most time-consuming element of the planning process.
- PiP allows the local authority to set out the type and amount of development permissible on a particular site. This permission, if it is to be implemented, must be informed by detailed knowledge of the plot and its physical characteristics and constraints. The current pressures on resources and on planning departments in particular mean **it would be a challenge for local authorities to assemble the information required to implement PiP to any significant degree, although it may be easier for small sites.**
- **PiP could increase the cost of land.** If the number of sites with PiP is restricted their price might rise, offsetting the advantages of more certainty. A more general point can be made that any zoning-like system could reduce risk but increase the cost of land. This is because the moment a local authority designates a future use on a strategic site, its value immediately changes. The current site allocation process is similar to zoning, and its effect on land values is obvious.
- **The planning system already has mechanisms that help improve planning certainty.** These include outline planning permission, detailed planning briefs, pre-application consultations, local development orders and development corporations. It remains to be seen whether planning in principle will overcome any limitations of existing mechanisms.

# 1. Introduction

Government has adopted a range of policy measures in response to the housing supply and affordability crisis. These include changes to the planning system and a raft of financial incentives. So far these measures have had limited success.<sup>1</sup>

The assumption underpinning these initiatives is that the sluggish supply response is mainly due to regulatory barriers, and in particular to the operation of the planning system. In 2015, the Conservative government's Productivity Plan blamed the strict English planning system for "increasing the cost and uncertainty of investment, hence reducing the efficient use of land and other resources" (HM Treasury 2015: 45). With the goal of reducing uncertainty and its associated cost, and thereby speeding up housing development, the government pledged to introduce a zoning system for brownfield land. This would allow local authorities to grant permission in principle on brownfield sites available for housing, and to "introduce a fast-track certificate process for establishing the principle of development for minor development proposals" (HM Treasury 2015: 45-46).

The pledges were translated into legislation in the Housing and Planning Act 2016, which introduced the mechanism of permission in principle for the development of brownfield land (PiP). This is a form of partial planning permission in advance for specific sites, irrespective of ownership and before any development proposal is put forward.

This research explores the assumptions behind policies such as PiP, which aim to give certainty at the Local Plan stage, to try to understand how uncertainty about planning permission may contribute to the observed inelasticity of housing supply when faced with increasing demand. The brief required us to assess the potential effects of local planning authorities (LPAs) granting planning permission on sites when drawing up Local Plans. This approach is similar to zoning, where development rights are attached to sites in identified zones in a plan. The planning systems in the US and much of Continental Europe are zoning-based.

Investors who accept an element of risk require higher returns as compensation; the greater the risk the higher the required return. The degree of so-called 'planning risk' factored in to housing developers' financial models requires corresponding rates of return. A high level of planning risk could render unviable some development sites where the expected level of return would not be sufficient to compensate for the risk involved. This would mean fewer sites coming forward for development – and consequently a lower housing supply. Giving permission at plan stage would reduce planning risk. If that reduction were enough to affect developers' financial models significantly, more sites might become viable for development and housing supply might increase. More generally, experience of greater certainty and lower cost planning permissions should increase developers' appetite for development.

The research investigated the potential viability impacts of permission at local-plan stage, as well as its implications for the behaviour of key stakeholders (developers, landowners, local

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<sup>1</sup> This report was completed on the day the Government published the draft revised NPPF and accompanying draft PPG on viability. While it would not be possible for us to include a discussion of the implications of those proposals, nothing in those documents suggests the need to change the fundamentals of what is in this report.

authorities), for the planning process and for the development-finance models used by housing developers and financial institutions.

## 2. Research design

This research was designed to explore the impact of increasing certainty in planning, and in particular at the effect giving permission in plan might have. The implicit theory of change behind a move to a more zoning-based system is as follows:

a) Obtaining planning consent constitutes a significant risk in housing development, increasing developers' required rate of return and the cost of finance;



b) Granting planning permission at Local Plan stage would reduce that risk and its associated cost, allowing developers to build with lower expected rates of return;



c) Thus permission at Local Plan stage would lead to an increase in the supply of housing.

Our research process explored the assumptions behind this theory of change.

### 2.1 Literature

There is a body of literature on types of risk in housing development and their pricing in developers' calculations (Karadimitriou et al 2013; Bramley 1993; Wiegmann 2012). It covers conceptual and theoretical questions as well as practical issues and provides a framework for identifying the main sources of risk. Specifically on planning risk, the literature is less abundant, but it is still sufficient to clarify which elements of planning-generated uncertainty tend to be priced as risk by housing developers and at what level (Cheshire and Vermeulen 2009, Lyons 2014). Planning risk includes not only uncertainty about getting permission but also the opportunity and other time-related costs associated with converting an outline/ preliminary permission to a full permission.

The literature review provided an overview of how development risks might be defined, classified, assessed and priced, and of the key variables that might influence risk. However, there are some important gaps in the literature. These include:

- How developers and finance providers assess planning risk in practice (e.g. in their corporate strategies and viability calculations), and how much variation there is from firm to firm
- Whether and how their assessment of planning risk is affected by market conditions, by the nature of particular sites and/or by arrangements between developers and landowners

Our empirical research was designed to fill these gaps.

## 2.2 Interviews

We explored the issues raised in the literature through in-depth, semi structured interviews with housing industry actors (developers of various kinds, landowners, consultants, finance providers), and those involved in making and implementing policy at national and local levels (government officials, local authority officials, professional institutions and groupings and pressure groups). Interviewees were typically high ranking officials or managers in their respective organisations). Their selection was based on previous contacts built up during previous projects on housing supply at LSE and used a snowball technique to expand to organisations where no previous contacts were available.

We conducted 12 interviews with developers (including major private housebuilders, SME builders and housing associations), providers of finance and local authorities. The interviews explored respondents' views on:

- The main elements of risk in the planning process and when they occur
- How these are priced
- How risk and risk pricing vary by type of site
- Differences in how various types of developer assess and price risk
- How financiers view the phases of planning risk
- How this affects the amount they are willing to lend and the timing of investment.

The findings from those interviews are summarised in section [3.2](#) of this report.

We undertook a further 11 interviews with planners, professional bodies and development consultants. These explored whether and how attempts to introduce greater planning certainty would affect their perceptions of planning risk and the implications for development. In particular, we explored this in relation to the recently introduced PiP. The interviews explored their views on:

- What a permission within the Local Plan might cover (in particular, how technical details and planning conditions and obligations would be handled) and how this affected planning risk
- Whether Permission in Principle (PiP) and similar instruments could reduce planning uncertainty and speed up development
- Trade-offs between flexibility and certainty
- Differential impacts on different areas of the country and on different markets

The findings from those interviews are summarised in section [4.2](#) of this report.

## 2.3 Workshops

We organised two workshops (one in London, one in Birmingham) for planners, developers, land promoters and finance providers. These tested our understanding of the way planning permission at local-plan stage would affect planning risks and consequently the financial calculations of those involved in housing development and ultimately housing supply.



The findings of the workshops are summarised in section [5.2](#).

Overall conclusions and recommendations for policy are discussed in section [6](#).

## 3. Planning risk

### 3.1. What the literature tells us about planning risk

The residential development process in the UK encompasses several stages, each of which carries its own risks for the developer and/or investor. On the next page, Table 1 sets out the typical order of stages of development. The column headings set out the general sequence, but there can be a great deal of overlap in practice.

Table 1: Typical stages of residential development

| Stage 1: Project conception and evaluation |   |                     | Stage 2: Land preparation (planning and estimation) |          |                    |             |            | Stage 3: Building construction |                          |                 |                                 | Stage 4: Marketing and sales  |             |            |
|--|---|---------------------|---|----------|--------------------|-------------|------------|--------------------------------|--------------------------|-----------------|---------------------------------|-------------------------------|-------------|------------|
| 1  | 2   | 3                   | 4   | 5        | 6                  | 7           | 8          | 9                              | 10                       | 11              | 12                              | 13                            | 14          | 15         |
| Identify site & land assembly              | Evaluate viability  | Design & masterplan | Planning feasibility/ source services               | Planning | Charges and levies | Procurement | Site works | Assemble build team/ materials | Sub-structure / services | Super-structure | Fitting out                     | Reservation/ bespoke fittings | Completions | Aftersales |
| Finance                                    |   |                     |   |          |                    |             |            |                                | Housebuilding            |                 |                                 |                               |             |            |
|  | Secure land option / license / conditional or unconditional |                     |   |          |                    |             |            |                                | External works / public  |                 |                                 |                               |             |            |
|  |   |                     |   |          |                    |             |            |                                |                          |                 | Reservations / bespoke fittings |                               |             |            |
|  |   |                     | Marketing, branding and expressions of interest     |          |                    |             |            |                                |                          |                 |                                 |                               |             |            |

Source: Adapted from Tunstall et al (2016)

A series of discrete risks appear at different points of the development process<sup>2</sup>. Table 2 sets out a timeline of the main categories of risk including planning risk (the subject of this paper), development risk and sales risk, and an indication of how they are priced in developers' models.

**Table 2: Risk timeline for residential development<sup>3</sup>**

| Blanket term                                      | Stages in development process                                | Associated risk  | Pricing   |
|---|--|--|---|
| Land risk   | <b>Stage 1:</b> Purchase of site                             | Site may have unforeseen problems (contamination, archaeological remains)  | As a rule of thumb, add 15-20% of costs to required returns in developer models to cover land and planning risk |
| Planning risk                                     | <b>Stages 1-3:</b> Prior to discussion with local authority  | Planning permission may not be granted for requested scheme.<br>Time taken to secure permission may be longer than expected. |   |
|   | <b>Stage 4:</b> Secure planning permission                   | S106 requirements may be different than anticipated.   |   |
|   | <b>Stage 5 Onwards -</b> fulfil detailed planning conditions | Modifications may be required with associated costs.<br>Conditions may be problematic to implement.                          |   |
| Construction and delivery risk / development risk | <b>Stages 8-13:</b> Build                                    | Construction costs may be higher than expected. Delays also add costs.   | Possibly add 5% for construction risk although sometimes just accepted  |
| Sales risk  | <b>Stage 13-15:</b> Marketing                                | Housing market may turn down. Units may not sell for expected price, or take longer to sell than expected                    | Usually covered by developer's required return  |

*Adapted from Scanlon et al 2013*

A developer considering the purchase of land without planning permission must factor planning risk in to the viability calculations. Planning risk covers not only the binary outcome (will the scheme receive planning permission? yes/no), but more broadly the full range of requirements that might be required as a condition of planning permission. The developer also needs to account for

<sup>2</sup> This section is based on Annex G of Building the Rented Sector in Scotland (Scanlon, Whitehead, Williams and Gibb, 2013).

<sup>3</sup> See Table 1 for stages of the development process

the costs involved in securing planning permission in terms of expert advice, the costs of capital tied up and, crucially, time.

A viability assessment will incorporate assumptions (possibly implicit) about the time required for various elements of the development process including planning, tendering, and construction. Timing is important for two reasons. First, the longer the preliminary phases take, the more the developer incurs in holding costs—interest on loans, site security, etc. Second, delays in the preliminary phases have a knock-on effect on the timing of eventual revenues, meaning that they are worth less using a conventional discounted cash-flow approach.

Ball (2011) found that official figures on the time taken by local authorities to process planning applications were unreliable and concluded that ‘...delays in development control may be a significant contributory factor to the low responsiveness of UK housing supply to upturns in market activity.’

Planning obligations are the other main planning-related cost. The most significant is normally the S106 requirement for affordable housing contributions, but developers can be required to make contributions to a wide range of community facilities and infrastructure (MHCLG 2018).

When forecasting, developers incorporate assumptions about the volume of S106 obligations into their financial models. Local Plans often contain targets, in particular for the proportion of affordable housing required on major schemes. As these are targets rather than fixed tariffs they are subject to negotiation. A common example is where the local authority requests a high proportion of affordable housing and the developer responds by saying that to provide the amount requested would render the scheme ‘unviable’ (unprofitable). Each side produces a set of viability calculations to support its case, and after discussion they agree the amount of affordable housing to be provided. The need for technical support in these negotiations has led to the emergence of a small industry of viability experts who advise both sides.

However recent proposed changes to the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) on viability may change this. The impact of this change remains to be seen.

Financiers of development similarly incorporate risk into their decisions about what to finance and at what interest rate or required return. The main sources of development finance are banks, institutional investors and developers’ own equity. Banks generally will not lend on development schemes until after planning permission is secured, so planning risk is not an issue for them. Similarly, most institutional investors will only invest in property assets after planning permission is secured and indeed after construction is complete. However, investors with a higher risk appetite will invest at an earlier stage in ‘strategic land’ (that is, land without planning permission). This includes some local authorities, pension funds, sovereign wealth funds and high-net-worth individuals. In doing so they are consciously assuming planning risk and will therefore be seeking a high rate of return. It is difficult to be precise about the size of the required risk premium, as it will vary according to the state of the market and the economy as well as scheme-specific factors.

Within the investment industry there are recognised benchmarks for the level of risk involved in various types of property investment; funds that invest in development and particularly in strategic land fall into higher risk categories than ‘core’ funds that invest only in income-producing assets

(INREV 2012).

In principle, the uncertainties involved in planning could be modelled, allowing developers and financiers to incorporate sophisticated, granular assessments of risk in their viability calculations. There are various standard techniques that could be employed including sensitivity analysis, scenario analysis and Monte Carlo simulation (e.g. Byrne et al. 2011).

However, research suggests that in practice developers do not employ sophisticated risk-pricing techniques but rather rely on broad rules of thumb. For planning risk, as Table 1 suggests, a developer that would seek 20% profit on cost on a development without planning risk might target 40% on a site where planning permission was required, even if the risk is borne for a relatively short time and there might be means of mitigating it (Scanlon et al 2013).

Given the limits of current understanding, this rule-of-thumb approach may be entirely rational. Byrne et al (2011) point out that:

*In any risk analysis, a main consideration will be the form of the probability distributions that express the uncertainties in the system. This has been seen persistently as a major difficulty in developing models of this kind. It is necessary to specify a considerable number of distributions in these models, and practically the justification of the form of any or all of them is a problem that is common to all risk analyses. The literature tends to use easily managed distributions, e.g. normal, triangular, rather than attempting any systematic understanding as to which distributions might be most appropriate or correct.*

Atherton et al (2008) similarly stresses the importance of understanding the probability distributions of the various elements of uncertainty in viability modelling. The Byrne et al. 2011 study showed that more sophisticated viability models, which incorporated disaggregated approaches to risk (particularly in terms of the affordable housing requirement) performed no better than much simpler equations.

## 3.2. Planning risk and risk pricing: evidence from interviews

To understand how those involved in housing development perceive and assess planning risk, we undertook 12 interviews with industry participants. These include large and small housebuilding companies, strategic land developers, housing associations, investors and finance providers, and land dealers.

The discussion of interview responses is grouped by topic and type of interviewee.

### 3.2.1. Sources of risk in housing development and the importance of planning risk

In general, **developers** know what they can expect to achieve on large sites. However, this does not eliminate the risk that agreements made at officer level with the LPA will be overturned by elected members of the planning committee. If the delay is relatively short it just reduces returns, but a significantly extended planning process can threaten the deliverability of some schemes.

**Large, volume housebuilders** have to consider the risks of not undertaking development, as their business needs a pipeline of housing units being developed and released to the market. Therefore the main issue they described was timing, as it was for some investors. According to one interviewee, about 80% of sites have some clear plan and even when they don't there is little



general risk involved. Timing issues are often political, but it's the interaction with the market cycle which determines how cost delays might impact on a development. The initial consent is often not the major issue but rather the differences thereafter that might create timing issues and therefore extra costs.

For **small developers**, the same risks affecting large housebuilders are compounded by the fact that external finance is very rarely available until detailed planning permission is granted. Thus any capital investment up to that stage requires the small developer to invest their own equity. For them, planning risk arises from uncertainty around whether they will secure planning permission and how long that process might take. Even when there is a pre-planning agreement, the scheme may be turned down or held up later on in the process because of design issues. Smaller builders may be engaged in more speculative projects than larger builders, who are looking to develop allocated sites and have relative certainty they will eventually get planning permission. For small builders, S106 and CIL are major sources of risk/uncertainty.

**Strategic land developers** cover all stages of the development process, each of which has associated risks. Their main business is the development of land, which means they bear risk not only at planning stage but throughout the development process and even after completion--sometimes decades later (e.g. estates management). Risks associated with changes to the context are part and parcel of these type of developments. For these players, planning risk has more to do with the constant changes to policy than with the challenge of securing planning permission. There are also tensions between policy expectations of what can be achieved and the developers' own expectations, which depend on the long-term financial viability of a scheme. Like other developers, they reported uncertainties surrounding negotiations (especially around the proportion of affordable housing that might be required), which affect the price paid for land and therefore viability. They also noted that some Local Plans contain conflicting policies, which adds to uncertainty.

**Land traders** are mainly interested in off-market sites, and their business model is based on risk – the higher the risk involved in obtaining planning permission, the higher the expected return. The main issue for them is the accuracy of their assessments of a site. They saw uncertainty about affordable housing and other policy compliance requirements as the biggest threat. As they see it, constant policy changes are the main source of risk for the market. The price that developers pay for land reflects a particular policy context (expected % of affordable housing, CIL contributions, density restrictions, etc.). Policy changes have immediate implications for the price of developable land and the overall viability of a development.

The bulk of UK institutional property investment is in commercial rather than residential assets. Such residential investment as there is flows mainly into the emerging sector of purpose-built private rented blocks (so-called Build to Rent) and student housing. **Investment managers and institutional investors** tend to invest in finished products, which have a lower risk because they are past the planning stage. Some of these investors are only just getting involved in residential property development. The real hurdle is the uncertainty about the timing of getting planning permission and of clearing pre-start planning conditions. This risk is very difficult to mitigate. While the purchase of land is under option there is very little capital at risk and timing issues are not so important. However, once the scheme moves through the planning process, then time matters.

Even where Build to Rent investors are prepared to be involved before the development is

complete, most will only invest once the scheme has been 'de-risked': that is, the developer has secured planning permission and has a fixed-price contract from a lead contractor. Such investors see the main risk as the uncertainty surrounding the outcome of an investment, which can be economic or timing. For those investors that do invest at development stage, planning risk creates uncertainty at several levels: how much housing will be allowed, design requirements, cost of build, value of asset, operational effectiveness and particularly timing. Delays in starting construction have a greater impact on this type of investor because of the discounted cash flow (DCF) model employed (see [5.2.2](#)). Development and procurement risk can be managed through delivery. Therefore it is planning risk which provides the greatest uncertainty.

On the other hand, there are some **corporate or local authority pension managers** that set aside a pot of money for value-added higher-risk investments. There are also investment funds with pooled money from **high-net-worth individuals**, who are interested in riskier opportunities. **Sovereign wealth funds** often seek high returns (8-12%) and are willing to take on more risk and invest in development schemes from the start. These investments can include the purchase of strategic land, especially in the South East. Because of the inherent uncertainty of the planning system, buying strategic land is a high-risk investment. These investors are brought in because this risk is associated with the potential for higher returns.

### 3.2.2. Modelling and pricing planning risk

We asked interviewees how they modelled and priced planning risk.

**Strategic land developers** incorporate assumptions about the price of risk into the viability models they use. Some use the existing use value plus (EUV+)<sup>4</sup> approach to calculate residual land values, with planning risk included in the uplift value. Coincidentally, in the new Draft Viability NPPG, the Government recently suggested they will require all viability assessments to use this methodology (MHCLG 2018: 8).

However, the time horizons for their projects may be measured in decades. They generate a lot of profit by investing money upfront and then collecting returns from residential sales, commercial lettings and ground rents. There is an internal assessment based on expected values over time – what they are likely to get permission for, when and at what level of risk - but the judgements are qualitative. Initial capital investment comes from their own lenders, at interest rates that reflect lenders' perception of risk.

**Large volume housebuilders** act similarly. Many use their own finance and assess risk at a corporate rather than site level. The assumption is that sites they own will get planning permission. **Small builders** tend not to have any formal financial models, but assess probabilities in the context of cost, likelihood of receiving permission, timing, etc. without applying a standard risk premium.

**Land dealers** said they based their assessment of risk on tried and tested financial viability models that evaluate what permission might be in place at some future date (say, in two years' time). They are not averse to buying sites that entail high risks, including planning risk, because

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<sup>4</sup> EUV+ involves assessing the existing value of the land in its current use plus an uplift to take into account the increased value associated with the change of use

these can generate high yields. Accurate forecasting of trends is vital to their business model.

**Institutional investors** said they used a standard risk premium to capture void, rental, capital expenditure, and operational risks. These are priced based on the investors' experience from managing comparable assets. This risk premium guides their decision to invest. As we have already noted, few mainstream institutions are prepared to provide funding until planning permission has been achieved, so for them planning risk is generally not an issue. Institutional investors would look at planning risk only if they were involved in forward-funding developments.

To take on full planning and development risk, investors require a significantly higher return than they would require if they were investing at a later stage. When they forward-fund developments, investors use their standard risk premium for residential, adjusted for the particular characteristics of the asset.

### 3.2.3. Permission at local-plan stage and planning risk

The third block of questions explored interviewees' views on whether permission at local-plan stage would affect their perception of planning risk and facilitate development.

The **investment managers and institutional investors** we interviewed thought that if applications were no longer decided in a manner they perceived as arbitrary by planning committees this could have a positive impact. If that proved to be the case, investors would reduce their required Internal Rate of Return (IRR) for investment in developments at or before planning stage. However, they warned that such a mechanism could have a negative long-term impact if it led to an oversupply of generic schemes.

For **strategic land developers**, permission at local-plan stage would have little impact, since their land is usually subject to environmental impact assessment (EIA) and that would not be circumvented by permission at local-plan stage. They shared investors' concern that the mechanism might not lead to better places, suggesting that local authorities lack the skills to set out principles that would ensure high-quality development. They felt that inflexible permissions could reduce new build delivery rather than facilitate it.

The **large volume housebuilders** said a general permission at local-plan stage would not obviate the risk and uncertainty of securing detailed technical approval. There was a general feeling that a system of permission at local-plan stage could work well for small developers. However, those **small builders** we interviewed said permission at local-plan stage only made explicit what was already implicit in Local Plans and did not expect it would alter expectations of developers. Nonetheless, small builders are supportive of a system that would provide a form of outline permission (the red line applications of the past). They suggested it would provide more certainty and be more consistent, limit discretion and help them deal with the disproportionate risks they face because of upfront costs, financing, etc.

The **housing association** interviewee said it was unwise to allow planners to assume the developer's function, which is to identify the best use for a site within the parameters of a planning framework. Moreover, planning risk would not be reduced if detailed policy compliance approval were still required.

Finally, **land dealers** agreed that a permission at local-plan stage system could reduce some of

the uncertainty in development. This could benefit companies that were risk-averse because they worked on a low cost of capital (e.g., build-to-rent and social housing developers). However, they pointed out that a zoning-like system would reduce risk but increase the cost of land. This is because the moment a local authority designates a future use on a strategic site, its value immediately changes. The current site allocation process is similar to zoning, and its effect on land values is obvious.

#### 3.2.4. Increasing certainty in the planning process

The last block of questions dealt with interviewees' views on possible mechanisms to increase certainty in the planning process. Permission in principle was mentioned by some, as the interview questions were framed around this possibility, but most interviewees said there were other ways of addressing risk and uncertainty in planning.

For *investors*, permission at local-plan stage could be a good start if it eliminated decisions by planning committees which they perceived to be decided in an arbitrary manner. *Strategic land developers* said there should be:

- More collaboration between local authorities and developers during preparation of the site allocation document;
- Greater clarity from local authorities about conflicting policy requirements;
- Less use of planning conditions;
- A clear and shorter timetable for meeting planning conditions (e.g. 8 weeks) and resolving appeals (e.g. 6 months)<sup>5</sup>.

They called for a wider approach to reducing uncertainties, including a better definition of density and fewer changes to CIL, affordable housing requirements and EIAs.

*Housebuilders* said greater use of local development orders would help, as would a general simplification of planning. They accepted that there was a trade-off between certainty and flexibility, and a tension between creating a predictable planning system and allowing for local democracy. The *housing association* interviewee said the EIA process was too complicated and expensive, putting smaller builders off and causing concern to larger ones. Greater certainty would mean a speedier approach to clarifying reasons for refusal and resolving difficulties with the appeals system.

Lastly, *land dealers* said the best ways to increase certainty were to

- set a fixed but reasonable requirement for the proportion of affordable housing,
- take into account new policies' impact on land values, and
- finalise Local Plans quickly, to avoid land promotion outside the normal planning process.

### 3.3. Key findings about risk pricing and risk management

The interviews with key stakeholders in the housing development industry allowed us to explore

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<sup>5</sup> At the launch of the new draft NPPF the Government announced plans to launch a consultation on how to speed up appeals for major housing applications

how they perceive planning risk compared to other types of risk associated with housing development; how they include that risk in any financial models they might use; how they see the role of permission at local-plan stage in mitigating that risk; and what they regard as important in dealing with planning risk and uncertainty.

We found that:

- Risks at planning stage were varied and affected actors in different ways. Most saw the risk of not obtaining permission as less significant than the uncertainty about when full permission might be secured, including meeting all technical conditions and complying with regulations (e.g. EIAs). The term 'planning risk' encompasses elements that go beyond statutory planning and is unlikely to be significantly reduced through planning measures alone.
- Planning risk, despite its complexity, makes up only a fraction of total risk. The size of this fraction depends on the size of the developer/investor and the nature of the returns they expect. It is probably more significant for smaller developers undertaking speculative development and for whom the costs of finance are high; large housebuilders or strategic developers are more likely to assess risk at corporate level and/or to have a long-term stake in a scheme. And there are some actors who welcome a high degree of planning risk because it can be associated with commensurately high yields.
- There is not much evidence of sophisticated risk modelling in the housebuilding industry, nor do most firms use a standard premium for planning risk. Instead, planning risk is factored into viability calculations via the likely time required to secure permission and its financial implications. These estimates are mostly based on previous experience, and refined as firms assess previous projects. Therefore, any measure that aimed at reducing elements of planning risk would only become effective over time, as developers and investors observed its impacts and incorporated the new timings into their experience-based models.
- Permission at local-plan stage might reduce risk for some types of players if it covered some of the policy compliance issues associated with full permission. There are some regulatory requirements that lie outside the planning system. Any impact would manifest itself over time, and there is no evidence about how it might affect supply.
- There are already instruments designed to increase planning certainty (e.g. development orders, permitted development orders, pre-application consultation), and timely and proper use of these instruments could go some way to reducing risk. In the view of most of our interviewees, a zoning-like system of permission at local-plan stage would not be a silver bullet with which to increase housing supply.

## 4. Permission at local-plan stage

### 4.1. Risk in the planning system and the role of Permission in Principle

The practice of attaching some form of planning permission to sites in a Local Plan is a common feature of many planning systems. In these zoning-based systems, the plan sets out what can be



developed in each zone, occasionally down to the projection of allowable buildings. However, in England's discretionary planning system permission is granted case-by-case after detailed consideration of proposals for particular sites. Local Plan policies are statements of principle, and planning permission is only given after an examination of how these principles are translated into a project or master plan. This system cannot easily accommodate the in-plan permissions found elsewhere.

Historically, some large developments have come about through agreements negotiated between planning authorities and developers with the goal of reducing risk. Such agreements (often the fruit of complex and lengthy negotiations) have elements in common with permission at local-plan stage, but do not have the legal force of a planning permission.

Other measures used to reduce planning uncertainty include ad-hoc partnership arrangements involving publicly owned land. Whereas a good case could be made for an actual reduction of planning risk brought about by those arrangements, they remain exceptional and are not easily replicable.

A formally recognised and widely used means of reducing the uncertainty and costs associated with planning permission is the application for **outline planning permission**, followed later by full permission. While simple in its conception, it has developed into a lengthy process that requires considerable upfront investment for preparation of masterplans and other technical documents. It can also still leave significant uncertainty about so-called reserved matters that need to be agreed later. It is also reactive (i.e. developers come up with the proposals), whereas permission at local-plan stage would in principle allow local authorities to proactively decide what they expect on a site.

**Local Development Orders (LDOs)** and similar tools also give a sort of permission at local-plan stage. LDOs, which are issued by local planning authorities, grant planning permission to specific types of development within defined areas. Schemes that are compliant do not need further permission so are in a sense a type of permitted development. Local authorities cannot require S106 contributions under LDOs although developers can voluntarily provide them. In spite of 2013 legislation simplifying the process, LDOs are little used; those that do exist are mostly for employment-led developments.

**Permitted development (PD)** is development that is authorised in principle by the Secretary of State. Permitted development orders allow building owners to make certain structural changes and/or changes of use without applying for planning permission. In the context of new housing supply, PD covers changes from office to residential use and the associated building work. The Government is also currently considering a new PD right for upwards extensions.<sup>6</sup> The instrument provides planning certainty for such schemes but it is restricted to existing buildings with defined characteristics in particular areas, and the overall impact on housing supply is still to be determined.

The Housing and Planning Act 2016 introduced another mechanism, **Permission in Principle** for the development of land (PiP). This is a form of partial planning permission at local-plan stage. As

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<sup>6</sup> MHCLG (2018), National Planning Policy Framework: consultation proposals, [gov.uk/government/uploads/system/uploads/attachment\\_data/file/685288/NPPF\\_Consultation.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/685288/NPPF_Consultation.pdf)

the regulation is now in force we used the characteristics of PiP as the basis for our structured interview questions. However, it should be noted that by the end of 2017 no local authority had adopted the designation, so it is too early to assess its impact on the planning process.

PiP was conceived as a way of speeding up housing development. PiP covers the 'in principle' issues of land use, location, and the amount of development, but does not address technical details (which include S106 requirements). The idea is that PiP will increase certainty by clearly establishing that development is permitted.

The Housing Act 2016 and the 2017 regulations set out two ways of giving PiP:

- a) **Local authorities can designate sites in a Local Plan, neighbourhood plan or brownfield register.** The designation is temporary and must be recorded in a register. The designation can only appear in new plans (i.e. PiP cannot apply retrospectively). The Town and Country Planning (Permission in Principle) Order 2017, which regulates PiP, covered the procedure for sites recorded in brownfield registers. The first examples of PiP through this route came in December 2017 when 73 pilot local authorities published their brownfield registers. Part 2 of these registers list sites with PiP. Allocation in other types of plan cannot occur without further enabling regulation.
- b) **Developers can apply to the local planning authority.** This route is for minor developments on sites that are not on the site allocation document. A developer or landowner may approach the local planning authority to request PiP for a particular site. Enabling regulation has yet to be passed for this avenue.

Applications for PiP must be determined in the same way as any application for planning permission. Once PiP has been granted, the matter is settled and in-principle issues should not be re-opened at later stages in the planning application process. In-principle matters include:

- **Location** within the site,
- **Uses (housing-led)**, and
- **Amount of residential development** (typically with maximum and minimum numbers of units).

In addition to PiP, a technical details consent (TDC) is required. This might cover provision of infrastructure, open space, affordable housing, design, access, layout and landscaping. Only after technical details have been agreed can the applicant start work on site.

## 4.2. How professionals and industry bodies see Permission in Principle

To explore whether PiP has the potential to reduce risk and facilitate development, we interviewed representatives of 10 organisations including professional bodies, planning and development consultancies, industry groups and local authority planners.

### 4.2.1. On the potential effectiveness of PiP

There was consensus that the potential effectiveness of PiP to speed housing development was far from clear. On the positive side, most interviewees believed that certainty about the principle of development would ease access to finance for small/medium size developers, and that PiP might

also increase investor confidence. On the negative side, some said PiP could result in a bidding war for the few identified sites on brownfield registers, which could offset any gains from reduced uncertainty.

Interviewees thought PiP might appeal differently to different types of developers, depending on their financial models and risk structures. **House builders** use land options and have lower costs of capital, whereas **high-density developers** rely on private investors and have a high cost of capital. Certainty in planning might be more of an issue for the latter, because they must raise finance earlier. Similarly, **registered social landlords (RSLs) and build-to-rent developers** have an incentive to deliver quickly and start producing income, so they benefit from mechanisms that ensures a prompter planning permission. Conventional house builders, on the other hand, build at the speed in which they can sell the houses and can break up large sites into smaller units. They are less sensitive to planning delays. **Strategic land developers** can benefit from planning uncertainty as their business model is based on capturing the associated risk premium.

Some interviewees thought PiP would be most useful in promoting public land for development, although some said that allocating PiP to their own land could leave local authorities open to legal challenge on the grounds of conflict of interest.

#### **4.2.2. Comparing PiP and outline planning permission**

Most interviewees said that in practice they could see little difference between the PiP route and the existing route of outline planning permission coupled with the site allocation document in Local Plans. The same issues could be expected to arise under both systems:

- Accuracy of information regarding site constraints and developability of sites.
- Clarity about policy compliance requirements.

The second of those points is addressed by the PiP regulations, which say that local authorities should only attach planning conditions at the TDC stage. However, that raises questions about the meaning of the 'principle of development'. Some interviewees said pre-application discussions might be more effective than PiP in lowering planning risks, especially for larger, more complex developments; although others noted that agreement with an officer could readily be overturned by the Planning Committee.

#### **4.2.3. On local authority capacity**

Currently the only route to PiP is for a local authority to include a site in Part 2 of a new brownfield register. The government provided funding for a pilot group of local authorities to set up registers by the end of 2017.

Interviewees expressed concern about the site-selection process. They worried that local authorities would not have the resources to conduct the background assessments necessary to confirm the developability of sites and to structure the PiPs. For conventional planning applications these investigations are carried out and paid for by developers. PiP transfers the not-inconsiderable cost to local authorities but provides no corresponding resources. Interviewees worried that local authorities would not identify important constraints, leaving developers to invest resources in sites that might prove on further investigation to be subject to land title disputes, covenants, poor ground conditions, etc. Moreover, resource-poor local authorities might be unable

to conduct market research or explore a range of development scenarios (density levels, building heights, layout, etc.). Without proper background studies, local authorities might simply play it safe and fail to maximise site potential - or indeed refuse to include sites in Part 2.

#### **4.2.4 On the split between PiP and TDC**

Interviewees felt that securing the principle of development early on, followed by a more detailed technical analysis, might speed up the planning process and add certainty—but only if the TDC did not include any policy check. Some said it should be assumed that sites with PiP were by definition in compliance with policy.

Local authorities cannot attach any conditions to PiP. Issues other than the principles of location, use, and quantity of development are discussed at TDC stage. This includes the often-contentious issue of S106 requirements, as they are not covered by the in-principle permission. Some interviewees wondered whether government was using PiP to try to force local authorities to apply the Community Infrastructure Levy (CIL), whose value is known in advance, rather than requiring S106 contributions, which are negotiable and therefore difficult to value.

Because TDC is still required, PiP does not eliminate uncertainty and the route might not in practice speed up the planning process. In addition, there was some doubt about whether PiP would reduce the risk of community opposition to development. Under the PiP legislation, local authorities must consult communities about the principle of development but there is no statutory requirement for further consultation at TDC stage. Consequently, some community groups might end up challenging the process on the grounds of inadequate consultation.

#### **4.2.5. Flexibility vs. certainty**

PiP is supposed to increase certainty but some interviewees were concerned that this might be at the cost of flexibility. Some said that the normal route of outline planning permission and reserved matters would continue to be more suitable for large brownfield sites, as it allowed developers to work in phases and react to market changes by modifying the proposed development. PiP does not seem to allow for revisions to the principle of development, so market changes could render some sites unviable.

Similarly, the kind of certainty provided by PiP seems to add little in the case of strategic brownfield sites that are identified in Local Plans. The majority of such sites are already in the hands of developers, who will have a view of what each site should yield. Even when the developer-led route to PiP opens up, such developers would have little reason to use it as it could restrict their ability to shape their schemes.

#### **4.2.6. The operation of PiP in different areas**

Interviewees felt that PiP would have different impacts in different parts of England, depending on the dominant residential-development business model. For example, vertical development with external investment mainly takes place in urban areas whereas horizontal development funded by bank loans is more common in rural areas. The certainty that PiP offers will affect those business models differently and therefore, the uptake of PiP may vary (see discussion under [3.1](#) above). Some interviewees suggested that PiP was more likely to be beneficial in low demand areas with plenty of brownfield sites, where speedier approval and less detailed control might make a

difference in encouraging development.

Many interviewees said PiP was more likely to work on small sites than on large, which suggests it could be a useful way of supporting the government's initiatives to support smaller builders and smaller sites.

#### **4.2.7. Overall views about the impact of PiP**

Unsurprisingly, interviewees found it difficult to predict the impact of PiP on the land market and housing production. For the time being, PiP will only be issued on certain brownfield sites included in the brownfield register, and local authorities are likely to be cautious about their inclusion. There are still no regulations enabling other ways of designating PiP, the first brownfield registers have appeared only recently, and at the time of writing Local Authorities had yet to include any site in Part 2 of the registers.

Nevertheless, some interviewees raised concerns about the potential negative impact of PiP on the cost of land. If the number of sites with PiP is restricted they might be priced more highly, offsetting the advantages of more certainty.

#### **4.2.8. Other ways of improving planning certainty**

Many interviewees identified existing mechanisms that can improve planning certainty. Pre-application engagement, especially for major developments, can provide clarity about policy compliance, expectations and also a thorough assessment of all the potential development scenarios thanks to developers' expert input.

Local authorities could also play a more proactive role by using detailed planning briefs, action area plans, and supplementary planning documents, all of which provide more clarity about expected outcomes. Similarly, an up-to-date Local Plan with a five-year land supply that is not constantly changing would increase certainty.

### **4.3. Key findings about Permission in Principle**

We used PiP to structure our interviews about how greater planning certainty might be produced, and what effects it might have. PiP is not the only feasible way of granting permission at local-plan stage, but because the mechanism now exists in England it seemed sensible to ask interviewees about PiP specifically, rather than about a hypothetical policy.

Key findings are:

- The effect of permission at local-plan stage on planning risk depends on the developer's business model. Some are particularly sensitive to planning uncertainty and delay. The aggregate impact on housing development of permission at local-plan stage thus depends on the composition of the housing-building industry.
- Permission at local-plan stage reduces risk, which feeds through into higher land prices on sites affected. The degree of uplift depends on the market's perception of how much risk is reduced, and the amount and location of land with permission.
- Any permission at local-plan stage would probably involve a two-stage decision process, with the principles of development recognised in the plan and approval of details granted



later on (as with PiP). How far this reduces planning risk depends on how those two stages are articulated, what they cover and what form of compliance needs to be demonstrated in each.

- Effective permission at local-plan stage must reflect a detailed understanding of the site, to ensure that there are no constraints that would prevent development. Collecting the required information is costly. It is not clear that local authorities have the capacity, or the resources, to undertake the necessary site-by-site background studies.
- One of the advantages of a discretionary planning system is its flexibility. Market conditions when a site is developed might be very different from those prevailing when the Local Plan is approved. A discretionary system allows for the potential to use a site in ways not predicted in the Local Plan, which could enhance viability. The price of flexibility, however, is greater planning risk. Ideally, a system of permission at local-plan stage would balance the certainty of permission with some flexibility to deal with market changes.
- One important component of planning risk is community opposition to development. With a system of permission at local-plan stage, communities would be asked to accept a rather abstract principle of development. Community opposition could well emerge later in the process, once it became possible to visualise details of schemes.
- The English planning system already has a set of tools that could provide more certainty to the development process. These include:
  - pre-application discussions
  - local development orders
  - permitted development orders
  - planning briefs
  - development corporations
  - action area plans and
  - supplementary planning documents.

A refinement of existing tools could achieve the same risk-reduction effects as permission at local-plan stage.

## 5 The effects of permission at local-plan stage on output

### 5.1. The workshops

To explore whether and how permission at local-plan stage might lead to an increase in housing supply, we discussed our emerging findings in two workshops. Participants included planners, developers, lobby groups, land promoters, housing developers of various types and consultancy firms, with 12 participants in London and 15 in Birmingham.

The workshops were structured around the following themes:

- the main components of risk and uncertainty in the planning process and when they occur
- the magnitude of the planning-permission risk factor and how is it measured
- whether a permission-in-plan system (such as zoning or PiP) could substantially reduce planning risk
- other ways of improving planning certainty and their impact on housing supply

## 5.2. Findings from the workshops

### 5.2.1. Elements of risk and uncertainty in the planning process

Workshop participants identified two categories of risk affecting the delivery of housing:

- ‘Planning risk sensu stricto’ —that is, in a narrow sense whether permission for development is obtained. For large sites allocated in Local Plans this is a relatively small risk, and big developers can afford to spend the time required to clear obstacles and obtain permission. For smaller developers, ‘permission’ risk is harder to overcome, because their funding models depends on building and selling as quickly as possible. Moreover they often deal with unallocated windfall sites, for which permission is less certain.
- Policy and market risks, which affect the various stages of the development process. Policy risk, which reflects uncertainty about future changes in context and policy, is most relevant for landowners; some would prefer to accept a lower but certain land price now rather than gambling on an uncertain future planning outcome. Developers also consider policy risk, as policy changes can compromise the viability of a development. Market risk, or the risk of ‘missing the market’, is most relevant for smaller developers due to their limited capacity to slow or delay construction until the market picks up again.

Political risk (with a small ‘p’) is also a factor. Its effects are particularly important for larger strategic sites (1,000 to 2,000 homes), where local resistance and conflicts over planning-gain contributions (among other barriers) can hold up development for years. Political pressures mean planning committees may not back housing on land that they themselves allocated. Small sites are also open to political risk as they are usually not included in site allocation documents; moreover, every small site is different so decisions can be hard to predict.

The complexity of the planning system greatly increase the possibility of delays. The amount of detailed information needed to support planning applications, regardless of the number of units proposed, has increased upfront costs. Delays in the process particularly affect smaller developers operating in smaller sites because their models are more cash-flow sensitive, although housebuilders can mitigate risks by ‘doing their homework before they launch the ship’. Well-prepared house builders have a comparative advantage over their less organised competitors, so a challenging planning context ‘drives up value’ for the former. These risks are not borne by housebuilders alone; many are shared with or borne entirely by landowners.

Many types of uncertainty stem from staff shortages in local authorities, which means Local Plans are not up to date and planning applications are dealt with slowly.

Workshop participants offered insights into housebuilders’ business models. They said that one site which goes successfully through the planning system will pay for up to ten that do not. The

amount of up-front work needed to secure planning permission is not directly proportional to the size of site, and it is often rational for house builders to focus on big sites. This suggests small sites may need extra support to compete.

Generally speaking, the lack of a Local Plan or an unsound plan are sources of risk for developers. However, in local authority areas where there is no plan and no five-year land supply, developers may adopt a 'smash and grab' approach, looking for smaller opportunities that are likely to be NPPF-compliant. Participants said getting permission for such sites was often easier and quicker than getting permission for allocated sites. They added that outline permission also provided much more certainty than simple site allocation because of the quality and level of information required to secure it.

Planning conditions are an important source of uncertainty because of the time required to clear them. The resulting delays affect smaller and medium-sized developers hardest. S106 requirements vary from one local authority to another: some have a long list of 'necessary' works/contribution (e.g., drainage systems that exceed statutory standards) while others have very few.

More broadly, there is a lack of clarity about when a developer achieves 'policy compliance'. While a local authority may set an affordable housing target of 30%, that figure remains uncertain until it has been tested through viability assessment and agreement reached. The need to test figures adds to uncertainty, as do differences in target and requirements set by adjoining authorities: developing a mile down the road may mean doing business in a very different policy context. Such uncertainties can have an amplified effect on large sites where the complexities and scale of up-front infrastructure costs might make it difficult to be 'policy compliant' on every element of planning conditions.

A lack of joined-up thinking between the allocation of land for development and the assessment of infrastructure needs also generates uncertainty and risk. Where this occurs it is often rooted in politics and an insufficiently integrative perspective in planning. Utility providers will not invest in new infrastructure until there is some certainty around what will be built (including the scale and form of development). However upfront provision of infrastructure is vital to ensure a smooth release of residential units on which the viability of a development depends.

### **5.2.2. Measuring planning risk**

Most participants said they assessed risk on the basis of experience rather than formal modelling. Some developers see planning risk purely in terms of fees. If the planning permission is refused, they will consider themselves to have wasted the fees paid to architects, consultants, etc. and to the planning authority itself.

Most house builders are interested in land which is a 'measurable commodity' – i.e. land with an outline or full permission that gives a clear idea of what can be built. This allows them to price and bid for the land accordingly, so in practice landowners absorb the cost of securing planning permission. Options to purchase land if permission is secured are generally priced at 2-3% of the cost of land with permission.

Build to Rent developers tend to use discounted cash-flow (DCF) calculations to guide decisions, with planning risk factored into the parameters. Other developers generally use residual models to

work out how much they can pay for land to achieve a target profit and outbid the competition. Target profits range from as little as 15% of GDV for very good sites to 25-30% for sites bought on allocation; a normal target would be about 20% of GDV. Actual profits are often lower (say 14%) because target sales prices are not achieved (the most important factor in terms of gearing effect) or costs are higher than expected (including the cost of securing planning permission). Profits must cover not just the risks of an individual site, but also overheads and the risk of the rest of their portfolio.

Estimates of development costs and profit erosion are based on experience, so policy changes such as a system of permission-in-plan becoming the norm might well not feed through into target profits until developers gained experience of operating under the new regime.

### **5.2.3. Permission at local-plan stage as a means of risk reduction**

Workshop participants said that while zoning-type systems removed uncertainty as to what could be built in a particular site, they were also inflexible and would not mesh well with English governance. Experience in other countries showed zoning was often the result of high-level political steer – e.g. from powerful mayors – but English political processes place a high value on community input. As ‘real zoning’ is difficult to achieve here, mechanisms such as LDOs or PiPs are the only option. And even in countries with longstanding zoning systems, it can be difficult to achieve community buy-in (see Monk et al. 2013)

Discussing the potential of PiP, workshop participants echoed interviewees’ observations that detailed research into site constraints is needed, as PiP would leave technical details to be dealt with at a later stage. Local Plans need to be far more detailed and reliable to reduce the risk of unexpected problems arising later, and participants doubted that local authorities had the resources to produce such plans—although it was possible that landowners might contribute by providing details of constraints on their own land, if they felt it would add value. Some participants said PiP might de-risk smaller sites, which are usually left out of site allocation documents, and that this might help small and medium-sized developers access funding—but that on the whole there were better ways to help such developers if this was the goal.

PiP was seen to reflect the political discourse of greenfield protectionism, which claims development of brownfield land can solve the housing crisis while preserving the countryside. But most of the ‘soft brownfield’ sites have already been redeveloped and those that are left mostly have expensive problems. Participants felt PiP was not the right instrument to deal with this and that a tax mechanism would be better.

### **5.2.4. Ways to increase certainty**

Workshop participants agreed that there were many ways to increase certainty (see section [4.3](#)). While PiP might be helpful in some places, a general switch to zoning was seen to be a move in the wrong direction. Several said that a proper plan-led system, like the one introduced in 1990, combined with regional strategic planning, was a better way to obviate political risk and encourage funding and supply. Another suggestion was for local authorities to adopt a rule that planning committees did not need to consider policy-compliant planning applications.

The demise of strategic planning created messy situations—for example at the edge of London, where the GLA has no interlocutor at the same level outside the capital. Effective planning

requires good relationships across wider areas.

Providing public funding for upfront infrastructure costs could speed up development, especially for small sites which are less able to cover these costs. Development corporations could help fund upfront infrastructure on larger sites.

Participants said more attention and funding should be given to smaller sites, which deliver higher proportions of affordable housing than large strategic sites. They are more straightforward to develop and entail smaller upfront infrastructure costs. However, big developers are often not interested in sites with a small capacity (e.g. for under 50 units) and SMEs may struggle to overcome planning hurdles. Participants suggested revising the definition of 'major development' (currently any development above 10 houses) so sites above that but below what could be really considered major could be dealt with in a simpler way.

On large sites, we heard, developers 'only making a profit on the last 50 houses' as income from sale of the rest covers the substantial costs of development. Big developers have the resources to wait for the last 50, but smaller ones often do not. Tax breaks might help, or support for landowners to do pre-application bureaucratic groundwork on small sites.

## 6. Conclusions and recommendations

This research looked at the implications for housebuilding of adopting a less discretionary approach to granting planning permission in England. Uncertainty about planning outcomes represents a significant risk for residential developers (and their funders), who require commensurate returns. Higher risks will mean fewer new dwellings, as developments that promise lower returns will not happen. Given the pressing need for new housing in many parts of the country, would introducing a more zoning-type system be an effective way of increasing the amount and pace of residential development?

Planning risk reflects uncertainty about whether a development will receive permission as well as the terms and conditions and the timing of that permission. In assessing the risk, developers also take account of the proportion of schemes that are held up after permission is granted. In countries where zoning is the basis of the planning system, the location of a plot within a certain zone generally provides clarity about all associated requirements—that is, the developer knows what may be built and there are (in principle) no subsequent negotiations with the planning authority about conditions.

The mechanism of permission in principle (PiP), introduced in 2017, is one approach to giving permission at Local Plan stage and as such represents one possible way of providing greater planning certainty in England. PiP does not cover elements of technical consent including S106 affordable-housing requirements and is nowhere near full zoning as seen for example in many parts of the USA. However, because local authorities and the development industry are familiar with it, we used it as a reference point to invite discussion on zoning-type approaches.

## Findings

Our main findings were as follows:

- The financial cost of risk is highest before planning permission is obtained and declines thereafter. **Increasing certainty in the earliest stages of the development process would have the greatest benefits.**
- However, delays and the need to revisit planning permissions are also seen as extremely costly, especially on large sites. **Accordingly, developers include the probability of such problems and their cost into the returns they require.**
- Developers generally base required returns on experience rather than on sophisticated risk modelling. **Any reduction in planning risk will take time to feed through into developer behaviour.**
- **Small and medium-sized builders could benefit most from a zoning-type system**, if it meant that lenders were more willing to provide finance on the basis of a permission given in the plan.
- There are political elements to planning risk. Local communities often oppose not just the principle of development, but object to particular features of proposed schemes. Elected members of local-authority planning committees may reject planning applications even if they meet all legal and policy requirements. **Moving to a more zoning-type system would mean having these political discussions at the plan making stage—or more likely, revisiting them when details of proposed schemes emerged.**

Our findings about Permission in Principle (PiP) in particular were:

- PiP will provide some certainty about the range of development that will be allowed, but will leave the developer and planning authority to negotiate detailed conditions. **PiP will reduce but not eliminate planning risk. Similarly, it will reduce but not eliminate delay**, since the negotiation of conditions is often the most time-consuming element of the planning process.
- PiP allows the local authority to set out the type and amount of development permissible on a particular site. This permission, if it is to be implemented, must be informed by detailed knowledge of the plot and its physical characteristics and constraints. The current pressures on resources and on planning departments in particular mean **it would be a challenge for local authorities to assemble the information required to implement PiP to any significant degree, although it may be easier for small sites.**
- **PiP could increase the cost of land.** If the number of sites with PiP is restricted their price might rise, offsetting the advantages of more certainty. A more general point can be made that any zoning-like system could reduce risk but increase the cost of land. This is because the moment a local authority designates a future use on a strategic site, its value immediately changes. The current site allocation process is similar to zoning, and its effect on land values is obvious.
- **The planning system already has mechanisms that help improve planning certainty.** These include outline planning permission, detailed planning briefs, pre-application consultations, local development orders and development corporations. It remains to be



seen whether planning in principle will overcome any limitations of existing mechanisms.

## Discussion

Not without reason, zoning has often been portrayed as the polar opposite of England's discretionary planning system. The recent introduction of PiP, a zoning-type mechanism with very limited coverage, only emphasises the essential difference between the approaches. PiP creates a few more fixed points but the overall context remains one of negotiation, flexibility and democratic political input. It is always worth keeping in mind that there is a trade-off between certainty and flexibility, and a tension between creating a predictable planning system and allowing for local democracy.

Of course, PiP is just one mechanism: there are many other ways of moving to a less flexible, more certain planning framework. On individual sites greater certainty could be decisive but overall, improvements are likely to be incremental, and it is always difficult to isolate the effects of individual policy changes.

The research shows that the way developers perceive and deal with risk, or uncertainty, depends on their business models. There is no evidence of economies of scale - rather it differs between site size and type as well as between authorities. There may however be the potential for reducing portfolio risk in a more predictable environment. In order to have a clear impact on the industry as a whole, policy makers should acknowledge the variety of players and behaviours usually lumped together as 'the developer'.

To produce a genuine step change in certainty through zoning (which might or might not lead to a step change in output) would require overturning the fundamental bases of the English planning system. Such a revolution is clearly not likely to happen - and were it to be attempted, the short and medium term effects would undoubtedly be to slow development. While it is still worth striving for greater planning certainty, it remains the case that approaches that are compatible with our fundamentally flexible planning system are unlikely to lead to major changes in output.

An effective move towards a zoning like system would require proactive and skilled local authorities, capable of balancing the public interest and development realities during the plan-making stage of Local Plans. But most local authorities lack adequate institutional capacity to take on that role. Lack of funding and the brain drain towards the better paid private sector has come up again and again when discussing the reasons behind poor institutional capacity. Addressing this problem is key to facilitating a planning system that works, whether is discretionary or zoning based.

Overall, it is important that any attempt to increase certainty does not simply add additional stages to the permission process - as has happened before. Equally, transferring the costs of gathering site-specific information to the local authority raises major resource issues. Planning in Principle and similar approaches may help bring forward more of the smaller, simpler sites. This in turn has the potential to help small and medium sized developers play a greater role in the market. The approach can add value but cannot be a panacea in the context of more complex brownfield sites and the pressing need for more housing.

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