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# Small builders, big burdens

How changes in planning have impacted  
on SME house builders



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# Executive Summary

To help meet the Government's ambition of 300,000 homes a year, small and medium sized (SME) builders will need to build more homes than they do currently, and yet the trends are in the opposite direction, from contributing 40% of all homes built in 1988 to just 10% in 2020.

This research explores the evidence on whether changes in the planning system – making it more complex, more costly and more risky – have had any impact on this trend. Alongside an extensive literature review, we interviewed a range of local authority planning officials, experienced SME developers, industry groups and expert consultants.

We have a particular focus on medium-sized sites of under 100 homes, which are the lifeblood of SME house builders. An established model for building out these sites has been for an SME to purchase or (more likely) take an option on a plot of land (setting a period of time in which development can commence), seek to establish the principle of development through an outline permission, then raise finance and invest on the site with the associated level of certainty, before agreeing the detailed reserved matters and starting on site. This enables SMEs to compete on sites by spreading risk over the lifetime of a project, rather than 'front loading' and investing in the costly process of achieving detailed permission from the start.

However, our research shows three big changes which particularly impact on SMEs since the 1990s:

- a) The time taken to achieve an outline permission has increased significantly, from around 13-14 weeks in the early 1990s to a year in 2023.
- b) The associated costs have also risen. SMEs we spoke with described that the process in the early 1990s typically involved meeting with a planning officer, presenting a red line drawing of the site, complete with minimal supporting documents establishing ownership and basic access points, with broad costs estimated at £12,000 in 1990, or £28,000 in 2023 prices. Now, seeking an outline permission on a similar site requires evidence from around 10-12 consultants and costs around £125,000 in consultant fees just to establish the principle of development alongside a 72% increase in planning fees.
- c) Finally, the risk has increased. Whereas in the past, the principle of development could be straightforwardly established with little supporting evidence, validation lists now typically stretch to 30 separate assessments, and come with guidance notes that can exceed 100 pages. This is made worse by too few areas having up-to-date local plans allocating sites for SMEs, meaning it is outline planning applications that have to do the heavy lifting.

The result for SME developers is that securing outline permission is slower, less predictable, and now more akin to what is necessary to achieve a detailed permission. Our interviewees said outline permissions have lost much of their relative value, requiring around 80% of the cost and time of applying for detailed permission from the outset, but with an extra level of potential delays and risks.

## Findings

Our research finds a plethora of reasons for outline permissions becoming slower, riskier, and costlier to establish. Some of this is a natural function of increased environmental and other standards. There has also been significant advancements in the sector's understanding of the possible impact of developments which has led to more evidence being requested, much of which contributes to better decision making. However, we identified three common elements as contributing to unreasonably risk-averse decision making on outline applications:

- a) The increase in case law and precedents: Over time, challenges and appeals have led to an inflated set of parameters and decisions, each providing new risks of appeal and judicial review of decisions. Under pressure, local planning authorities therefore request more evidence up front at the outline stage 'as standard' in anticipation of any potential legal challenge based on former decisions.
- b) The increased politicisation of planning: Our interviewees agreed that, compared with the 1990s, there is a much higher level of public scrutiny and - on occasion - antipathy to any development in certain areas. This means that planning officers and councillors often ask developers for more evidence, in anticipation of a potential objection, at a much earlier stage than used to be the case.
- c) The lack of public sector capacity across the decision-making process. The reduction in funding across local planning authorities has been well ventilated, and with it there has been a lack of capacity especially in more specialist roles and a significant turnover in staff. This means that applicants are often forced to consistently 'start again' on demonstrating the case for development, often in the face of inconsistent feedback on proposals, leading to delays which can overwhelm the project timeline.

## Recommendations

Housebuilders looking to establish the principle of development (where local plans have not allocated sufficient small sites) must typically establish that harms caused by their development do not significantly and demonstrably outweigh the benefits. There have been significant improvements in the understanding of the impact of development (positive and negative) since the 1990s that mean exercising that planning balance is now much more sophisticated than it was.

However, in some cases it also led to a disproportionate burden of evidence gathering placed upon SME housebuilders looking to justify developments. We conclude the report by presenting suggested ideas to improve the system:

- a) Outline planning permissions needs to return to being outline, rather than being only a nudge down from a detailed approval. The evidence required at the outline permission stage should be simplified and scaled back commensurate with the 'principle of development' on the site rather than the detail, allowing for other – legitimate – considerations to be addressed at the detailed stage. Whilst this will not be a return to the simple red line and form approach of the 1980s, this can help reduce the costs and potential barriers to entry that the current burdens provide.
- b) In a plan-led system, LPAs must look to allocate more land suitable for development by SMEs. This would reduce the requirement to 'start from scratch' in establishing the principle of development on each site. A defined 'medium size' site allocation in local plans could also help LPAs and national development management policies to set more nuanced requirements better suited to sites that are over 10 but less than 100 plots.
- c) Reducing or eliminating fees for smaller sites (of between 10 and 100 units) would reduce the barriers to entry for SME builders to compete on small sites. Ringfencing, or partially ringfencing the remaining planning fees, can help LPAs build their capacity and can ensure decision making incentives are aligned with the Governments ambition to build 300,000 homes each year, as well as addressing ongoing workforce issues in planning teams.
- d) LPAs need to work with consultees and committee members to ensure that expectations for outline permissions are understood. This could be a practical guide, backed by professional planning organisations, in which consultees and committee members are given the guidance and information needed so they can assess outline permissions more effectively. This would be aimed at reducing the amount of evidence expected at the outline planning stage.

# O2 Introduction



This report has been commissioned by the Land, Planning and Development Federation (LPDF) and United Trust Bank (UTB), and prepared by Lichfields. It explores the contribution of changes to the planning system since the 1990s on Small and Medium Sized (SME) housebuilders<sup>1</sup>.

A consistent trend over the last thirty years has been the declining number of new homes being delivered by small and medium housebuilders. In 1988, SME housebuilders delivered 39% of all homes built in England, but this fell to just 10% of annual housing completions in 2020<sup>2</sup>.

The potential for SMEs to deliver more homes is clear, with The Federation of Master Builders claiming that the sector could increase its output fivefold by 2025 given the right conditions<sup>3</sup>. An assessment of European housing markets by the Centre for Cities found that England had consistently allocated too little land for housing which led them to estimate a potential four million missing homes compared with European rates of development<sup>4</sup>.

However, at a time when the ambition is to increase the number of homes built each year, research for the LPDF shows that the number of consented sites of under 100 plots (i.e. homes) gaining approval in 2022 was at its lowest level for a decade, falling consistently since 2016<sup>5</sup>. These are the sizes of site on which SMEs would typically compete.

To meet the Government's housing ambitions through scaling up SME-related sites, Lichfields' previous research<sup>6</sup> shows that up to 1,385 additional implementable planning permissions would need to be delivered each year on sites with an average size of 45 homes. This means on average 4-5 additional sites from each local planning authority, every year. This represents a step change in the necessary level of allocating medium sized sites.

The HBF's most recent SME Home Builder survey found 93% cite getting planning permission as a major barrier to growth<sup>7</sup>. The Federation of Master Builders have also called for a "greatly simplified planning process to get homes out of planning purgatory"<sup>8</sup>. The findings of a recent Parliamentary inquiry, undertaken by the House of Lords Built Environment Committee, found that Small and Medium Housebuilders "consistently identify three main barriers to development: planning, land availability and funding"<sup>9</sup>.

The House of Lords Report recommended that "Local authorities should support SME housebuilders to navigate the planning process. One focus of the Government's planning reforms should be to reduce planning risk by making decisions more predictable and reducing delays, which will benefit SMEs"<sup>10</sup>.

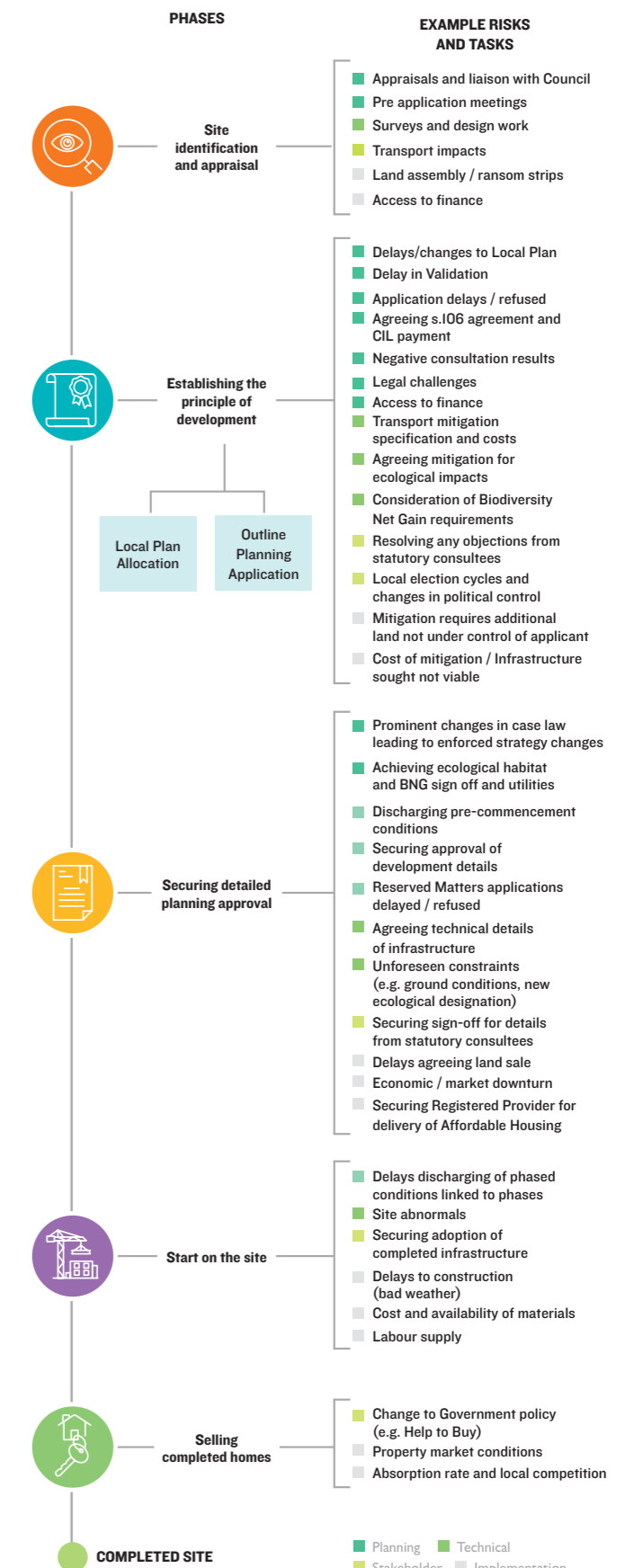
## What does this report investigate?

This report uses a literature review, historical and current primary data, interviews with SME house builders and interviews with local planning authorities (LPAs) to better understand the change in the burden and cost put on developers in securing planning approval for new housing<sup>10</sup>.

Our research focusses on one element of that planning journey, the application for outline planning permission, and investigates the changes to costs, risks and delays to achieving this, over the last thirty years.

Outline planning permission allows for planning permission to be granted subject to the condition that reserved matters are approved before development begins<sup>11</sup>. As Figure 1 sets out, outline planning permission establishes the principle of development without needing to address matters of detail. It has therefore traditionally been used to help applicants find out, at an early stage, whether a proposal is likely to be approved before substantial costs are incurred related to securing detailed permission. However, over time, the suggestion is that obtaining an outline permission has come to involve the submission of larger amounts of supporting information, involves detailed pre-application discussions, creates significant upfront cost in return for an uncertain outcome, and disproportionately affects the activities of SME builders. The remainder of this report explores this hypothesis.

Figure 1: The planning and development process



<sup>10</sup> More on the methodology is available in the appendix.  
<sup>11</sup> Outline Planning Consent definition downloaded at <https://www.planningportal.co.uk/planning/planning-applications/consent-types/outline-planning-consent>

<sup>1</sup> An SME housebuilder can be difficult to define; the HBF uses the definition of a housebuilder that builds less than 100 homes each year, which we adopt for this research piece.  
<sup>2</sup> Savills, 2021, Size of the SME Market: Residential Research Report for LDS  
<sup>3</sup> Written Evidence of the Federation of Master Builders, downloaded at <https://committees.parliament.uk/writtenevidence/13663/html/>  
<sup>4</sup> Centre for Cities, 2023. The housebuilding crisis  
<sup>5</sup> Savills, 2023, A New Normal for Housebuilding  
<sup>6</sup> Lichfields, 2021 Feeding the Pipeline.  
<sup>7</sup> Close Brothers Property Finance, the HBF and Travis Perkins, 2022, State Of Play: Challenges And Opportunities Facing SME Home Builders  
<sup>8</sup> Federation of Master Builders 2023, downloaded at <https://www.fmb.org.uk/resource/the-recent-state-of-trade-survey-data-paints-a-promising-picture-for-the-future-of-repair-maintenance-and-improvement-rmi-work.html>  
<sup>9</sup> House of Lords Built Environment Committee Meeting Housing Demand 2021-22, para 98

# It is taking longer to secure outline planning permissions



There is limited empirical information on exactly how long it took to secure planning permission in the 1990s. Indeed the need for better data to monitor the time taken to process planning applications is made by Kate Barker in the reports procured by HM Treasury and the Office of the Deputy Prime Minister on Housing (2004<sup>12</sup>) and Land Use Planning (2006<sup>13</sup>). The 2006 report finds that around half of applications were decided within eight weeks in 1990. However the report goes on to describe the potential delays in decisions as being “hidden by the statistics”<sup>14</sup> on performance against targets for determination (13 weeks for larger applications - or an agreed extended time limit - as set out in the Town and Country Planning Procedure Order 2015<sup>15</sup>).

In measuring against the determination periods, these statistics tell us relatively little because of the way in which the time periods are typically extended through agreements between parties (Extensions of Time) and the alleged tendency at different stages, of LPAs to ‘game’ the system in order to meet performance and funding targets<sup>16</sup>.

A call for evidence for Barker’s 2005 report found that usage of Extensions of Time was common by 2005 when large applications would take 14 months to process compared to 12 weeks in the 1980s<sup>17</sup>. There is also substantial variation in performance, with some LPAs determining applications in a relatively timely manner and others taking longer<sup>18</sup>.

In the 1990s, the amount of work required to be prepared for a planning application was far less, as we will detail, so there was a shorter period between deciding to submit an application and actually doing so.

The formal application determination is also only part of the process of ‘planning’ (and only starts when a submitted application is validated). Submitted planning applications were validated almost instantly in the 1990s, whereas now, despite the move to electronic submission, it is not unusual for it to take several weeks before a fully valid submitted application reaches the desk of the assigned planning case officer.

In the 1990s, the period by which an application period might be extended (an Extension of Time) was also relatively limited, whereas now it is not uncommon for agreed monthly extensions to timescales to roll forward repeatedly, it not being in the interest of either the LPA nor the applicant (who is often relying on the preservation of a working relationship with the LPA) to refuse such extensions. For LPAs, not agreeing to the extension of time might simply result in an application being pre-emptively refused to avoid the un-determined application impacting negatively on performance statistics. It is notable that the Government has proposed<sup>19</sup> changing the rules for extension of time to “exceptional circumstances” only, rather than the current policy which can be for any reason and linking them to planning performance agreement metrics. It remains to be seen whether this means that there will be an increase in refusals, and with the removal of the “free go” for repeat applications, there might be an incentive for Local Planning

Authorities to refuse an initial application in lieu of a second fee.

In the 24 months to the end of March 2023, just 20% of major decisions<sup>20</sup> (including residential sites of over 10 units) were made within the 13 week statutory timeline.

The preliminary report from the Competition and Markets Authority (CMA) Housebuilding market investigation found the average time taken to make an outline planning permission decision was over a year and often took longer even than that<sup>21</sup>. Our interviews heard SME builders and local authority officers noting that it is more likely now, compared to the 1990s, for major residential planning applications to take 6-12 months (and often more for more controversial schemes or in certain constrained LPAs) from formal submission, whereas in the 1990s, it was consistently between 3-6 months.



<sup>12</sup> Barker, K. 2004 Barker Review of Housing Supply  
<sup>13</sup> Barker, K. 2006. Barker Review of Land Use Planning  
<sup>14</sup> Ibid, Page 120.  
<sup>15</sup> DLUHC, 2023. District planning authorities’ performance - speed of major development decisions (10+units)  
<sup>16</sup> Barker, K 2006. Barker Review of Land Use Planning. Section 3.14 describes such behaviours, with these anecdotally continuing today  
<sup>17</sup> Ibid, Section 1.14 sets out the evidence for delays in processing planning applications.  
<sup>18</sup> Ibid, Section B local authority performance improvement case studies

<sup>19</sup> UK Draft Statutory Instruments 2023, The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2023  
<sup>20</sup> DLUHC, 2023. Lie Tables on Planning Application Statistics Table I20  
<sup>21</sup> CMA, 2023. Housebuilding market investigation update report downloaded at [https://assets.publishing.service.gov.uk/media/64e7859aff6f-3000f70af49/Housebuilding\\_update\\_report\\_pdfa\\_25\\_Aug.pdf](https://assets.publishing.service.gov.uk/media/64e7859aff6f-3000f70af49/Housebuilding_update_report_pdfa_25_Aug.pdf)  
<sup>22</sup> Ibid

## 03 Delayed decisions offer a particular challenge for SMEs



**In several important ways, the planning systems in England, Scotland and Wales are impeding the effective functioning of the housebuilding market... These concerns are expected to have a greater negative impact on SME housebuilders, which are less able to absorb increasing fixed costs of managing the planning process.”**

CMA 2023, Housebuilding market investigation<sup>22</sup>

Our interviews indicate that preparing for and gaining outline planning permissions for sites of less than 100 plots has become progressively more costly and challenging and this has brought with it an associated increased risk to house builders over the past 30 years.

This is particularly important for SME builders and is at least in part due to the business models that SME housebuilders use, which differs from their larger counterparts. SME housebuilders necessarily operate on only a handful of sites and might be reliant on a pipeline of just one or two developments at any one time, working sequentially until each site is delivering homes (and recouping capital employed on its construction). Therefore, any delays to bringing that pipeline through comes with significant opportunity costs; teams are often left without work at short notice and without other sites (and income earning activity) to transfer onto.

Common practice for an SME housebuilder would be to secure land with a two or three-year option period (i.e. the period to obtain planning permission and complete purchase of the site), this means that any delay can

lead to them losing their ability to develop a site. Because SMEs often operate in specific localities, they can also be disproportionately impacted by local barriers, which explains why SMEs have been particularly badly impacted by the nutrient neutrality limits on approvals<sup>23</sup>.

Our interviewees told us the typical SME model has necessarily changed over time; in the early 1990s, SME business models were usually based on developing sites (from purchase, through planning, construction and to sale) much more quickly, and recycling their capital numerous times in a year across sites at different stages. Now this is not possible, largely due to the increased time taken and uncertainty over planning on their sites. The effect of this uncertainty has been to increase the cost of capital and limit the number of sites that a smaller builder can operate on at any given time.

In this context, new expectations, regulations and burdens can have a significant impact on not just the viability and profitability of a single site, but also the ability of that SME builder to continue to invest and operate.

This challenge is recognised by both the Government and House of Lords: that supporting SMEs is an essential component of increasing housebuilding<sup>24</sup>, and that complexity and delays in the planning system act as a barrier to SME housebuilders in particular<sup>25</sup>. Any delay to progress of those sites due, for example, to a more complex planning system, will leave the small housebuilder exposed, especially without the principle of development established, and without alternative sources of land to sustain their business or workforce. The risk itself increases the cost of finance as funders must hedge against the risk of planning being rejected or heavily delayed, and the risk exposure acts as a barrier to entry to new SME builders. Operating on fewer sites, any changes to costs, times, risks or margins on each site have a fundamental effect on the ability of each business to raise finance, invest and operate.



<sup>23</sup> In July 2023, the Government's supplementary written evidence (IER0043) to the House of Lords Built Environment Committee on the impact of environmental regulations on development stated: "I agree that smaller firms may be disproportionately affected by nutrients because the fixed costs of mitigation are proportionally higher per dwelling on smaller sites and SMEs are less geographically mobile than larger firms."

<sup>24</sup> Housing Minister quoted in the House of Commons Debate 3 March 2020: "We believe that SMEs have a key part to play by increasing their output" <https://hansard.parliament.uk/Commons/2020-03-03/debates/51761810-279C-43EF-8CA7-BE346737749E/HousingAndPlanning>

<sup>25</sup> Para 99 of House of Lords Built Environment Committee Meeting Housing Demand 2021-22 downloaded here [https://publications.parliament.uk/pa/ld5802/ld-select/ldbuiltenv/132/13208.htm#\\_idTextAnchor075](https://publications.parliament.uk/pa/ld5802/ld-select/ldbuiltenv/132/13208.htm#_idTextAnchor075)

## 04 Planning Related Fees

The clearest costs for gaining outline planning permission are direct planning fees, which are set by law. Planning-related fees were introduced so that users of the planning system - rather than taxpayers in general - meet the costs incurred by LPAs in deciding planning applications<sup>26</sup>.

Planning fees in England are set nationally by the government and are detailed in the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012.

In England, the initial fee for an outline planning application is £462 per 0.1 hectare, or part thereof (i.e. 0.11 hectares would cost £924).

The fees for submitting an outline planning application increased by 72% in real prices between 1990 and 2023 from £92 per 0.1 hectare of site area in 1990 (or £268 in 2023 prices). This may reflect the more burdensome requirements for LPAs of determining applications now, with the additional material required to be submitted by the applicant necessarily matched by additional resources in LPAs to read it.

It is important to note that if a house builder applies for and receives outline planning permission, they will then need to apply to get the reserved matters approved (i.e. the details of the proposal that were not included in the outline application). This will cost £426 per dwelling at this stage. If an application crosses local authority boundaries, the amount due is usually 150% of the fee that would have been payable<sup>27</sup>.

The fees are also set to increase a further 35% (on sites of more than ten homes) 28 days after the Fee Regulations amendments<sup>28</sup> are passed and annually from then on with inflation.

Additionally, for many LPAs, a pre-application consultation is recommended for any site of more than 10 homes. Costs vary significantly for each local authority and the 'service level' agreed. The costs should be reflective of those expended by the LPA<sup>29</sup> with the service being paid for discretionary, in some LPAs this will be 10% of the overall application fees, in others £650 for a site of 10-49 homes, and in some LPAs £8,375 for an initial meeting and £5,025 for meetings after.

Whilst planning fees are clearly only one part of the costs and requirements associated with gaining outline permission, they are illustrative (or symptomatic) of wider costs escalation in real terms of submitting and having planning applications processed - the outcome of which is not necessarily one that generates any value (if a scheme is refused).

<sup>26</sup> DLUHC, 2021. Fees for Planning Applications. <https://www.gov.uk/guidance/fees-for-planning-applications>

<sup>27</sup> A Guide to the Fees for Planning Applications in England downloaded here [https://ecab.planningportal.co.uk/uploads/english\\_application\\_fees.pdf](https://ecab.planningportal.co.uk/uploads/english_application_fees.pdf)

<sup>28</sup> The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2023

<sup>29</sup> Local Government Association Pre Application Guidance <https://www.local.gov.uk/sites/default/files/documents/calculating-cost-pre-appl-14c.pdf>

## 05 The changing requirements placed on SME builders



**From 'red line' outline planning permissions, it would take six to eight weeks to get the first spade in the ground [in the 1980s and early 1990s]. Land was available, planning was pragmatic and finance was relatively easy to source. Sadly, the current operating environment and the Government's anti-building stance makes it virtually impossible for today's generation of SMEs to succeed"**

Steve Morgan, Redrow Founder<sup>30</sup>

The overwhelming consensus among our interviewees was that there was far less evidence required 'as standard' for an outline planning application in the 1990s compared with today. There was no equivalent to the validation checklist which most LPAs now publish to provide potential applicants with a list of the evidence expected to be submitted alongside an outline planning application (discussed later in this report, see Figure 4 for examples). Instead, where necessary, further requirements for specific evidence would be discussed with case officers on an individual basis reflecting the project.

Our interviewees told us that in the early 1990s a valid application would typically comprise the

application form accompanied by an ownership certificate fee, a red line plan and a basic layout of access. In place of a formal pre-application consultation, at the time it was common for a developer to have a meeting with a specific case officer for a less structured discussion reflecting on what would be required. If the site required it, supplementary documents would be asked for on specific occasions and site constraints would be identified along with required consultees at the validation stage and it was up to the case officer to then request additional information when required.

The Barker Review of Land Use Planning reported in 2005 that the extent of written documentation needed to support an application was rising, partly as LPAs take a 'precautionary approach'<sup>31</sup>.

The 2006 Guidance on Changes to the Development Control System<sup>32</sup> aimed to balance the need for more evidence with the benefits of an outline permission. The aim of these changes was that "outline applications will have to demonstrate more clearly that the proposals have been properly considered in the light of relevant policies and the site's constraints and opportunities. Information provided as part of the application will need to

<sup>30</sup> Quoted as part of an HBF letter to Government, 6 July 2023 downloaded here <https://www.hbf.co.uk/news/sme-house-builders-visit-number-10-to-demand-action/>

<sup>31</sup> Barker, K 2005. Barker Review of Land Use Planning. Page III.

<sup>32</sup> MHCLG, 2006, Guidance on changes to the development control system: circular 01/2006

be such as to allow for proper consideration by both decision makers and local communities". However, as our analysis will show, this has led to more requirements for supporting evidence at an earlier stage.

The Barker Review reported in 2005 on the growing demand for supporting material, identifying that the following were often required for large applications: Environmental statements; needs tests; impact tests; transport assessments; energy conservation reports; landscape design strategies; air quality assessment; contamination reports; statement of lighting proposals; verified views; natural resource impact assessment; flood risk assessment; green travel plan; waste audit; acoustic report; archaeological report.

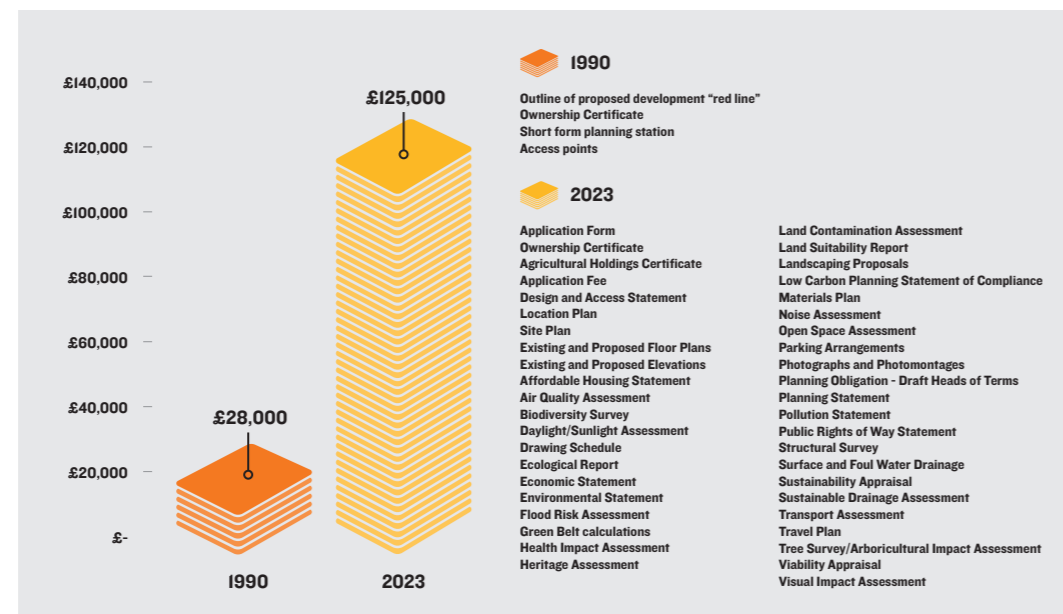
Our interviewees told us that previously these requirements (now often required on sites of all sizes) would apply only for the larger applications and of the documents listed by

Barker, a green travel plan, energy conservation report, natural resource impact assessment, and waste audit might not have been conceived in the mid-1990s.

There are also additional reports often required now that were said to be rarely necessary in the 1990s: Road Safety Audits, much more detailed Flood Risk Assessments, trial trenching for archaeology in advance of an application being validated, much more detailed ecological surveys and contamination reports often required as standard regardless of the specific location, the future homes standard, and a calculation of biodiversity net gain. These are asked for much more routinely across many authorities even for medium-sized sites.

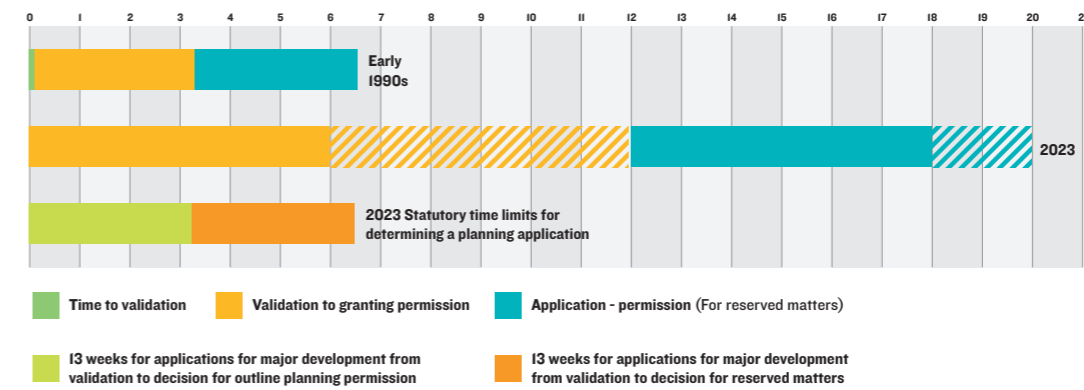
In addition, some reports used to be required only for detailed permissions, but are now increasingly demanded by LPAs 'up front' to support decisions at the outline stage, such as drainage strategies, health impact assessments,

Figure 2: The cost of commissioning the required evidence for an outline planning permission have increased by 4.5 times since 1990



Source: Summary of interviews

Figure 3: The time taken to achieve outline planning permission has increased from 13-14 weeks in the early 1990s to a year in 2023



Source: Summary of interviews

energy statements, urban greening, travel plans, often energy and waste plans as well housing needs and others.

Most LPAs now have validation checklists which include many more reports and considerations at a much earlier stage and with a higher expectation of evidence. In addition to validation lists, many authorities offer guidance notes, which in some cases can exceed 100 pages in length<sup>33</sup>. The complexity of this is significant for an SME builder who might expect to develop a small number of sites across different LPAs.

Providing this extra level of evidence comes with significant costs, Figure 2 shows a comparison of costs of commissioning the required evidence for an outline planning

permission in 1990 and 2023, based on our interviews. For an illustrative 'green field' site of around 40 homes, our interviewees estimated that the costs of the supporting evidence had increased 4.5 times from around £28,000 to around £125,000 due largely to the increase in requirements.

This has been accompanied by a significant increase in the time taken to achieve an outline permission (see Figure 3). Based on our interviews, we find a typical site of around 40 homes on a greenfield site that would have taken around 13-14 weeks in the early 1990s now often takes a year in 2023. This is augmented by a further 6-8 months to agree reserved matters and achieve full planning permission.

<sup>33</sup> From LPA Interview based on what is issued to perspective applicants in one North Yorkshire Local Planning Authority.

# Why have these changes occurred?

## More evidence required as standard

Across our interviews, both LPA officers and SME developers acknowledged that more evidence is required as standard to support an outline permission now than in the early 1990s. Figure 4 shows a selection of the supporting evidence referenced in validation lists from local planning authorities gathered in August 2023, on average our research found most LPAs required 30 separate supporting documents.

In each field of expertise, there have been advancements. The sophistication of the reports has increased in response to a) the increased policy requirements and evolution of technical and professional practices; and b) the increased level of specific detail on the proposals for which an outline planning permission is sought. Perhaps most obviously, much more is understood about climate change but also the importance of ecological habitats than in the early 1990s, with advancement of regulations, and more habitats becoming protected or considered now compared with then. During our interviews it was made clear this means that applicants are encouraged to justify every possible challenge with evidenced reasonings 'just in case' to 'copper plate' their argument and not risk a challenged decision.

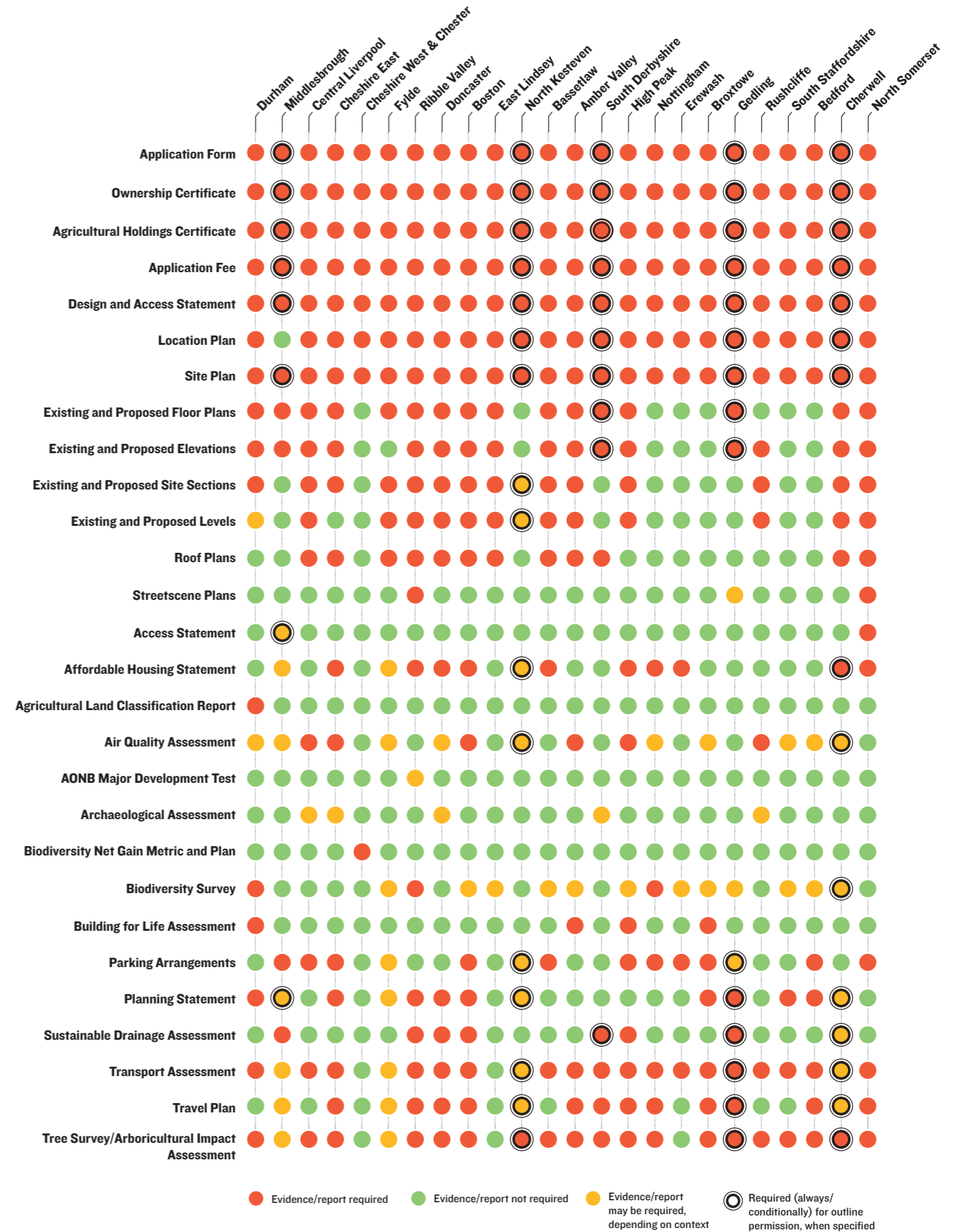
One example of where more evidence is being required that was most identified by interviewees was ecological surveys and the drive for parameters for development rather than 'bare' red line outline applications. Originally focused on large sites, more detail is increasingly being demanded on smaller sites to prove they are outside of areas of concern. This change was cited by interviewees as tracing back to case law, the so called "Rochdale Envelope"<sup>34</sup>. The caselaw established that a bare outline would be unlikely to comply with the requirements of the EIA regulations, and would likely need a reasonable level of detail in the description of development<sup>35</sup>.

The principle of requiring the parameters of an outline permission for EIA schemes was set (and for large schemes was typically seen as proportionate) but our interviews found that LPAs, who have often lost expertise and experience in this area, are increasingly risk averse and are applying the same principle to smaller schemes that are not EIA developments and then demanding evidence that is not technically relevant or necessary 'just in case'.

Sometimes, more onerous requirements are necessary and can lead to better decisions, but some SME interviewees found that professional discretion was not being applied, compounding this, poor communication was causing significant delays. SMEs and LPA case officers both remarked on examples where LPA officers, in a risk averse situation, were asking for the evidence as "safety first" rather than considering whether it was genuinely necessary. Some ecological evidence is required to be obtained at a specific point in a year, so if the survey window for a particular species (e.g. relating to breeding, migratory or hibernation patterns) is missed then delays of up to a year to progress an application on the site can threaten an SME's business model.

Some evidence was also regarded by the SME builders as being asked for egregiously. For example, one LPA which stated it required a highways report on sites of over 10 homes nevertheless asked an SME housebuilder to provide this report on a development of nine homes before an outline permission could be validated. Another interviewee described being asked for an agricultural land classification report, even though the scale and location of development (under 20 homes) did not require it according to local policies - this came with costs of £5-7,000 and expended time and resources. The same site required detailed building surveys for two homes on the site that were to be demolished, costing £4-6,000.

Figure 4: Sample of validation lists studied



Source: Assessment of validation lists, 2023

<sup>34</sup> R. v Rochdale MBC ex parte Milne (No. 1) and R. v Rochdale MBC ex parte Tew [1999] and R. v Rochdale MBC ex parte Milne (No. 2) [2000]  
<sup>35</sup> Norton Rose Fullbright 2022, Outline planning applications, parameter plans marked as illustrative, and the Rochdale envelope



### Front loading of evidence requirements

In addition to more evidence being required, the stage at which it is expected is being frontloaded on to the outline permission stage – whereby, before even establishing the principle of development, the expectation for evidence has increased.

In many areas, the list of minimum requirements for LPAs to apply for outline planning permission has now grown substantially, and in the view of some interviewees, disproportionately. The more significant change has been the supplementary documents sought. Crucially our interviews found that SMEs were consistently asked to ‘go beyond’ the validation and policy requirements on aspects such as affordable housing documentation, economic impact assessments and housing mix analysis at the outline stage in order to make the case for the principle of development. This flows from the principle of development not being established in up-to-date development plans. The lack of up to date local plan coverage across England means LPAs have to construct the planning balance (benefits vs harms) in every case.

Our interviewees told us that in the 1990s, outline permission could be granted based on a red line outline of the proposed site, proof of ownership and supported with a handful of specific documents that showed the proposed development and flagged any key issues, to secure the principle of development. The onus at that time would have been on a LPA case officer to ask an applicant to ‘fill the gaps’ requiring more detail based on their professional discretion. Permission would be granted (in-effect, in principle) and case officers would then be confident of refining any issues to do with the site through discharge of conditions and reserved matters, converting the outline into a full permission.

Our interviewees remarked that this came with its own challenges. At the end of the 1990s and early 2000’s, many LPAs began refusing outline permissions ‘routinely’ due to potential negative impacts of developments, especially in areas that were heavily constrained rather than giving the ‘benefit of the doubt’ and allowing further matters to be addressed by RMAs. The introduction of design and access statements (DAS) in 2006 were regarded by multiple SMEs we interviewed as a helpful mechanism to provide extra supporting evidence which helped statutory consultees and LPAs officers make their informed judgement.

At the point when they were introduced, DAS gave applicants the chance to lay out design principles and concepts, issues relating to access to a development, and how the context of a development is considered. Combined, this allowed the applicant a formal way of showing how a development can in principle enhance the local characteristics and avoid being refused outright due to misdirected concerns. However, over time, more evidence became required as standard at this early stage. Interviewees told us this was in part due to more planning precedent from rejected applications, a greater threshold of evidence required by consultees and a politicised planning system at the local level.

Nowadays, the evidence required to achieve outline planning permission is much closer to detailed permissions, with one SME estimating it as 80% of the resources required to apply for detailed permissions despite the role of outline permission was to establish the principle of development as an important step for SMEs to raise and commit resources to a site.

Multiple SME housebuilders we interviewed expressed frustration at the increased quantity of evidence they were required to provide as standard at an earlier stage of development. Our interviews found that it would typically require 10 - 12 consultants to provide the evidence needed for many outline permissions to be accepted, and those consultants often have sub consultants advising on specialisms. A LPA planner we interviewed estimated that it is common for applicants on sites of between 10-50 homes, to spend £90-£125,000 on commissioning evidence to secure an outline permission, depending on the planning authority and local conditions.

Not only is this a direct cost absorbed by the SME without any certainty on the principle of development, it is also time consuming and comes with an opportunity cost for investment. This threatens the viability of sites, and planners at SME housebuilders we spoke to

said that, combined with the lack of capacity in LPA planning departments they find it impossible to accurately estimate planning timelines, which challenges the ability to access finance.

One SME gave an example of issues regarding the increased demand for evidence on access points. On one outline planning permission the SME was working on, they have been advised to provide a separate document outside of the application with the site layout and tracked highways layouts to avoid refusal. These require detailed architectural drawings that are typically delivered at the reserved matters stage, and not at the outline stage, and will be subject to change during the planning process.

Across our interviews with LPA officers and SME housebuilders, there was also a consensus that applications at an outline stage were often being scrutinised by consultees with the same rigour as they would detailed plans. Consultees would therefore caveat or withhold their support due to the absence of detailed drawings, and in turn resident groups or committee members would concentrate on the caveat rather than the broad support or policy compliance, despite the evidence referring to the principle of development not the detail.

The outcome for SME developers is that securing outline permission is slower, less predictable, and now more akin to what is necessary to achieve a detailed permission. SME housebuilders are faced with the challenge of providing enough supplementary evidence to convince under pressure LPA decision makers and consultees to secure the principle of development without risking the investment required for a full permission. Larger developers are more able to manage the costs and risks associated with this increased burden, but it is disproportionately challenging for SMEs.

## Capacity levels in local government

It is widely acknowledged that there is a shortage of resources and lack of capacity in local authority planning departments. Across our interviewees, it was clear this is having a profound effect on the ability for developers to build homes, especially for SMEs. Both SME developers and local authority planning officers we interviewed pointed to the increased workload in planning departments now compared with thirty years ago (also pointing to increasingly complex applications).

One aspect of the problem is that there is commonly significant staff turnover in LPAs. SMEs we interviewed found that discussing their project with case officers is extremely difficult. Officers are often external contractors, changed midway through an application, and very difficult to contact. Each new case officer requires briefing on a project often with other consultants, new relationships, discussions and time delays. Two SME housebuilders commented that they often considered that inexperienced case officers – working in isolation – no longer knew what it takes to make a proportionate decision on whether or not to grant permission, and therefore ask for too much information.

Many interviewees found that LPA case officers were becoming more risk averse. LPAs have less capacity, but also less broad expertise (or experts are shared across authorities), e.g. ecologists, archaeological, heritage or contamination experts etc. A lack of senior experience is also problematic. This means that junior case officers often do not feel able or comfortable in 'green lighting' certain schemes without additional evidence from an external consultant. One LPA interviewee described how they and colleagues felt that without the landscape and archaeological colleagues they could once ask quick questions of, they are now required to ask for more information upfront so they could respond to consultees and committee members. Other LPA interviewees also pointed to the politicisation of committee time meaning they had to come 'armed with the facts' for permissions even at outline stage rather than rely on discussing the details of a scheme later at the reserved matters stage.



## The impact of delays on SMEs

There was a keenness across most SMEs we interviewed to continue to use outline applications on many of their sites to directly secure the principle for development despite the challenges in the system. There is a recognition that the benefits of establishing the idea of development on a site as acceptable is necessary to ensure up-front viability, and therefore access finance.

Whilst many of the issues identified affect all types of builders and developers, large and small, as we have established, SMEs suffer disproportionately when there are delays in planning, due to the lower levels of resilience in their business models to unscheduled delays. The ability to manage a business is seriously compromised when there are delays of many months with no warning. Almost all SMEs that discussed this element had examples of when they were forced to make teams redundant due to delays in validation or securing the principle of development through outline permission, without receiving any negative feedback from LPAs on their scheme.

The reliance on fewer sites inevitably increases the dependence on a single site and the costs of the associated risks inherent. A recent example of the potential costs of this is AC Lloyd, an SME housebuilder which had operated for 75 years and had a £33m turnover but was eventually forced to close its house building operations in 2023. The company withdrew its application for a 200 home site in Leamington Spa after its application was called in by the Secretary of State<sup>37</sup>. The business had previously progressed at least six and often more sites at each time, but in 2022 reduced this to just two sites, partly due to access to finance but largely due to the uncertainty in planning policy meaning they could not afford to retain under-worked staff. When one of these sites was called in by the Secretary of State, the estimated cost for challenging this decision was £2 million with, at best, an uncertain chance of success. Therefore the application was withdrawn, and the company decided to draw a line under the associated sunk costs and cease its housebuilding activities.

<sup>36</sup> RTPi, 2023 Local Authorities struggle as over a quarter of planners depart <https://www.rtpi.org.uk/news/2023/may/local-authorities-struggle-as-over-a-quarter-of-planners-depart/>

<sup>37</sup> Housing Today, 2023, SME housebuilder behind called-in scheme shuts up shop, accessed at <https://www.housingtoday.co.uk/news/sme-housebuilder-behind-called-in-scheme-shuts-up-shop/5123724.article>

# 07 Conclusions

Our research finds that changes in the planning system since the early 1990s have made it:

- a) More complex: Validation lists on average ask for 30 different supporting documents, SMEs typically require 10-12 consultants to achieve outline permissions,
- b) More costly: The broad costs of achieving planning permissions in the early 1990s was around £12,000 or £28,000 in 2023 prices. Now, seeking an outline permission on a similar site costs around £125,000 in consultant fees and further planning fees potentially leading to costs of £150,000, just to establish the principle of development.
- c) More risky: The politicisation, and associated risk associated with achieving planning permission has also increased, exacerbated by a lack of public sector capacity.

There are a plethora of reasons for outline permissions becoming slower, costlier and riskier to establish. Some of this reflects the pursuit of legitimate policy goals and increased standards of development. There have been significant advancements in the sector's understanding of the possible impact of developments and the environment in which it is situated. This has led to more evidence being requested, much of which contributes to necessary and better decision making. However, our research identified three common elements that often contribute to unreasonably risk-averse decision making on outline applications:

- a) The increase in case law and precedents: Over time, legal challenges and appeals have led to an inflated set of parameters and decisions, each provide new risks of appeal and judicial review of decisions. Under pressure, LPAs therefore request more evidence up front at the outline stage 'as standard' in anticipation of any legal challenge based on former decisions.

- b) The increased politicisation of planning: Our interviews suggest that, compared with the 1990s, there is a much higher level of public scrutiny and - on occasion - antipathy to any development in certain areas. This means that planning officers and councillors often ask developers for more evidence, in anticipation of a potential objection, at a much earlier stage than used to be the case.
- c) The lack of public sector capacity across the decision-making process. The reduction in funding across LPAs has been well ventilated, and with it there has been a lack of capacity especially in more specialist roles and a significant turnover in staff. This means that applicants are often forced to consistently 'start again' on demonstrating the case for development, often in the face of inconsistent feedback on proposals, leading to delays which can overwhelm the project timeline.

Underpinning this is the lack of local plan coverage allocating sufficient land for development. Local Plans are intended to allocate land for development so that outline planning applications can be made with the expectation that the principle of development is already established. But absent local plans and sufficient allocated sites, SMEs need to 'make the case' for each site through individual applications, creating significant uncertainty.

The impact of these extra costs disproportionately effect SMEs housebuilders. The higher costs create a barrier to entry or to compete. They are also unable to spread the risk of investing in the increasing costs of gathering supporting evidence across the lifetime of the project due to the dwindling net benefits of an outline permission. Finally, any delays or unexpected decisions can undermine an entire business model, if the resilience of a business is based on only a few sites.



## Ideas to improve the system

Housebuilders looking to establish the principle of development (where local plans have not allocated sufficient small sites) must typically establish that harms of development do not significantly and demonstrably outweigh the benefits (where tested against the 'tilted balance' in the NPPF). There have been a multitude of significant improvements in our understanding of the impact of development that can contribute to a more sophisticated application of this planning balance. Combined, this has led to a higher threshold of potential understanding on how development can impact an area and - magnified by complex legal and planning precedents - a requirement for more sophisticated and targeted evidence and expertise.

However, a reduction in the capacity of local planning authorities and statutory consultees combined with a perceived increased politicisation of planning (including increasingly litigious objectors) has made it more difficult for LPA planners to make timely and proportionate decisions effectively. This has contributed to risk-averse decision making and a disproportionate burden of evidence gathering placed upon SME housebuilders looking to justify developments.

Our research and interviewees offered some ideas to improve the system:

- 1) **Outline planning permissions need to return to being outline, rather than being only a small nudge below full permissions.** Scaling back and simplifying the evidence required at the initial outline permission stage could help reduce the costs and potential barriers to entry that the current burdens provide. This is not to recommend a drop in standards. The corollary of 'outline is an outline' is that planning officers have more ability to address these issues through the discharge of conditions and determination of Reserved Matters Approvals if the detailed plans do not meet the requirement. LPAs must focus on requesting the detail that is necessary at the earlier stage required to make a reasonable determination on an outline application (rather than solely prioritise a lack of evidence).

The principle of the DAS was considered to be strong when introduced, simplifying the evidence required to support an application through to approval. But our research suggests people believe this has eroded over time, with developers required to provide a surfeit of further supporting evidence at the outline stage 'just in case'.

There was support for a return to the principle set out in the 2006 Guidance that the outline permission should be submitted with information on use, the amount of development for each use, an indicative layout, scale

# Appendix 1: Methodological note

parameters and indicative access points should suffice. The aim for all outline applications should be to keep any additional supporting evidence to a minimum. The increased use of design codes under current national policy and the Levelling Up and Regeneration Bill should assist in this aim.

Lessons from the Permission in Principle should also be learnt (PiP is designed to simplify a similar system to outline permissions for sites of under 10 units). In the 2020 White Paper the Government proposed expanding the PiP from under 10 units to developments up to 150. However, the suggestion is that it is under-used and current data shows that, since the beginning of 2020 less than half (47%) of PiPs have been granted<sup>38</sup>. Expanding PiP to larger sites could be helpful (it was not included in the LURB) but it would be necessary to ensure this did not lose the benefits of requiring only targeted supporting documentation.

**2) LPAs must look to allocate more land suitable for development by SME housebuilders.** This would reduce the requirement for applicants to ‘start from scratch’ in establishing the principle of development on each site. A defined ‘medium size’ site allocation in local plans could help LPAs and National Development Management Policies to set more proportionate policies and evidence thresholds that are better suited to sites that are over 10 but less than 100 plots. As it stands, the process and requirements differ little (apart from when an Environmental Impact Assessment is required) between large and smaller sites. Of particular use would be that in this band of sites, highways impact and biodiversity net gain thresholds could be treated more proportionately. Crucially, these discussions should lead to case officers being more confident in deferring some of the evidence required to conditions and the reserved matters stage when funding is more readily available.

Additionally, it was suggested certain planning fees could be waived for outline permissions on this band of sites, or at least materially reduced towards 1990 levels. If fees are required to support local authority capacity, these should be shifted to the reserved matters stage for

medium-sized sites. The current fee levels, and their proposed higher rates, create a barrier to entry for smaller and medium housebuilders to compete, and restrict their ability to propose developments.

**3) Tackle the resourcing crisis in LPA planning teams.** LPAs are clearly constrained by their capacity, and this is holding back both development and investment from SMEs. It was considered welcome that the Government has recognised this with the latest series of reforms and committed to a £24million two-year planning skills delivery fund and backed upskilling measures with industry bodies such as the RTPI, LGA and PAS. However, these issues are likely to persist without longer term funding commitments.

Ringfencing, or partially ringfencing, the remaining planning fees can ensure incentives are aligned for LPAs to retain a pro-development mindset and help with capacity building. Where possible, as part of ongoing efforts at workforce planning in the sector, attempts should also be made to reduce the churn in planning case officers that developers work with across the lifetime of an application or site. If fees are paid for planning performance agreements (PPAs), this should be a performance marker, perhaps with fee implications.

**4) LPAs need to work with consultees and committee members to ensure that expectations for outline applications are understood.** A practical guide, backed by professional planning organisations, and underpinned by clear Government guidance, in which consultees and committee members are given the guidance and information needed so they can assess outline permissions proportionately and thus more effectively. This would be aimed at reducing the amount of evidence required at the outline planning stage and recognising that many legitimate planning matters can be addressed in the discharge of conditions and determination of reserved matters. The ongoing digitalisation of the planning system provides a helpful vehicle for securing this change in practice.

This report aims to address the evidence gap in measuring the increasing cost of planning to SME builders by estimating the changes in requirements and associated costs (adjusted for inflation) over time of applying for outline planning permission. This is achieved by establishing the process and costs today and comparing it to that of housebuilders operating in the early 1990s. There is no publicly available data or clear evidence to answer our central research question, so we interviewed a series of senior figures from LPAs, small and medium sized housebuilders, housing industry bodies and planning consultants.

The answers given have been partially anonymised to allow for effective reportage. Interviewees include senior representatives of housing groups: the LPDF, National Federation of Builders, Federation of Master Housebuilders. Experienced senior representatives from SME housebuilders, including two SMEs who reported anonymously, one operating in the Midlands and another in the East of England. Alongside these, we spoke with senior representatives from Kingerlee Homes, Fernham Homes and Esquire Developments. Current and former departmental leads at LPAs including: East Lindsay, Tonbridge Wells, Grimsby, Milton Keynes, Nottingham, Peterborough, Northamptonshire, North Warwickshire, North Kesteven, Boston, Northamptonshire, Central Bedfordshire. Finally, we engaged with experienced planners with expertise in ecology, EIA, policy and law and heritage from within Lichfields.

<sup>38</sup> Planning Magazine, August 2020 “Why the government’s expansion of ‘permission in principle’ to major schemes is likely to entice more developers” accessed from: <https://www.planningresource.co.uk/article/1692376/why-governments-expansion-permission-principle-major-schemes-likely-entice-developers>

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