

# *State regulation of land financialisation: land promoters, planning risk and the land market in England*

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# **State regulation of land financialisation: Land promoters, planning risk and the land market in England**

## **Abstract**

*The paper contributes to existing research that examines how government policy and state actors support the financialisation of land via the development process and, as such, how planning systems have facilitated the accumulation of privately-owned land-based wealth. The empirical focus of the research is the specialist residential land promoter sector in England. This is a particularly appropriate case study because of the way in which this sector of the land market has become integrated with the planning system via crisis-driven planning reform that has facilitated the commodification of planning risk and, thus, the financialisation of land. The paper examines the diversity of business models, practices and strategies of land promoters to show how they have been shaped both by the politics of planning reform as well as the financial objectives of their funders. The research is therefore in dialogue with wider international literature on the relationship between planning and the land market, how this relationship may be conceptualised via risk and uncertainty, and the role of state regulation in reshaping the physical environment in accordance with financial logics.*

**Key words:** Risk, financialisation, land markets, land promoters, planning.

# **State regulation of land financialisation: Land promoters, planning risk and the land market in England**

## **Introduction**

According to housebuilders in England and their advocates, sourcing an adequate supply of development land is a perennial challenge (Chamberlain Walker & Barratt, 2017; Lichfields, LPDF & HBF, 2021). Although the strategies and preferences of landowners have a significant role to play in the supply of development land (Adams et al., 2001), it is the planning system that is often blamed. This is due to it imposing constraints on overall land supply as well as creating procedural complexities and uncertainties due to planning decisions in England being based on flexibility, local politics and discretion in interpretation of policy rather than rigid and predictable rules such as those found in zonal planning systems (Gallent et al, 2021). According to some longstanding critiques informed by neoclassical economics, it is these features of the planning system that have contributed to the ‘housing crisis’ by limiting the supply of housing and helping to create the conditions for worsening affordability (see, for example, Cheshire & Sheppard, 1989; Evans, 1991, 2004; Monk et al., 1996; Monk & Whitehead, 1996). For some, these characteristics of the English planning system and the risks they create for smaller housebuilders, in particular, are also a contributing factor to the significant concentration of, and lack of diversity in, the English housebuilding sector. English housebuilding is now dominated by a small number of well-capitalised volume housebuilders who are able to absorb and diversify ‘planning risk’ and who have been incentivised to merge with and acquire smaller companies in order to amass land banks in a constrained land market (Ball, 2007; HBF, 2015). The market dominance and large land banks of the volume housebuilders, the top ten of which deliver around 50% of new annual housing supply, is also seen as a factor in the housing crisis due to their ability to

control the build-out rates of development sites to maintain house prices and profit margins (Adams et al, 2009; Archer & Cole, 2016; Letwin, 2018).

This framing of the planning system, as limiting housing land supply and imposing uncertainties and risks on developer interests, has influenced successive rounds of planning reform in England. For example, over the last 15 years or so, reports and other publications produced by the centre-right think tank Policy Exchange have criticised planning largely in such terms (e.g., Airey & Doughty, 2020; Evans & Hartwich, 2005, 2007; Morton, 2012; Rosewell *et al*, 2020). Government reports and papers have echoed similar views, with key persons from Policy Exchange (Alex Morton and Jack Airey) taking special advisor roles in government (Field Team, 2019; Quinn, 2020).<sup>1</sup> Reforms, particularly since the election of a Conservative Party-led coalition government in 2010, have therefore been aimed at reducing the uncertainties and risks to landowner and developer interests by, variously, weighting the national policy framework in favour of housing delivery (DCLG, 2012), broadening the range of ‘permitted development’ rights that enable some development to go ahead without express consent of the local planning authority (Clifford et al., 2020), and seeking to create the conditions to help smaller housebuilders to absorb planning risk (Gallent et al., 2019). More recently, the Conservative government proposed a move towards a more rules-based and zonal approach to planning (MHCLG, 2020a) to enable greater certainty and market-led housing development. These proposals were intended to help facilitate the delivery of the government’s target, and 2019 election manifesto commitment, of 300,000 new homes per year in an effort to be seen to respond to the ‘housing crisis’ which has long been a key political priority (Conservative and Unionist Party, 2019, p.31), and has not been wasted by

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<sup>1</sup> However, despite the focus on the planning system, there has been some acknowledgement by government and its advisors that there are other factors contributing to the housing delivery shortfall, such as the withdrawal of the public sector from housebuilding in the late 1970s and 1980s, the returns demanded by landowners constraining the supply of affordable housing, reduction in government funding to support delivery of affordable housing, the lack of diversity of various types of housebuilders in the development sector and a construction skills shortage (see Wilson & Barton, 2021 for an overview).

housebuilders who have been able to capitalise on crisis narratives in order to promote their own interests (Brill & Raco, 2021).

However, due to the political crisis caused by the major backlash from Conservative Party supporters who were concerned about the negative impact on the countryside in their constituencies predominately in the south of England (BBC, 2020), the minister responsible for the proposals was replaced and it looks as though the government will proceed with less radical plans for planning reform (Stewart & Walker, 2021). Nevertheless, in much of the government's reform agenda, planning has tended to be positioned as being somehow *in opposition* to the market due to the risks it imposes, with the implication being that developers are uniformly of the view that the English planning system needs to be simpler, more predictable, less risky for landowners and developers.

This paper builds on existing work that challenges this kind of simplistic framing of the relationship between planning and the market and the perspectives of developers and landowners regarding planning risk (Adams & Tiesdell, 2010; Adams & Watkins, 2014; Healey, 1992a, 1992b; Lord et al., 2015). It does so by examining the rise, maturation and practices of the specialist<sup>2</sup> land promoter in England over the last decade and how this group actually seeks out and exploits planning risk, rather than wishing it could be 'smoothed away' via de-regulatory planning. Whereas housebuilders would tend to work directly with landowners via option agreements, the specialist land promoter acts as a go-between. They usually focus on working in partnership with landowners to promote land for development through the planning system (although they may also acquire the land up-front and promote it without the involvement of the previous landowner). They typically enter into promotion

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<sup>2</sup> The term 'specialist' is used advisedly here. Many established real estate development and investment firms have extended the scope of their existing real estate development and/or investment activities by entering the land promotion sector.

agreements with landowners whereby they take on the financial risk of promoting the land but, if successful, take a proportion of the significant land value uplift that results from planning permission as payment. The present characteristics of the planning system (its uncertainty, its riskiness, supply constraints) are, therefore, *fundamental* to land promoter business models which depend on exploiting the complexities of the planning system and utilising specialist knowledge to enhance the value of land as a financial asset and supply it to the housebuilding sector as an input into the production of new homes. Planning and this sub-sector of the development industry are, therefore, not *in opposition* (although the relationship can be adversarial). As this paper shall explore, the English planning system has helped create the conditions for the specialist land promoter to thrive and, therefore, has an intimate relationship with the structure and characteristics of the contemporary development land market.

While there is a growing belief that land promoters have become increasingly significant participants in the residential development land market in England over the last decade or so, there has been little research on this sector. What academic research there has been on land promoters either simply describes their activities and the types of projects they take on (Jones & Comfort, 2020) or critiques them on the basis that they potentially contribute to higher land and house prices and longer development periods (Bradley, 2021). Journalistic accounts tend to frame land promoters negatively as capitalist land speculators who may delay the supply of development land by imposing additional stages and costs (Fraser 2017; Wainwright, 2017). Land promoters (and their advocates), on the other hand, argue that they perform an important function in providing an alternative route by which ‘oven ready’ development land can be supplied to the housebuilding industry (see Wilding, 2018 for a rehearsal of some of these arguments).

It is not the purpose of this paper to determine the truth of these various claims. Instead, we put the debates about the sector in a fuller context by examining its origins, the range of business and operating models adopted, and the variety of approaches taken by individual land promoters to their encounters with the English planning system. In doing so, this paper is in dialogue with recent work that variously examines the variety of private sector developer cultures and practices, the role of developer and landowner perceptions of risk and uncertainty in shaping the development process and the nature of the relationship between planning and market practices particularly as it relates to the financialisation of land. Our research will be positioned in relation to these literatures more fully in a later section. For now, the contribution of the paper in relation to this work is threefold. First, by presenting an account of the diversity of business models, practices and strategies of land promoters, the paper provides a more nuanced and detailed account than is available in existing literature. Second, by examining how planning risk is sought out, commodified and exploited by land promoters, the paper explores the nature of the relationship between planning and this area of the development land market and shows how they are intimately connected via risk, economic rent and the profit motive and, thus, facilitate the financialisation of land. Third, the paper shows how different forms of crisis (financial and political) have at various times created conditions for land promoters to flourish by taking on manageable risk and at other times have potentially stifled their activities by transforming the nature and distribution of risk via the planning system. The paper thus examines the development land market as a social construct that is embedded in the politics of planning reform, and how the structure of relations in the market is intimately related with the decisions and preferences of state actors. The paper therefore explores the fortunes of the land promotion sector as a case study in how government policy and regulation concerning land use and development can shape the land market and how politics can adjust market conditions.



The next section of the paper places land promotion in England in a wider context by examining the functional relationship between land and housing development that prevails in the UK and other countries. There then follows a discussion of how this paper fits within the wider academic literature on the relationship between planning regulation and the land market, how this relationship may be conceptualised via risk and uncertainty, and the role of governments and planning in facilitating the financialisation of land and the reshaping of the physical environment in accordance with financial logics. After a brief discussion of our research methods and data, we present the key findings regarding the origins of the land promotion sector, the range of businesses engaged in land promotion and how they operate, who funds land promoters and why, and the variety of business models employed. We end by reflecting on what the origins and behaviour of land promoters reveal about the relationship between the institutions of planning and the development land market.

### **Land promotion in context**

Speculative private housebuilding, such as the type that still dominates in England, can be divided into three main functions: residential land development, housing production and marketing and sales or lettings (Ball, 2003; Moore & Adams, 2012). It has long been assumed that speculative land and housing production tend toward vertical integration in England, in that a private housebuilder may take on the risk of promoting land for development, securing the consents, servicing the land and then building and selling or letting the housing (Ball, 2003, 2006, 2012). The site in question could therefore move through various stages of promotion and development, from allocation in planning policy, through to outline planning, through to full planning, servicing, build and sale.<sup>3</sup> In general, as

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<sup>3</sup> It is important to note here that the passage of a site through the development process to completion and sale is not linear and that, therefore, not all of these various stages will be passed through by every development site. Some might not get allocated in planning policy. Some might not go through the outline planning stage before full planning.

uncertainty decreases, the value of land increases which is why there can be a very significant uplift in land value when planning permission is granted, potentially from around £20,000 per hectare for agricultural land to more than £5 million per hectare for housing land in areas with high house prices (MHCLG, 2018).

While Ball (2003) has theorised that this tendency towards vertical integration is to do with the incentives of monopolistic competition it may create in favour of housebuilders, it is also the case that there is an incentive to take on the risk of land promotion and development in return for increased profits (Barlow & King, 1992). Furthermore, housebuilders like to maintain a land bank of sites at various stages of the development process so that they do not run out of land to develop, with one report commissioned by volume housebuilder Barratt Homes (Chamberlain Walker & Barratt, 2017) estimating that larger housebuilders ‘require’ a consented land bank of between 3.4 and 5.8 years and a total land bank (including ‘strategic’ land in the process of being promoted, perhaps under option agreements) of between 5.7 and 9.6 years. However, the reasons for this are contested by those who argue that housebuilders are not delivering consented sites quickly enough (LGA, 2020). Therefore, although larger housebuilders do buy development sites at various stages in the development process, including ‘oven-ready’ sites with planning permission, the activities of land promoters represent a potential challenge to the integrated land promotion activities of housebuilders and the resultant enhanced profits.

However, it is important not to overstate this tendency towards vertical integration of housebuilding in England. One report using Barbour ABI data for a snapshot at the end of 2017 found that almost 87% of homes with outline planning permission had been granted to ‘non-builders’ (Chamberlain Walker & Barratt, 2017). A report by property consultancy Savills in 2016 found that, as of January 2016, ‘promoters and investors’ controlled 24% of the 256,286 plots on strategic sites of 250 homes or more (Savills, 2016). A 2018 report by

Lichfields planning consultancy commissioned by the Land Promoters and Developers Federation (LPDF) found that, as of January 2018, around 41% of the 540,717 residential plots for dwellings on sites of over 100 units outside London where outline planning permission had been granted were on sites where the applicant was a land promoter or developer (Lichfields & LPDF, 2018).

Despite offering a useful corrective to the assumption that because housebuilders may tend towards vertical integration of land and housing development, their activities therefore dominate the strategic land market in England, these reports do not provide granular categorisation of the activities of specialist land promoters specifically. Instead, they variously bundle land promoters in with investors or developers. A paper by McAllister et al. (2022) has attempted to focus in more detail on the size of the specialist land promotion sector in the strategic land market in the UK by classifying them separately to other actors. Using one year of Glenigan data (June 2018 – June 2019), the report found that in this period, of a total of 453,277 units granted outline consent on strategic sites of 100 units or more in the sample period, organisations defined as specialist land promoters<sup>4</sup> accounted for just under 2% (8,275 units). However, the report also found that housebuilders were not dominant players in the strategic land market during the snapshot year, accounting for just 35% of homes granted outline consent in this period. Therefore, however one classifies land promoters, it is the case that there are a wide range of organisations active in the strategic land market in England who partner with landowners or buy land with the intention of providing consented land to housebuilders.

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<sup>4</sup> Specialist land promoters were defined as businesses whose main function is either the promotion of land on behalf of third-party landowners, or the purchase of strategic land with the objective of adding value by changing the planning status, usually by securing outline planning permission for residential development. They therefore differ from other types of organisation that are active in the strategic land market, including ‘pure’ investors, developers, construction companies, holding companies, pure landowners, public sector bodies, and registered providers of affordable housing.

In other jurisdictions, the nature and degree of separation or integration of land and housing development differs. In Australia and the USA, for example, speculative land development and housing development have tended to be carried out by separate businesses, with little vertical integration (Ball, 2003). Conversely, Butcher (2020, p. 347) showed how there has been increasing commercial pressure on greenfield housing developers in Johannesburg to vertically integrate to make their target profit. In wider Global South contexts, a variety of models have been identified, including ‘unauthorised subdivision’ where developers assemble land outside of the formal regulatory system and sell plots to housebuilders and ‘self-help’, where the government takes responsibility for assembling land for development, with individual plots built by low-income households (Acioly Jr. and French, 2012). This is similar to the French model, where land developers have tended to take responsibility for securing regulatory consents for, and servicing, plots, which are then built by individual households (Barlow and King, 1992; Moore and Adams, 2012). Booth (1991) has suggested that the historic requirement that planning permission be granted for the development of land before further permission could be granted for the development of housing, combined with the complexity and risk of securing building permits from municipal authorities and the cultural preference in favour of low density housing with the preferences of home owners reflected in the design of individual buildings, contributed to the functional separation of land and housing development in France. This points to the importance of considering how the characteristics of any given planning system may relate to the organisation of residential land and development markets in particular jurisdictions.

Just as there are a range of possible relations between land and housing development, there are also a variety of types of landowner with whom housebuilders and land promoters engage and who may have differing reasons for owning land and various strategies and roles in the development process. Massey & Catalano (1978) did early work to break down the

‘landowner’ monolith in their Marxian analysis of the effect of landownership on the structure and development of capitalism in Great Britain. They identified three main types of private landownership: former landed property, industrial landownership (including agricultural landownership) and financial landownership, and explored how it is the last of these (e.g. financial institutions and property companies) that owns land purely as a financial asset. Haila (1991, p. 345) did further work to develop a typology of four types of investment in land and property driven by different types of agent (serendipitous actor, dealer, speculator and planner), thus providing insight into the ‘multiformity of investor types, motives and approaches’ and how they relate to various theoretical frameworks that have been deployed to examine land rent. Work by Goodchild & Munton (1985) identified types of UK landowner characteristics and explored how variance in these influences how landowners engage with the different stages of the development process to produce different outcomes. One of the characteristics they identified is knowledge of, and attitude to, risk. Adams & May (1991) explored how the attitudes and characteristics of landowners influence the degree to which they actively engage in the planning and land promotion process, while Adams et al., (2001) examined how landowners’ knowledge of national and local political and economic factors influence their decision-making and help determine whether and when land is released for urban redevelopment. Later work conducted by Paccoud and others (Paccoud, 2020; Paccoud et al., 2021) in Luxembourg explored the role of landowners in the supply of housing land, such that it is argued that landowner and property developer strategies in an uncompetitive market, rather than the planning system, are key factors in housing affordability. These studies remind us that it is not only the degree of integration of land and housing development that is significant in how land passes through the residential development process, but that the structure of land ownership and the behaviours and interests of different kinds of landowners are also key factors. This paper adds to these

accounts by focusing on the varieties of land promoter practices and strategies that mediate between landowners and housebuilders in England and facilitate the conversion of some (often previously ‘industrial/agricultural’) landowners into ‘financial’ landowners (following Massey & Catalano’s typology).

### **Housing, land, planning and risk**

There is a longstanding and growing literature broadly influenced by institutionalist frameworks that examines the nature of the relationship between state regulation and land and development markets and which counters contemporary neoclassical economics framings of planning as merely imposing delays, risk, cost and uncertainty on developers. Writing in the early 1990s, Healey (1992a) reminded us that developers in the UK were then advocating for ‘strategic market management’ after a period in the late-1980s when the government adopted a deregulatory model which it was hoped would encourage a market-led approach to land use change. This had been instituted via a national requirement for local authorities to demonstrate a five-year supply of housing land (DoE, 1980a – cited in Adams, 2011), with ‘a presumption in favour of granting planning applications for housing except where there are clear planning objections’ applying if sufficient land supply could not be demonstrated (DoE, 1980b - cited in Adams, 2011). This meant that many planning permissions in this period were granted at appeal by the Secretary of State in opposition to local preferences – thus drawing attention to the conflict that can exist between national pro-development policy objectives and local political and policy conditions that can militate against development (a key source of planning risk). However, this looser regulatory environment paradoxically created uncertainty for landowner and developer interests and led to a renewed emphasis on the local plan in decision-making in the 1990s. Elsewhere, Healey (1992b) explored the various roles played by development plans in relation to markets - by *following, managing* or

*creating* markets. She concluded that ‘land and property development flourishes best when the state adopts a managerial mode’ (Healey, 1992b, p. 19).

More recently, Lord et al. (2015, p. 5) have explored how planning can stimulate development by ‘enhancing the certainty and preconditions for investment that markets crave’. Adams & Watkins (2014, p.11) have examined the value of planning as a corrective to neoclassical framings, defining planning as ‘the deployment of policy instruments intended to shape, regulate or stimulate the behaviour of market actors or build capacity to do so’. This builds on previous work by Adams & Tiesdell (2010) and Tiesdell & Allmendinger (2005) that explored the various ways in which planning can play a role in the social construction of market activity. These include via *market shaping* tools that positively influence the decision-making of market actors (such as local plans), *regulation* tools that define the parameters of the decision environment (such as legislation), *stimulation* tools that seek to attract market activity (such as tax breaks) and *capacity building* tools (such as public networks).

Importantly, planning has a role in shaping markets by ‘reducing risk’ for developers and acting to ‘*enhance private benefits and reduce private costs* both for individual actors and the private sector as a whole’ (Adams & Watkins, 2014, p.2 – emphasis in original). This means that planners are not separate from markets but are themselves ‘market actors’ (Adams & Tiesdell, 2010).

The variety of different metaphors employed in this literature to describe the relationship between planning and ‘the market’ indicates that there is no single type of relationship, but that it can shift and adjust over time and across various scales and markets. These shifts depend on the dominant planning and political paradigm or the particular tools and objectives favoured by local planners and national policymakers. Whether planning *constructs, shapes, regulates, stimulates, builds capacity, follows, manages, or creates* markets across different scales, spaces and periods, the key point is that land markets and planning are in intimate and

socially constructed relation (Adams et al, 2005) rather than somehow necessarily in opposition. Indeed, this is the key contention in the post-politics planning literature, which frames planning under neoliberalism as being less about conflict and agonism, and more oriented towards pro-development consensus seeking and, by virtue of this, risks facilitating the interests of powerful developer and landowner interests at the expense of dissenting voices (Allmendinger & Houghton, 2015; Metzger, 2017).

Whatever the preferred metaphor, the nature of the relationship between planning and ‘the market’ can be fruitfully examined through the concepts of risk and uncertainty which are receiving renewed critical attention (see Brill & Robin, 2020). Although planning can certainly impose risk on developers due to delays and refusals (Gallent et al., 2019), it can also help to reduce risk for these actors by providing the desired mix of ‘strategic certainty’ regarding which areas are deemed suitable for development and investment, with the flexibility to respond to changing market conditions (Healey, 1992a).

Recent research has examined how perceptions of risk and the role of planning are experienced and priced differently by different development actors performing different roles, thus building on and advancing previous work that has sought to understand the varieties of cultures and practices in the private development sector (see Adams et al, 2012; Coiacetto, 2001; Henneberry & Rowley, 2002). For example, Brill & Robin (2020) examined the diversity of roles taken on by development actors in London and Johannesburg and their various risk mitigation strategies, which include attempts to shape local political and regulatory landscapes. In Butcher’s (2020, p.355) study of greenfield developers in Johannesburg, she showed how they ‘mobilise their class power in the ways suggested by theorists of absolute monopoly rent: cooperating and organising to lobby the state and respond to new competition’. Brill (2022) examined how different forms of risk are divided between different private actors in the Build to Rent development process in London and



what this means for local governance, showing how some investors actually favour locations where there are tight planning controls and a restricted supply of development land because this protects their income streams from competition. Brill & Raco (2021) explored how government responses to crisis shape political risk in London planning and influences where developers are willing to bring forward sites. They also showed how developers ‘obsess over what goes on politically’ so that they can proactively manage the risk appropriately.

Similarly, Raco et al. (2019, p. 1079) in their examination of development investment landscapes in London have found that planning is not necessarily seen by developers and investors as a ‘barrier to investment and growth’, so much as a form of regulation that can be ‘effectively managed and worked with on a local scale’. This provides a competitive advantage to those who are best equipped to negotiate and navigate the uncertainty inherent in local policy and politics. This prefigures Brill’s (2020, p. 363) work examining how the developers of London’s Silvertown Quays built relationships with the public sector to create strategic alliances to facilitate their activities and that they managed these relationships via ‘sub-centres’ of power embodied in specific actors internal to the private sector that helped the developers to ‘more deeply entrench themselves at the centre of urban governance’.

Similarly, in their investigation of land developers as institutional, place-based (Greater Toronto) actors, Leffers and Wekerle (2020, p. 332) explored the participatory mechanisms in planning policy formation that provide developers with privileged access to state actors and thus enables them ‘to minimize uncertainty...as they navigate an increasingly complex institutional land use planning framework’. This builds on previous work by Leffers (2017, 2018), which investigated land use conflicts in Toronto and the related political manoeuvrings of developers and landowners to show how ‘[p]olitical and economic interests are deeply influential to the formulation and enactment of statutes’ (2017, p.179). In a later study Leffers et al. (2021, p.14) showed how the property development and aggregates

industries in the Toronto region had significant influence over new land-use policies and conclude by suggesting that they ‘may be witnessing a neoliberal convergence of state-industry and network relations between the two industries’. In different ways, therefore, these studies reveal how planning can be engaged in proactively by development actors to reduce risk and uncertainty in their favour (rather than merely passively responding to regulation), while also exploiting risk and uncertainty to seek a competitive advantage.

By focusing on specialist land promoters in England, the research presented here seeks to build on, and fill a gap in, existing literature on risk, varieties of developer practices and their relationship with planning. The paper will explore the varieties of strategies and business models adopted by land promoters, particularly in relation to their approach to planning risk. The research therefore focuses on a hitherto under-researched sub-section of the development sector in England, and in doing so examines how planning risk is *commodified* through their business strategies and how the planning system has, in turn, facilitated the transformation of greenfield land into a financial asset via a renewed national emphasis on market-based calculative practices required to determine housing need and required supply of land that can result in development outcomes that are not supported at local level (Bradley, 2021, 2022). The research presented here therefore complements existing accounts that examine how governments at various scales can reinforce the tendency to view land as a financial asset and, by virtue of policy and working in collaboration with developer and landowner interests, have supported rent seeking and maximising behaviour (Gotham, 2006; Rutland, 2010; Weber, 2015) and so have facilitated the reshaping of the physical environment in accordance with financial logics (see also Guironnet et al., 2016), even if their objectives are not in total alignment. The paper adds to these accounts by exploring how the strategies of greenfield land promoters are in large part influenced by the objectives and preferences of those that are funding their activity, coupled with a strategic engagement with national and local planning

policy and regulation. Such preferences influence what kind of sites get promoted via the planning system, over what timeframes and by what planning strategy. By exploring these dynamics in relation to greenfield development in England, this paper therefore adds to existing explorations of how planning regulation has become ‘permeable to property interests’ in the land market and has facilitated the accumulation and transfer of privately held, land-based wealth (Paccoud et al., 2021).

### **Research methods and data**

This research examines the land promotion sector in more detail than has previously been attempted. The empirical basis is 12 semi-structured interviews with individuals who own or work for businesses that undertake land promotion as a core element of their activity. The respondents were selected by convenience sampling. While an effort was made to speak to businesses of a range of sizes, the sample is biased towards the higher-profile land promotion firms in England as these were easier to identify and better networked with other respondents. There are believed to be dozens of small enterprises comprising two to three personnel engaged in land promotion. These types of promoters were not generally included in the sample. However, we believe that the sample of businesses is sufficient to give a good overview of this small sector. The interviews were approximately an hour long and took place in late 2019 and early 2020 – prior to the first covid-19 pandemic lockdown in March 2020 in England. Some of the interviews included more than one respondent.

The interviews were transcribed and then analysed using qualitative data analysis software (NVivo version 12). The interviews were initially inductively analysed to identify a long-list of data-driven codes, or categories, that captured segments of data relevant to our pre-conceived research interests, as well as unexpected elements that emerged from the interviews. The resultant codes and sub-codes incorporated data across various levels of

generality (Coffey & Atkinson, 1992: 37) – from references to the design of specific technical instruments used by the participants (such as promotion agreements), to broader conceptual categories such as drivers for the maturation of the sector. Following this, the long-list of codes was reviewed, reduced and rationalised into a list of broad themes, consisting of “several codes aggregated to form a single idea” (Creswell & Poth, 2018: 194).

. The resultant 9 themes were: business models and operations; evolution of the sector; housebuilder issues (i.e. relationship with housebuilders and their business models); land promoters and the planning system; market composition; perceptions of land promoters (i.e. land promoter perceptions on how they are perceived); role of land promotion companies (i.e. self-perception of the role of land promoters in relation to housing and land supply); strategy (i.e. for sourcing land, developing relationships, engagement with local authorities); and taxation (i.e. influence of the tax regime on business practices). These 9 themes comprised a total of 135 more granular constituent codes, arranged as child codes in Nvivo.

Given that the respondents all had senior management roles in specialist land promotion firms, the possibility of self-serving bias is obvious (as is clear from the self-reported nature regarding the data arranged under some of the above themes e.g. role of land promotion companies). In addition, social desirability bias may mean that respondents can tend to dismiss perceived undesirable behaviours, emphasise desirable ones and make statements that make them look good, leading to potential over-reporting or under-reporting of various beliefs and behaviours (Randall & Gibson, 1990). The research team has attempted to control for these biases by fact checking claims where possible, and by ensuring that the findings are presented as comprising the perspectives of land promoters. Respondents were also provided with a summary report after the data collection was complete to ensure that the data and researchers’ interpretations were recognised by the participants as appropriate representations of their views and experiences. Conclusions can therefore be drawn on the self-reported

origins and operation of the land promotion sector. No claims are being made in this paper regarding the truth, or otherwise, of claims made by promoters or their critics regarding contribution to housing land supply, housing supply or land and house prices.

### **Crisis and the origins of the land promotion sector<sup>5</sup>**

Although land promotion as an activity existed in some form for several decades before the Global Financial Crisis (GFC), there was consensus among respondents that the GFC was a significant stimulus to the growth and maturation of the specialist land promotion sector. This was due to the national political framing that housebuilding should play a key role in a construction-fuelled economic recovery (HM Treasury & BIS, 2011), along with corresponding adjustments in national planning guidance designed to facilitate the supply of development land (DCLG, 2012) combined with the temporary withdrawal of housebuilders from the strategic land market. Thus, the short-term but severe material effects of the GFC on housebuilders combined with the government's symbolic representation of the crisis and its resultant policy shifts created the conditions for specialist land promoters to thrive.

As effective demand for new homes was severely constrained by the tightening of availability of mortgage credit, housebuilders significantly reduced their operations in the land market in the years immediately following 2007/2008. As a result of this adjustment, in the period between 2007 and 2011, it was not possible for most landowners to enter into option agreements with housebuilders. In addition, the volume housebuilders were sometimes disposing of land to strengthen their balance sheets. Redundancies in the housebuilding and planning sectors created a pool of land market professionals who identified potential business opportunities based on exploiting specialist knowledge to navigate a complex planning

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<sup>5</sup> [Redacted.]

system to transform the financial value of potential development sites, largely in greenfield locations, as the following emblematic quote illustrates:

*[F]rom about 2011, a sea emerged of investor backed individuals who had land skills, who probably came out of housebuilding or planning or something similar and we saw the opportunity that planning complexity and land scarcity into a rising market meant that land values were likely to grow and that there was a hole because housebuilders themselves, at this point in time, pretty well turned their back on greenfield land and they did that because they were wounded by the recession. Capital was scarce and it just wasn't a priority.*

(Promoter 1)

Although the complexity of the planning system and the risks it imposes on landowners and developers was seen as a key source of competitive advantage and profit, there was also broad agreement among respondents that the increased emphasis on housing supply via a new National Planning Policy Framework (NPPF) that was introduced in 2012 further fuelled the emergence of specialist land promoters in England. The NPPF was co-produced with an advisory group that included a senior executive from a volume housebuilder, a clear example of development interests having a material influence on the national policy environment with a view to managing risk (Shepherd, 2021). One of the government's key objectives for the NPPF was to reduce and simplify national planning guidance and to discipline local authorities into granting planning permission for housing development in circumstances where they could not demonstrate a sufficient supply of housing land. This was achieved by strengthening the pre-existing national requirement to plan for housing need and maintain a five-year supply of housing land, combined with a renewed presumption in favour of sustainable development which would tilt the balance towards granting permission if developers could demonstrate a local shortfall in housing land supply. As had been the case

in the 1980s, this created a national policy environment where speculative housing development stood a good chance of being granted permission at appeal in contravention of local preferences where there was a local housing shortfall:

*NPPF was a factor, definitely, definitely, definitely and because of that, you could be more speculative. You could reduce down the timeframes to achieving a consent.*

(Promoter 8)

We see in these accounts how the development land market adjusted to the shock of the GFC resulting in a pool of individuals with land development skills that were able to connect with different sources of capital to take advantage of the market opportunities created by the adjustments to the institution of English planning aimed at facilitating housebuilding. The opportunities presented by the crisis were not wasted.

### **Finance and business models in the land promotion sector**

Most of the promoters interviewed for this research were specialists in that they did not have any significant other areas of business. They were either post-GFC start-ups or, more commonly, established but relatively small real estate development businesses that had decided to focus on land promotion. Several were subsidiaries of larger organisations (in some cases with expertise in engineering and construction) and several were owned or funded by private equity companies.

Rather than just focus on the promotion of third parties' land, some acquire land outright, promote it and sometimes provide enabling infrastructure too. Some act as master developers on strategic sites i.e., they promote the land to secure planning permission, then develop the necessary infrastructure and sell parcels of land to individual housebuilders. However, for many of those we interviewed, land acquisition and infrastructure provision are incidental

rather than core activities. When promoting larger tracts of land (or new settlements), there may be an intention to sell to, or form a joint venture with, a master developer once a planning consent has been obtained. The following emblematic quote shows the perceived segmentation of the land promotion sector and how this relates to the terms on which land is acquired and the degree of appetite for infrastructure provision:

*I think the market is probably more divided into those that will buy freeholds<sup>6</sup> and those that are only playing in the option/promotion arena...that then breaks down into those that are putting in infrastructure and those that don't put in infrastructure. So, it's almost two sub-divisions and then two sub-sectors within both... We have, historically, played 95 per cent of the game on the freehold route.*

(Promoter 2)

The strategy adopted is in large part influenced by the preferences and objectives of those that fund land promoter activities. Whilst some of the specialist land promotion companies have bank borrowing facilities and can use debt funding, generally the promotion sector seems to mainly rely on various types of equity funding. Internal sources of equity funding include retained profits, funds from a parent company or funds provided by the proprietors themselves. External sources of equity funding are from high-net-worth individuals who may invest directly in the land promotion company or via a Special Purpose Vehicle incorporating a single project or a portfolio of promotion projects. Several specialist land promoters are funded by major international real estate investment companies that could be parts of global investment chains. Some funders may require relatively quick returns on investment, while others are content to take a more patient approach. These varying preferences connect with the

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<sup>6</sup> In English land law, freehold is an interest in land that is of indeterminate duration. It is different to leasehold, where the interest in the land will expire at the end of the lease.



varying strategies of land promoters themselves – some need to take a more aggressive approach to generate the returns within the required timescale and may use promotion agreements to do so, while others may be happy to purchase land freehold and promote the land more slowly through the plan-making process. Some may pursue both strategies, depending on the characteristics of the site in question. In any case, we can see how the characteristics of the planning system are not exploited in exactly the same way across the sector – there are different market logics at play, and these are shaped in part by the objectives of the capital backing land promotion activities, as the below quote illustrates:

*...it would be very hard to get debt funding into land promotion business. Now, some of the people you're probably talking to, they do get external funding through venture capitalists... On the sites that we own ourselves, we might, for example, buy it with cash reserves... We'll take a lower risk approach, but take more patient capital, take a longer-term view. We can do that because we're very well-funded here... The other land promoters we've talked about, they're always under that pressure to be recycling cash on a three-year, revolving facility and... they've got much tighter restrictions on recycling money. We can tie up money for a long time and not really need to see it back for years and years.*

(Promoter 9)

### **Sites, projects and the planning system**

The size and value of sites that land promoters promote illustrates the variation in business models and the nature of the promotion process. Some of the respondents were prepared to take on a wide range of projects in terms of scale. Several respondents favoured sites with 100-200 plots. Smaller schemes (below c250 plots), where sites could connect to existing

utilities and road networks, tended to be attractive to promoters that preferred to avoid significant infrastructure provision. Whilst not always made explicit in the interviews, it was implicit that most promoters focussed mainly on greenfield sites and several respondents mentioned this point.

The planning strategy pursued by the promoters interviewed tends to be to obtain outline planning permission to establish the 'principle of development' (although full planning permission may be applied for in some instances depending on the site and the demands of the local planning authority). Sites with outline planning permission are then either marketed to housebuilders who will then submit one or more further applications to agree the details with the local planning authority or, if the promoter is also a master developer, the site may be sold off in plots to a variety of housebuilders who develop in accordance with an agreed masterplan.

Respondents identified different reactions to the post-2012 change in English planning regime for different types of promotion firms with both collaborative (plan-led) and combative (appeal-led) strategies. Some respondents felt that a collaborative and plan-led approach was more effective, particularly for large sites. The combative-collaborative distinction was regarded as a spectrum rather than a binary dichotomy between firms. As noted above, the speculative or combative approach to planning promotion may have been a response to the specific planning and market conditions following the introduction of the NPPF in 2012:

[Name of promoter deleted] *are a numbers business. 'Right, where's five-year supply?' and then suddenly dive in... 'I'll take three positions and I'm just going to drive it and I'll drive it all the way through appeal' and it was churn... 'I've got four going, I might get one' ... It brought short termism into the market and spatial*

*planning sort of went out the window...*

(Promoter 8)

In the terms of the typology developed by Tiesdell & Allmendinger (2005), the collaborative plan-led approach is more aligned with the *market-shaping* role of planning, whereas the combative appeals-led approach is more aligned with the *regulatory* role of planning, in that the parameters of the decision environment set out in the NPPF were exploited by some land promoters to confound the spatially informed, market-shaping objectives of a plan-led system. In such cases, it was the local planning authorities who were being regulated and disciplined by national policy, rather than the development sector. However, as the local planning authorities have reacted to these promotion strategies and the national planning policy environment has since evolved, promoters at the more combative end of the spectrum are having to adapt their business models, as will be discussed in the next section.

### **Land promoters and the navigation of the planning system**

The business models of land promoters are built around using their expertise and resources to drive a development site through the often complex, risky and uncertain planning process. In effect, they take on and commodify planning risk in return for a share of development value, which is crystallised by the grant of planning permission. As discussed above, there was general consensus among the interviewees that the 2012 version of the NPPF created opportunity for land promoters in England. This meant that, where a local authority had an out-of-date local plan and/or were struggling to demonstrate a sufficient supply of deliverable land, if the promoter could successfully argue that a development site was in a ‘sustainable’ location, then it stood a good chance of being granted planning permission either at local level or at appeal because the so-called ‘tilted balance’ in favour of sustainable development in national policy would apply (Smith, 2017). However, the institutional environment for

planning is constantly changing as national politics and policy evolves and planning appeals and case law adjusts norms of practice:

*It's moving all the time, it's like quicksand and the sands are shifting. As we speak, there are barristers in the High Court. If the judge came out and made a judgement which we weren't expecting, planning policies change again. It's always changing and evolving and that's what you're dealing with on a daily basis.*

(Promoter 6)

The view was expressed by several of the land promoters interviewed for the research that the planning environment for housing land had become more stringent over the 2019-2020 period. Indeed, research published in February 2020 found that the proportion of successful appeals permitting development on unallocated greenfield sites (such as those favoured by land promoters) had declined over the previous four years (Dewar, 2020). Gladman (a land promoter that has specialised in more adversarial appeal-led strategy) even announced in March 2020 (following a failed attempt to overturn two appeal decisions via the High Court) that it would be avoiding the appeals system due to concerns that the NPPF's presumption in favour of sustainable development was 'substantially weaker' than when it was first introduced (Wilding, 2020). More recent court judgements involving Gladman have further reinforced that the lack of a five-year housing land supply does not guarantee planning permission (Court Reporter, 2021; Stares, 2021).

There was speculation among the respondents regarding the reasons for this shift. Possible explanations included changes to the five-year housing land supply requirement in Neighbourhood Plan areas (it was reduced via Ministerial Statement in December 2016 to three years and then incorporated into a revised version of the NPPF), a greater number of local planning authorities having up to date local plans, changes to national planning policy via updates to the NPPF in 2018 and 2019 (it has since been updated again in 2021) and a

change in the weighting given by planning inspectors at appeal to the requirement for local planning authorities to demonstrate a five-year supply of deliverable land. The analysis by Dewar (2020) suggests that a key factor was greater weight given by planning inspectors to landscape impact. The 2021 changes to the NPPF strengthened national policy guidance on design matters, and there are indications that this is now making it more difficult for speculative planning applications such as those favoured by some land promoters (Kocham, 2021). This is despite the introduction in 2018 of a further national housing delivery test that triggers the presumption in favour of development where housing delivery has been significantly less than the policy requirement over the previous three years (see Bradley, 2022 for a critical analysis). These ongoing adjustments in the relations between planning and the strategies of land promoters illustrate that the nature and distribution of risks is constantly in flux as the English planning system evolves in response to conflicting political priorities at both national and local levels.

### **The future of the land promotion sector**

Respondents were asked about their views on the future of the land promotion sector. The interviews took place before the covid-19 pandemic generated major health and economic concerns and before the Ministry of Housing, Communities and Local Government (as it was then called) published its consultation document proposing major changes to the English planning system (MHCLG, 2020a). Broadly, respondents felt that, whilst the sector was fairly well-established, it would consolidate, become more plan-led rather than speculative and that there would be more emphasis on enabling infrastructure works by land promoters. Some respondents argued that the sector would continue to have a significant role to play in the housing land market because of demand for land with planning permission from housebuilders and the limited resources of local authorities. Other respondents also envisaged some consolidation in the sector. It was also emphasised that, as local authorities had

improved their performance in terms of up-to-date local plans and five-year housing land supply, there would be less scope for a speculative approach to land promotion. This has already started to happen as discussed above.

### **Planning reform and the politics of housing numbers**

A key determinant in the future of the sector will be how the government decides to proceed with its current planning reform agenda, particularly with regards to the calculation, and distribution, of housing delivery targets or, in the language of the NPPF, housing need. We have seen how national policy has required calculations of housing need to seek to compel local authorities to deliver these numbers. As such, this has represented what Raco et al. (2022: 2) have called ‘virtual statecraft’, whereby ‘virtually-prescribed’ housing numbers are used “as epistemic instruments to convert deliberations, especially at the local scale, into narrow discussions of deliverability and house-building” which has, in turn, enabled greater reliance on market actors. Our research has shown that this process was reinforced through the original NPPF, but that the power of housing numbers may now be weakening in planning decision-making concerning the kinds of greenfield sites preferred by land promoters. This is also reflected in the political controversy that shaped the government’s latest attempt at major planning reform,

The government’s white paper (MHCLG, 2020a) suggested that the discretionary English system would move towards a more rules-based and zonal-style system that would have potentially curtailed the potential for land promotion in its current form. Further, the government consulted on a proposal to a change to the standard method for calculating housing need, with the explicit objective of ‘boosting supply’ (MHCLG, 2020b). However, due to the political crisis caused by the subsequent backlash from local communities and backbench (non-Ministerial) Conservative Members of Parliament concerned about the

impact on the character of the English countryside from increased housing development, the government has now withdrawn from this strategy. It has since suggested that the system should have a renewed focus on brownfield development (Gardiner, 2021) and has proposed that the increases in housing numbers should be concentrated within ‘Greater London and to the local authorities which contain the largest proportion of the other 19 most populated cities and urban centres in England’ (MHCLG, 2020c) in an apparent attempt to defuse the political controversy over its original reform proposals. The minister who was put in charge of the reforms after the sacking of his predecessor even suggested that the government will not be ‘bound’ by its own 300,000 homes per year manifesto target because it ‘risks making someone’s perfect arithmetic the enemy of the common good’ (Brown, 2022).<sup>7</sup>

These adjustments to the national political framing of planning reform threatens to significantly alter the nature and distribution of planning risk on the kinds of greenfield sites that tend to be preferred by land promoters, particularly those that have specialised in a more adversarial appeals-led approach that is based on technical calculations of housing need and land supply. It is telling that, following the government’s announcements in favour of brownfield development, the Land Promoters and Developers Federation commissioned a report that sought to challenge this strategy by questioning whether there is a sufficient supply of such land in the right locations to meet housing need (Lichfields & LPDF, 2022). Indeed, if developing new greenfield sites becomes less politically acceptable at national level than it has been over the last decade, then this will certainly have an impact on the land promotion sector working in local contexts. It will mean that competition for the smaller

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<sup>7</sup> Since this paper was substantially completed, this minister has also been sacked by Conservative Prime Minister Boris Johnson just before Johnson was forced to resign as a result of misconduct. It speaks to the ongoing political toxicity of local housing development in greenfield areas in England that both of the main candidates in the subsequent Conservative Party leadership contest made a point of promising to further pull back from a ‘top-down’ target-led approach to planning for housing should they be elected by the Conservative Party membership to be the next Prime Minister, no doubt prompting anxiety in the land promotion sector. This illustrates how exposed the fortunes of local housing land markets can be to national political crises.

number of greenfield sites that have potential for development will be fiercer, and there may be a smaller number of promoters who are sufficiently skilled and capitalised to promote brownfield sites that may be more complex, subject to more competition and higher risk than greenfield sites. A further institutional adjustment to the development land market and a consolidation of the land promotion sector would be a likely outcome under these conditions. This demonstrates that it is not just local political conditions and policy that must be monitored, influenced and exploited by land promoters, but that the national political environment is also a key source of risk and that adjustments here can have very significant impacts on business and land strategies.

## **Conclusion**

The paper makes three main contributions. First, it has shown that the specialist land promotion sector in England is more diverse than previous research and popular accounts have suggested. In particular, the research has shown how the land promoter sector includes organisations that pursue short-term adversarial strategies to enhance the financial value of greenfield land, *as well as* those that prefer a more ‘patient capital’ or plan-led partnership approach. Some land promoters have venture capital funders that require quick returns on investment. Others have wealthy private funders or significant cash reserves and are able to take a longer-term view. These sources of funding influence what sites are promoted and the related strategies for engaging with the planning system. This, in turn, influences the geographical distribution of new housing development and the pattern of transformation of the English landscape – which has clear political implications due to the risk of objection from residents, which places political pressure on policymakers. However, in all cases, it is planning judgement and the pricing of associated planning risk that shapes the decision-making of these promoters. Understanding that this variety exists in the development land



market is important for debates about the impact of the sector on the supply of housing land and housing to be properly informed.

Second, by examining how planning risk is sought out, commodified and exploited by land promoters, the paper has explored the way in which this area of the development land market is intimately connected with the institution of planning via risk, economic rent and the profit motive, and, thus, facilitates the financialisation of land. In particular, the research has shown how politically driven adjustments in the institution of planning shape the opportunities and risks for actors in the development land market and that this has worked to the advantage of land promoters and entrepreneurial seekers of planning risk over the last decade. These adjustments in the planning institutional environment for the operation of the development land market have been responded to in different ways by different types of land promoter, whose logics and strategies have been shaped by their different cultures, appetites for planning risk and sources of funding.

Third, the paper has shown how different forms of crisis (financial and political) have at various times created conditions for land promoters to flourish and at other times have potentially stifled their activities by transforming the nature and distribution of risk via the planning system. For example, a key (but not the only) factor in catalysing the maturation of the land promotion sector in the last decade was a response to specific policies in the NPPF that were designed to discipline local authorities into planning for what the government considers to be sufficient numbers of new homes as a means of generating economic growth in the aftermath of the GFC. Following the publication of the NPPF and the expiration of the transition period, assuming the technical elements of a development proposal could be addressed so that it could be considered ‘sustainable’ in NPPF terms<sup>8</sup>, then the substantive

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<sup>8</sup> The definition of ‘sustainable development’ in the NPPF (2012) was extremely broad and was found by one judge to constitute the entirety of the document, so that ‘sustainable development is, in effect, conflated with

planning arguments regarding whether a greenfield site should be granted planning permission in contravention of local planning policy could be focused on whether or not the local authority in question had an adequate supply of housing land and, therefore, whether the ‘tilted balance’ in favour of sustainable development in national policy should apply and override any local opposition. This politically-driven adjustment in the national policy environment (which was influenced by housebuilder interests) therefore facilitated the commodification and packaging of local planning risk by the land promotion sector because it focused planning debate into a specific and technical area of policy – namely housing land supply and housing numbers. This is not to suggest that this could be the only area of debate in such proposals (we have seen that landscape impact and design can be significant also, for example), but the operation of original NPPF policy certainly concentrated what was previously more generalised planning risk into a particular set of paragraphs in the NPPF and therefore limited the range of possible planning debate and argumentation and, consequently, reduced planning risk on some speculative sites and thus facilitated the financialisation of land.

Returning to Tiesdell & Allmendinger’s (2005) typology of planning tools, the market activity that resulted from the adoption of the NPPF, whereby some land promoters would monitor the five-year housing land supply position of local planning authorities in search of opportunities to successfully argue that permission should be granted on sites outside of the plan-led system, shows how the NPPF was *regulating*, but that this regulation was not oriented towards the land market so much as it was towards local planning authorities. The NPPF imposed housing land delivery requirements that local authorities had to meet to protect the primacy of their local planning policy. If local authorities failed these regulatory

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compliance with national guidance’ (Lees & Shepherd, 2015, p.118). This created opportunities for promoters to successfully argue that if their proposals were broadly compliant with the NPPF, then they could be considered sustainable. Not all would agree with this approach to the definition of sustainable.

tests, then land promoters could take advantage of the requirements in the NPPF to succeed in transforming the financial value of greenfield land in contravention of local planning policy. The reduction in uncertainty and its conversion into manageable risk on such sites was therefore not by virtue of positive spatial and strategic '*market shaping*' planning, but rather by virtue of creating clear opportunities to take advantage of situations where local authorities were struggling to demonstrate a five-year supply of deliverable housing land. It was not local spatial planning that shaped land promoter market activity, but rather top-down technical regulatory planning informed by market-based calculative practices regarding the calculation of housing need (Bradley, 2022) that disciplined local authorities rather than landowners and developers and enabled the commodification of planning risk in an uncertain environment. It is partly this aspect of the integration of the institutions of planning and the development land market that helped the land promotion sector to mature and compete with the speculative housebuilders. However, the nature of the integration of planning and the land development market is in flux as a result of the political crisis that engulfed the Conservative Party following its 2020 planning reform proposals. If the government does, indeed, pull back from a housing numbers-driven approach in order to minimise political risk, then this could significantly increase planning uncertainty such that it becomes much more difficult and risky for some land promoter business models, particularly those that have relied on a more adversarial approach.

Although the empirical focus of the paper has been on the English land market and planning system, the findings have wider implications for analysis in other jurisdictions. In particular, there is potential to compare the role of planning risk in the business strategies of land market actors in other planning systems and how policy and regulatory design may adjust market incentives and, therefore, land financialisation processes and patterns of development. Further, there is potential to compare the different political manifestations of the 'housing

crisis' narrative in various jurisdictions, and how the varieties of politics of housing delivery adjust relations in the land and housing development market to produce different outcomes.

## **Funding**

[Redacted.]

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