

HOUSING DELIVERY AND THE PLAN-LED SYSTEM

MEETING THE WELSH GOVERNMENT'S
20,000 AFFORDABLE HOMES TARGET

EXECUTIVE SUMMARY

The private home building industry can help play a significant part in the Welsh Government's 20,000 affordable homes target, by delivering both 6,000 units through the Help to Buy scheme and providing a proportion of affordable homes as part of private housing developments. The Home Builders Federation (HBF), however, considers that currently the plan-led system in Wales is not supporting the delivery of these new homes as it should. HBF recommends that the Welsh Government takes the following actions to address these issues:

- Ensuring that Local Planning Authorities (LPAs) do not stop work on plan reviews while waiting for the National Development Framework or Strategic Development Plans to be adopted.
- Utilising powers available to the Government to make certain that plans are both adopted and reviewed in a timely manner to ensure continual plan coverage.
- Requiring LPAs, which have less than a five-year land supply, to take action to help increase the availability of deliverable housing sites, through granting permission for sustainable development or allocating additional sites for housing in a review of their Local Development Plans.
- Clarifying the role of the Annual Monitoring Report in monitoring plan delivery and its position on 'failing' LPAs including when an LPA does not secure a level of development in accordance with their Local Development Plans.

HBF CONSIDERS THAT TAKING THESE ACTIONS IS NEEDED AS:

- It will take at least four years to adopt the National Development Framework or any Strategic Development Plans.
- There are 11 Local Development Plans with an end date of 2021 all of which need reviewing, however, only 3 LPAs have formally started this review process while one LPA has withdrawn their review.
- The 2016 Joint Housing Land Availability Study identified that only six authorities in Wales were able to meet the Welsh Government's minimum five-year housing land supply target and a number of LPAs currently have less than a two-year supply.
- The Annual Monitoring Report process is not robust enough and lacks teeth for taking action against LPAs which do not meet their agreed monitoring requirements. Simply triggering an early review of a plan is clearly not helping to deliver more suitable housing development opportunities.

In addition to the recommended reforms outlined above a change in policy is also required to allow housing to be

delivered in the short term. Due to the lack of suitable allocated sites, house builders are having to submit applications on non-allocated sites which frequently result in time consuming and expensive appeal hearings. Recently, however, a number of appeals have been dismissed despite there being no five-year land supply and the site being considered sustainable, because of other policy constraints.

Planning Policy Wales (PPW) includes a presumption in favour of sustainable development, but this is not concisely expressed. HBF considers that, in accordance with PPW, where there is a lack of a five-year supply or where a Local Development Plan is no longer up to date, there should be a presumption in favour of sustainable development unless the residual negative impacts would significantly outweigh their benefits when considering the Well-Being of Future Generations Act.

The HBF believes that such an approach is supported by the recent Cheshire East/ Suffolk Coastal [2017] UKSC 36 Supreme Court decision which clarifies that the lack of a five year housing land supply is, in itself, good enough reason to invoke the presumption in favour of sustainable development and it is the responsibility of the decision maker to decide what weight to place on the policies of the development plan, particularly in the light of the effect of such policies on the ability of the local authority to be able to meet its housing land supply requirements. In effect this judgment suggests that unallocated sites should not be automatically ruled out because of the existence of a plan policy restraining development. Such restraint policies should be weighed against the need to maintain a five year housing supply.

This will ensure that, where plans are failing to deliver, there is a suitable mechanism in place to enable sustainable housing development to proceed. In light of these issues, HBF believes that the Welsh Government must take immediate action to ensure that the plan-led system continues to provide the framework to allow new homes to be delivered across Wales and avoid the looming 'policy vacuum'. A change to policy is also needed to provide clearer and stronger support for sustainable housing proposals in line with the Well-Being of Future Generations Act.

These requests are not only essential to ensure the Welsh Government's 20,000 affordable homes target is met but also to ensure private house builders can continue to increase supply to meet the level of demand for new homes across Wales over and above this WG target.





HOUSING AND THE PLAN LED SYSTEM

INTRODUCTION

The house building industry has the ability to continue to deliver new homes across Wales including achieving the 6,000 Help to Buy Wales (HtBW) homes identified in the Welsh Government's target of 20,000 affordable homes by 2021. Evidence of the significant contribution the house building industry is making towards HtBW is evident from the progress so far of 4,797 homes having been delivered using the scheme between January 2014 and February 2017. In addition to these private homes, a percentage of affordable housing will be delivered by the house building industry through S106 agreements, which will also count towards the 20,000 target. However, to increase the supply of both open market and affordable housing in the future, local authorities must ensure the plan-led system continues to operate in a timely manner. This is the principle way to enable housing developers to make the consistent investment decisions required to ensure homes in Wales continue to be delivered.

THE PLAN-LED SYSTEM

HBF considers the plan-led system to be fundamental to the delivery of homes in Wales as it not only allocates sites for development but provides certainty for the industry, therefore, allowing longer-term investment decisions to be made. While it is positive that there are currently 18 Local Development Plans (LDPs) out of 25 adopted (with others soon to follow), the progress of adopting has been slower than needed and some of those not yet adopted are in areas of high-housing demand which appear to be still many years away from adoption. Also concerning is that 11 of those adopted have an end date of 2021 with the majority of these urgently requiring review but the review process has only been started formally for 3 of these. With the recent withdrawal of a plan review through a 'loop-hole' in national guidance by Caerphilly Council, who were the most advanced with their review, there is now a greater risk that other LPAs in South East Wales could follow suit.

The Annual Monitoring Report (AMR) forms an important part of the LDP monitoring process and includes references to the number of new homes built in an authority in addition to the findings of the annual Joint Housing Land Availability Study (JHLAS) which looks at the five-year land supply. Throughout the LDP Examination process across Wales, the point has consistently been made that the monitoring and review process will be an important tool to ensure LDPs are sound and robust. Indeed, the actions by Caerphilly

are particularly pertinent, given that HBF's concerns with the soundness of the LDP expressed throughout the Examination process, were meant to be addressed, to a certain extent, by the repeated reference to the capacity of the monitoring and review process to expose and address any soundness issues early after adoption. The failure of this process, however, now means that the same 'unsound' plan that was adopted more than 7 years ago now continues to apply and that there is no review planned to address the matter or clarity about the steps the Welsh Government will be taking as a result of an AMR which identifies non-performance of a plan.

See Appendix 1 for more detail on each LPA's LDP position.

A FIVE-YEAR LAND SUPPLY

Technical Advice Note 1 (TAN1) of JHLAS states:

The requirement to maintain a 5-year supply of readily developable housing land in each local planning authority across Wales remains a key planning policy requirement of the Welsh Government. The planning system, through the LDP process, must provide the land that is needed to allow for new home building and LOCAL PLANNING AUTHORITIES ARE REQUIRED TO ENSURE THAT SUFFICIENT LAND IS GENUINELY AVAILABLE TO PROVIDE A 5-YEAR SUPPLY OF LAND FOR HOUSING.'

This sentiment is clear and welcome, however, in 2016 only six LPAs had a five-year land supply, with four unable to carry out studies due to the lack of an adopted plan. Of the LPAs below the 5-year threshold, four of them had less than a two-year supply. This lack of a five-year land supply has resulted in a number of LPAs having to trigger an early review of their plan. This indicates that the current batch of adopted LDPs are failing to deliver the homes they set out to provide, due to unsuitable and undeliverable sites being allocated through the Examination process.

Caerphilly Council's recent withdrawal of their LDP review, citing a preference to prepare a Strategic Development Plan (SDP) linked to the Cardiff Capital Region City Deal, sets a concerning precedent with RCT already indicating they could take a similar approach.

HBF fully supports the TAN 1 process and will continue to work closely with each LPA in Wales to produce a robust JHLAS annually. Nevertheless, HBF does consider that more should be done by LPAs who have less than a five-year land supply to ensure deliverable housing sites can come forward. Indeed, PPW states specifically that the LDP process should be the principle mechanism for resolving land supply issues

and, as such, the need for LPAs to play an active part in reviewing plans and assisting housing delivery is essential.

See Appendix 1 for more detail on each LPA's five-year 2016 land supply figure

CHANGES TO THE PLAN-LED SYSTEM

The Planning (Wales) Act 2015 introduced additional tiers to the plan-led system in Wales including the National Development Framework (NDF), which will replace the Wales Spatial Plan, and Strategic Development Plans (SDPs) which could link to the proposed City Deal areas. However, it will take some time for these to be adopted, as illustrated by the table below:

	2017	2018	2019	2020	2021	2022	2023
NDF							
SDP	?						
LDP Light Touch		?					
LDP Reviews							

? - start date currently unknown

In terms of the preparation of SDPs, no SDP has formally commenced and there is no certainty as to when this process will start or finish. In this respect, based on the Welsh Government's guidance, the earliest an SDP would be adopted is 2022. Critically this date is beyond the end date of 11 LDPs which are due to expire in 2021. It would seem sensible to assume that in order for a South East Wales SDP to be produced, it would require buy-in from all ten local authorities. However, it is clear that not all local authorities in the region have a desire to abandon their LDPs and produce an SDP. This would extend the adoption of an SDP well beyond the 2022 date identified above.

HBF SUPPORT FOR REGIONAL PLANNING

Although the move to a more regional planning structure will not be a quick one, it is something which the HBF supports in principle. HBF considers that it has the potential to speed up the process of establishing housing requirement figures and will also aid in the delivery of homes by considering housing allocations from a wider strategic standpoint. Consideration of housing numbers at a regional level also has other advantages allowing more cross boundary working and opportunities for better linkages with infrastructure proposals. HBF believes that the creation of SDPs

based on the City Region areas is the sensible way to deliver regional planning, an approach further supported by the recent WG White Paper- Resilient and Renewed. However, no LPAs have yet come forward with a proposal for an SDP and we understand that current conversations seemed more focused on the idea of joint plans with a small number of LPAs working together.

CURRENT LDP REVIEWS

While initial discussions on SDPs continue, there are eleven plans in Wales requiring urgent review with no clear timeframes for these reviews in place. The most advanced LDP review was Caerphilly, which took three years to progress to deposit stage, only to be withdrawn in July 2016. The LPA has still not announced how it intends to proceed and has not given any indication how housing delivery is meant to be promoted and increased during this policy hiatus. The recent changes to the LDP process have also introduced a 'short form review' which also does not have prescribed timeframes. It also does not appear that this approach has been supported by the Welsh Government when responding to requests from LPAs, particularly where housing is a main issue.

In light of the above issues, there is a significant question about what happens to the plan-led system in the short term over the next three years. In this respect, Lesley Griffiths, Cabinet Secretary for Environment and Rural Affairs, recently wrote to Heads of Planning in all LPAs across Wales stating:

'I expect each Local Planning Authority to give priority to the preparation or replace of LDP's including giving full consideration to the production of joint plans with neighbouring authorities'. The Minister went on to say; 'To be clear each LPA must provide a genuinely available supply of land for housing'.

Further in reviewing plans the LPAs, the Welsh Government and the house building industry need to consider the 21 recommendations of the recent government study Longitudinal Viability Study of the Planning Process, many of which HBF supports. As yet, there has been no statement from the Welsh Government on which recommendations will be implemented or timeframes for doing so although it is understood that WG have recently started a review of the Development Plan Manual which will consider the study's recommendations with stakeholder events planned for late summer.

THE WG LEGISLATIVE POWERS

Planning Policy Wales Edition 9 – November 2016 – Chapter 2 - Local Development Plans states at para 2.1.3:

'LDP preparation is a statutory function of the local planning authority

(Section 62 of the 2004 Act). The function must be exercised as part of carrying out sustainable development in accordance with the Well-being of Future Generations (Wales) Act 2015, for the purpose of ensuring that the development and use of land contribute to improving the economic, social, environmental and cultural well-being of Wales (Section 2 of the 2015 Act). AUTHORITIES SHOULD GIVE HIGH PRIORITY TO LDP PREPARATION, MONITORING AND REVISION to ensure up to date plans are in place.'

PPW goes on to say at para 2.13.3:

'The Welsh Government has wide-ranging powers of direction in relation to LDPs including being able to: vi. direct that a plan shall be revised (i.e. altered or replaced) – section 70(2)'

Para. 2.13.5 states:

'The Welsh Government also has default powers (section 71 of the 2004 Act) where it considers an authority is failing or omitting to do anything necessary in connection with the preparation, revision or adoption of the LDP.'

Further to the above, the Welsh Government's policy commitment to up-to-date development plans has now been given legislative expression in **s.12 of the Planning (Wales) Act 2015**. This section provides not only that development plans must specify the period for which they are to have effect, but also that an LDP shall cease to be a development plan after the specified date.

In light of the above, the standpoint of the Welsh Government seems to be clear, however, there is no clarity whether LPAs will follow these Ministerial and National Guidance instructions in practice. HBF believes that this matter needs to be addressed as a matter of urgency.

PLAN REVIEW LEGISLATION

The plan review legislation provides a 'loop hole' in that it sets out the requirement to start reviews but does not make provisions that reviews need to be completed. In addition, the legislation gives LPAs the right to withdraw a plan at any stage up to submission for examination meaning the process can be significantly delayed.

The Town and Country Planning (Local Development Plan) (Wales) Regulations 2005 PART 9 REVIEW OF LOCAL DEVELOPMENT PLAN

Review of LDP 41. An LPA must commence a full review of its LDP every four years from the date of its initial adoption, in accordance with regulation 3(1).

Planning and Compulsory Purchase Act 2004 Regulation 66 Withdrawal of local development plan

(1) A local planning authority may at any time before a local development plan is adopted under section 67 withdraw the plan.

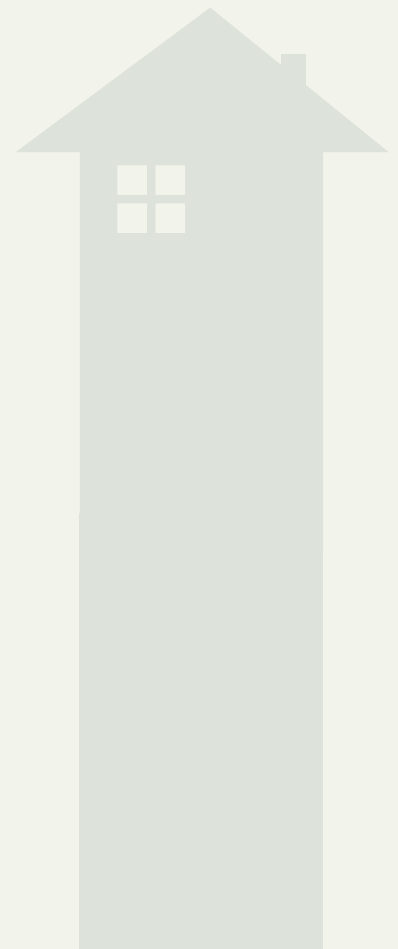
As above, while the Welsh Government's position is clear there is, similarly, no indication to what extend

LPAs will comply with Ministerial and National Guidance instructions making this a matter needing to be addressed urgently.

THE ALTERNATIVE TO A PLAN-LED SYSTEM - PLANNING BY APPEAL

The current absence of up-to-date and robust planning policy in Wales would be significantly exacerbated if LPAs are allowed to abandon work on LDPs that are currently clearly ineffective in land use and housing delivery policy terms. The house building industry along with many other users of the planning system would be left with a considerable policy vacuum, where the only option to deliver housing would be relying on the appeal system. In this respect, given the commercial risks (time and cost) involved in potentially taking each site through the appeals process, it is likely that house building in the affected areas would slow considerably. Large sustainable sites which deliver significant community benefits would be extremely unlikely to be realised, given the significant investment required in order to stimulate such developments. These sites are usually taken forward via LDP allocations, where there is initial buy-in from the local authority and the other development partners that engage with the development planning process.

The HBF strongly cautions against an appeal-led planning system in Wales and considers that it would be contrary to the plan-led system which is one of the guiding principles of the Planning (Wales) Act 2015 and could pose a great risk to a sustainable delivery of the homes that Wales needs as is already evident in situations where the lack of a five-year land supply has also led to an increase in planning appeals on sites which are not allocated in LDPs, creating further uncertainty and delay in the delivery of new homes.





CONCLUSION

The HBF considers that the current uncertainty around the issue of LDP reviews, the prevaricated discussions over regional planning and the significant length of time it takes to adopt an LDP, is severely putting at risk the ability of house builders to invest in many parts of Wales. Without large scale investment in housing, the Welsh Government not only risks not achieving their stated housing targets, but investment in schools, sustainable transport infrastructure, parks and open spaces is also likely to be severely constrained. Likewise, the significant investment house building brings to local economies would also be curtailed, which would impact directly on local job creation and the prosperity/longevity of local services.

In light of this HBF recommends that the WG takes action now, using the powers at their disposal, to ensure the 'policy vacuum' that currently exists is not exacerbated. Urgent action is also required to ensure housing can be promoted and delivered through the plan-led system, rather than through the planning appeals process, which will hinder the delivery of much-needed new homes, including affordable homes, in many areas of Wales.

The HBF, therefore, recommends that the next Welsh Government take the following actions to address these issues:

- Ensuring that LPAs do not stop work on plan reviews while waiting for the National Development Framework or Strategic Development Plans to be adopted.
- Utilising powers available to the Government to make certain that plans are both adopted and reviewed in a timely manner to ensure continual plan coverage.
- Requiring LPAs, which have less than a five-year land supply, to take action to help increase the availability of deliverable housing sites, through granting permission for sustainable development or allocating additional sites for housing in a review of their Local Development Plans.
- Clarifying the role of the Annual Monitoring Report in monitoring plan delivery and its position on 'failing' LPAs including assessing whether LPAs are considering if the level of development secured is in accordance with Local Development Plans.



CONCLUSION

APPENDIX 1

Plan adoption, review stage, level of delivery and five-year land supply						
	Date of Adoption	LDP Period	Plan Re-view	Housing allocations	Delivery since start of plan to April 2016	JHLAS 2016
SE Wales						
Caerphilly	Nov-10	2006-2021	Deposit stage With-drawn	8,625	4,239	1.5
Rhondda Cynon Taf	Mar-11	2006-2021	Started 2015	14,385	4,645	1.5
Merthyr Tydfil	May-11	2006-2021	Started 2015	3964	1580	1.5
Blaenau Gwent	Nov-12	2006-2021	Started 2016	3,500	1,084	1.35
Bridgend	Sep-13	2006-2021	2017	9,690	4,589	5.1
Torfaen	Dec-13	2006-2021	2017	3,897	1888	3.6
Monmouthshire	Feb-14	2011-2021	2017 Early review	4,500	1,265	4.1
Newport	Jan-15	2011-2026		10,350	2,697	5.9
Cardiff	Jan-16	2006-2026		41,415	13,585	3.8
Vale of Glamorgan	Expected 2017	2011-2026		9,460	1,358	0
West Wales						
Swansea	Expected 2018	2010-2025				3.2
Carmarthenshire	Dec-14	2006-2021		13,352	5,606	4.1
Ceredigion	Apr-13	2007-2022	2017	6,000	1,745	3.4
Neath Port Talbot	Jan-16	2011-2026		7,800	1,501	5
Powys	Expected 2017/18	2011-2016				2.2
Pembrokeshire	Feb-13	2011-2021	Not planned	5,724	2,052	5.1
North Wales						
Flintshire	Expected 2019	2015-2030				0
Denbigshire	Jun-13	2006-2021	2017	7,000	2,227	2
Wrexham	Expected 2018	2013-2028				0
Conway	Oct-13	2007-2022	2017	6,520	2,274	3.7
Gwynedd/Anglesey	Expected 2017					0
National Parks						
Brecon Beacons	Dec-13	2007-2022		1,990	526	5
Pembrokeshire CNP	Sep-10	2006- 2021	2016	1,600	485	2.1
Snowdonia	Jul-11	2007-2022		800	448	5.4

ABOUT HBF

The Home Builders Federation is the representative body for home builders in England and Wales. HBF's membership of more than 300 companies build most of the market sale homes completed in England and Wales, and encompasses private developers and Registered Providers.

The vast majority of home builder members of the HBF are small and medium-sized companies.

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