

P-05-786 – Save our Countryside – Revise TAN 1 – Correspondence from the Petitioner to the Committee, 16.01.18

TAN1 Petition letter

15.01.2018

Introduction

In 2017, 20 out of 25 Local Planning Authorities (LPAs) in Wales did not have a 5 year land supply. £38m has been spent in producing Local Development Plans (LDPs), but due to a national slowdown in the housing market, housebuilding has failed to keep up with the projected demand. Changes to Technical Advice Note (TAN) 1 has meant that Joint Housing Land Availability Studies (JHLAS) aren't fit for purpose, LDPs are rapidly becoming out of date and LPAs are no longer in control of land use and housing developments.

National guidance in the form of Planning Policy Wales (PPW) states:

“Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing judged against the general objectives and the scale and location provided for in the development plan.” (9.2.3; emphasis in original).

TAN1 sets out the process for undertaking JHLAS. Through consultation with relevant stakeholders, local planning authorities (LPA) must establish which sites are capable of being developed for housing within 5 years, and work out whether this is sufficient to meet their housing requirement. When the land supply falls below 5 years, according to TAN1 the LPA must take steps to increase their land supply. **This provides housebuilders with the opportunity to seek permission on sites that are unallocated or outside settlement boundaries.**

Under current guidance in TAN1, the residual calculation is the only method permitted for LPAs to use to calculate their land supply. The residual method divides the total undeveloped housing remaining in the Local Development Plan (LDP) by the years remaining in the LDP to work how many houses need to be built each year over the next 5 years (the annual requirement). This is compared to the housing land supply to work out the LPA's 5-year supply. Prior to the publication of the revised TAN1 in 2015, the past completions method could be used as an alternative to the residual method, which used past housing delivery to calculate future housing needs. Where an LPA's

We absolutely support the principle of using the Local Development Plan with its household projections as the starting point for assessing the land supply, however

we raise issue with the inflexible way in which WG guidance requires the housing land supply to be calculated. The problem in this case is the vast difference between the population projections used in the Plan and actual delivery of housing since the financial crisis in 2008. Planning Policy Wales (PPW) now recognises that housing requirements in emerging LDPs should be based on a range of evidence, not just WG's population projections, but this does not help LPAs who have adopted LDPs using older projections.

This is not an issue restricted to one or two authorities – it is a problem across Wales as Table 1 demonstrates.

Changes to Policy and Projections

Changes to TAN1 and the land supply calculation methodology have progressively made it more difficult for LPAs to achieve a 5-year supply and reduced the weight that should be given to population projections when producing LDPs. These changes have led to land supply shortfalls in all but 3 LPAs with an adopted LDP.

The TAN1 Practice Guidance published in September 2012 changed the past completions calculation, which had the effect of increasing the housing requirement when using this method. Subsequently, the revised TAN1 was published in January 2015 which removed past completions altogether as a method for calculating land supply. Additionally, any authorities without a current development plan can no longer produce a JHLAS and are therefore considered to have a land supply shortfall; despite some authorities still having significant allocations and committed sites.

The adopted Conwy LDP used the Welsh Government's 2008-based population and household projections; figures that were revised significantly in February 2014, shortly after the Plan was adopted. At Examination, the Council argued for a lower housing figure due to the effects of the financial crisis, however such concerns were not supported by the Inspector who favoured sticking rigidly to the WG's undeliverable household requirements. Planning Policy Wales has since been updated to reduce the weight given to WG's household projections, but this does not help authorities such as Conwy with high housing requirements based on older high WG projections; requirements that we are effectively locked in to until the Review is complete.

Consequences of low housing delivery on land supply

We agree with the comments from the then Minister for Housing and Regeneration in his letter dated 10 April 2014 that projecting forward past low rates of housebuilding is not to be desired. However, the past building rates method

allowed in the 2006 edition of TAN1 did provide a sense-check of the residual calculation. The residual annual requirement from Conwy's latest JHLAS is now 681 dwellings. It is clear that in the context of housing delivery averaging 324 dwellings per year over the past two decades since the formation of Conwy CB, a consistent delivery of such a figure is completely unachievable. This situation is repeated across Wales as detailed in Table 1 below, which demonstrates that in all but a very few instances, the average annual completions or even the single highest annual completions over the past 10 years have not come close to the annual requirements that authorities are expected to deliver according to the residual land supply calculation.

As Table 1 demonstrates, only three LPAs had a 5-year land supply in their 2017 JHLAS, although it is acknowledged that a further three have adopted their LDPs since then. Using the past completions method on the other hand, only three authorities would have less than a 5-year supply. To re-iterate, we are not advocating the use of past completions as the sole method for assessing land supply, due to the lack of ambition that would result from basing housing requirements on the performance of the housebuilding industry over the past decade. We do however consider that a comparison with past build rates demonstrates that the residual calculation is a broken methodology which means that the current JHLAS process is not fit for purpose. The previous TAN1 (2006) acknowledged the limitations of the residual method, stating:

*"In some circumstances, that [residual] calculation has indicated land shortages or surpluses, which do not exist in practice. In such cases, a comparison of available land with **past building rates** can provide a measure of the adequacy of land supply that is more relevant to the achievement of the general objectives of the plan."*(7.5.2; emphasis in original).

The 2017 JHLAS determined that Conwy has sufficient land to deliver 2145 dwellings over the next 5 years; more than were built in the past 9 years. Yet according to the residual calculation this is enough for only 3.1 years. As the target of 681 is inevitably missed in the coming years, the residual requirement will continue to rise until the replacement LDP adopted. In the 2018 JHLAS the annual requirement is likely to rise to approximately 800 dwellings per year. A land supply calculation based on this figure therefore serves no useful purpose.

The 5-year land supply figure will grow exponentially as the years remaining in the plan decreases. Conwy have commenced our LDP Review, however a recent letter from the Minister will now delay the process for adopting a replacement LDP. Communication from WG indicates that Conwy will be strongly encouraged to

produce a joint LDP with Denbighshire. Such a proposal may result in limited financial savings, but at the cost of an inevitably extended timeframe. The need to co-ordinate two democratic processes in parallel and align strategies and policies across different local planning authorities means that both Conwy and Denbighshire will remain with a land supply shortfall for a longer period.

An Alternative Approach

A different land supply calculation which uses the LDP's annual requirement instead of the residual assessment would prevent the housing requirement from snowballing out of reach. This would provide greater stability in the land supply calculation, whilst continuing to use the LDP as the basis for the housing requirement. For example, in the case of Conwy the total housing requirement of 6520 split over 15 years equates to approximately 435 dwellings per year; a 4.9 year supply based on the 2017 JHLAS. Such a method would allow LPAs to aim for a target that has a more realistic prospect of being achieved, when as in many cases slow housing delivery due to the poor economy and poor housing market has resulted in an ever increasing housing shortfall.

Another means by which the land supply calculation could better reflect the latest evidence would be by allowing flexibility in housing requirements before completion of the formal review process. As detailed above, we know, and have done for a number of years that the household requirements set out in the LDP are too high. Having to wait a further three years to adopt a replacement Plan (or more for a joint LDP) before we can recalibrate our land supply calculation, despite knowing that the present land supply 'shortfall' is based on outdated projections seems perverse.

Availability vs Deliverability

The JHLAS process is based around identifying land that is available for development, however it is important that 'availability' and 'deliverability' are not conflated. Conwy CB have approved some applications on the basis of a land supply shortfall, with others approved on appeal. It is worth noting that the granting of permission on such speculative sites does not guarantee that housing will be delivered, but the threat of development on unallocated sites does cause great uncertainty and genuine concern to local authorities and communities. The lack of progress so far on a number of sites in Conwy demonstrates that it is not the failure of the local authority to provide sites which is causing slow delivery. Of the four sites that have been granted permission outside settlement boundaries in the last five years on the basis of a land supply shortfall, all but one have yet to commence development; one of those yet to start was granted permission on appeal in

February 2013 so is still not contributing to the urgent need for housing that was argued by the appellants and accepted by the Inspector. Such sites, and others with extant planning permission may be 'available' for development, but for reasons outside the control of the LPA may not be delivered in the short term.

The recent Arcadis study took a rather narrow assessment of the impact of viability on delivering housing sites, but missed some of the key issues which affect site delivery. Discussions with housebuilders have demonstrated to us that the increasing regulatory costs; including the recent introduction of sprinklers in all new dwellings (which the WG-commissioned study by BRE concluded is not cost effective) makes England a more attractive environment for housebuilding than Wales. Unrealistically high aspirations for the value of sites are leading to landowners being reluctant to release land for development. In addition, one major national housebuilder informed us that the main reason they have avoided building in north Wales is the difficulty of dealing with Welsh Water – their failure to deliver much-needed improvements to their network have demonstrably led to significant delays in bringing forward housing sites in Conwy. This can lead to such sites falling outside the 5-year supply, despite the sites themselves being available for development.

Where deliverability of sites continues to be an issue, Conwy are considering the use of Compulsory Purchase Order (CPO) powers to bring forward development, with this actively being progressed in one instance. To assist in delivery however, we propose that WG should simplify the process for compulsory purchase of sites where these are allocated in a development plan. This would provide more certainty to local authorities in delivering allocated sites and act to encourage landowners to bring forward sites themselves in a timely manner.

Previous correspondence

The key issue relating to the residual calculation and its unsuitability for assessing land supply in some situations has been raised previously on numerous occasions at a local, regional and national level:

- CCBC's response and North Wales regional response to the TAN1 calculation, October 2014
- Letter from Leader of CCBC to the then Minister for Housing & Regeneration, January 2016
- Report to CCBC Cabinet regarding issues with TAN1 and to show CCBC support for changes to TAN1, September 2016
- Letter from Welsh Local Government Association (WLGA) to Lesley Griffiths, Sept 2016

- Letter from Leader of CCBC to WLGA, November 2016
- Meeting between WLGA and DCLG about issues with TAN1, January 2017
- Emails sent to Janet Finch-Saunders, Aberconwy Assembly Member in August 2016, September 2016 and October 2017
- CCBC's LDP Annual Monitoring Reports, October 2016 and October 2017

This demonstrates that the issues are on-going and not restricted to Conwy. It is disappointing that despite the issues raised, to date WG have been dismissive of the many genuine concerns raised by local planning authorities across Wales. Faced with the evidence of widespread land supply 'shortfalls' across Wales, and the potential timescale involved for LDP review (particularly if Conwy produce a joint LDP with Denbighshire), it is not acceptable for LPAs and communities to continue to suffer the consequences of a broken system. Another revision of TAN1 is now overdue, to allow JHLAS reports to once again provide realistic, and therefore relevant, land supply calculations.

Conclusion

The residual method of assessing land supply can work in principle, but only where the housing requirements are in line with the genuine capacity and willingness of the housebuilding industry to deliver sites. The continued use of this method where there LDP requirements are seriously out of step with delivery, as it is in Conwy and many other Welsh authorities is undermining LDPs. This is to the detriment of local residents and planning authorities whilst reducing confidence in the supposed plan-led approach to development in Wales. We urge WG to acknowledge that the land supply shortfall across Wales cannot be attributed mainly to the failure of LPAs. TAN1 should be revised to make the land supply calculation fit for purpose, whilst improved CPO powers would enable LPAs to be more proactive in delivering the aspirations of their LDPs.

Alun Davies the new Local Government Minister is committed to giving councils the power they need to be dynamic and in control of their own destiny. The changes to TAN1 remove power from LPAs and empower developers, bringing forward speculative development applications for the wrong type of houses in the wrong place at the wrong time. Council need and want to be in control of land use and housing development within their areas.

Table 1: Housing Land supply position across Wales.

Data from 2017 JHLAS reports and for annual completions 2008–2017 unless detailed otherwise. This shows the status of LDPs in each authority and the year of adoption; 4 LPAs do not have an adopted LDP. The ‘Residual’ land supply is calculated using the only method permitted by TAN1, whereas ‘Past comps’ is based on past housing delivery, which was a method permitted by TAN1 until the 2015 edition. Most LPAs have a 5-yr supply using this method. Residual annual need is the number of houses to be built per year according to the residual calculation; in most cases much higher than the average or maximum annual completions over the past 10 years.

Authority (year LDP adopted)	Land supply (years)		Land supply (dwellings)	Residual annual need	Annual completions past 10 yrs Avg (max)
	Residual	Past comps			
Anglesey ¹ (2017)	–	5.8	1064	–	185 (296)
Blaenau Gwent (2012)	1.27	5.9	650	512	110 (213)
Brecon Beacons NP (2013)	4.8	20.3	1178	246	58 (87)
Bridgend (2013)	4.0	9.8	4237	1071	434 (621)
Caerphilly (2010)	2.1	5.5	2006	935	367 (656)
Cardiff (2016)	3.6	11.7	10,782	3019	919 (2029)
Carmarthenshire (2014)	4.2	13.8	6754	1620	490 (724)
Ceredigion (2013)	2.6	11.2	2156	815	192 (271)
Conwy (2013)	3.1	8.5	2145	681	251 (421)
Denbighshire (2013)	1.79	11.0	2009	1118	182 (266)
Flintshire ² (No LDP)	–	8.1	3275	–	405 (601)
Gwynedd ¹ (2017)	–	7.3	1421	–	194 (276)
Merthyr Tydfil (2011)	1.6	4.3	695	429	160 (243)
Monmouthshire (2014)	4.0	11.0	2754	689	250 (342)
Neath Port Talbot (2016)	5.3	12.1	3607	680	299 (410)
Newport (2015)	6.1	8.1	4578	745	568 (952)

¹ Anglesey and Gwynedd did not have up to date plans until adopting a joint LDP in July 2017 so could not produce a JHLAS. Figures taken from Housing Land Monitoring Statements (October 2017).

² Flintshire does not have an adopted LDP; figures are from the 2016 Housing Monitoring Statement.

Pembrokeshire (2013)	5.1	10.7	4136	805	386 ³ (588)
Pembrokeshire Coast NP (2010)	1.2	6.7	380	229	57 (105)
Powys (No LDP) ⁴	2.2	7.4	1629	751	220 (366)
Rhondda Cynon Taf (2011)	1.3	5.4	2612	1997	487 (716)
Snowdonia NP (2011)	3.6	5.1	239	66	47 (68)
Swansea (No LDP) ⁵	3.2	4.6	3154	998	683 (1146)
Torfaen (2013)	3.6	11.8	2167	593	183 (242)
Vale of Glamorgan (2017) ⁶	–	–	–	–	–
Wrexham (No LDP)	–	4.3	1392	–	326 (606)

³ Average over past 9 years

⁴ Figures for Powys are from 2016 JHLAS and average completions for the 9 years 2008-2016.

⁵ Data from the last Swansea JHLAS in 2016, with average completions for the 10 years to 2016.

⁶ The Vale of Glamorgan JHLAS was adopted in June 2017 and no recent housing data is available.