

Petition: P-05-881 Fix our planning system

Y Pwyllgor Deisebau | 11 Mehefin 2019
Petitions Committee | 11 June 2019

Research Briefing:

Petition number: P-05-881

Petition title: **Fix our planning system**

Petition text:

We call on the National Assembly of Wales to urge the Welsh Government to fix our planning system; new developments need to be sustainable.

Planning Policy Wales paragraph 4.2.15 states that 'planning authorities must ensure that land is genuinely available or will become available to provide a five year supply of land for housing...' For land to be regarded as genuinely available it must be a site included in a Joint Housing Land Availability Study.

The five year housing supply is putting undue pressure on local authorities at the cost of building unsuitable developments. The JHLAS is flawed: it does not take into account empty houses or the amount of second homes in the area. As a result of the shortage of land, councils feel the need to allow planning permission even if they are aware of infrastructure issues. If councils reject planning permission, the Welsh Planning Inspectorate overrules their decisions at appeal.

Developers are aware of the loopholes in the system and can flaunt a community's vulnerability through large speculative developments outside the Local Development Plan. As these developments are outside the LDP, the sustainability of the area in terms of well-being of the economy, health, transport, and environment are not scrutinised in detail. Even if residents highlight local and national studies/ statistics of an area, their voices are not being heard at appeal level. The Welsh Government need to define 'robust' evidence.

The Well-Being of Future Generations Act 2015 was brought in place to prevent unsustainable development in order to ensure that our future generations would have a chance of a reasonable future. Communities feel that policy and practice does not reflect this.

Background

The Welsh Government's national planning policy is set out in Planning Policy Wales (PPW), the latest edition of which, Edition 10, was published in December 2018. The main driver for revising PPW was to bring it in line with the *Well-being of Future Generations (Wales) Act 2015* and 'placemaking' is a central new feature. PPW describes placemaking as:

"Placemaking" is a holistic approach to the planning and design of development and spaces, focused on positive outcomes. It draws upon an area's potential to create high quality development and public spaces that promote people's prosperity, health, happiness, and well being in the widest sense.

Placemaking considers the context, function and relationships between a development site and its wider surroundings. This will be true for major developments creating new places as well as small developments created within a wider place.

Placemaking should not add additional cost to a development, but will require smart, multi-dimensional and innovative thinking to implement and should be considered at the earliest possible stage. Placemaking adds social, economic, environmental and cultural value to development proposals resulting in benefits which go beyond a physical development boundary and embed wider resilience into planning decisions.

PPW is supported by a number of Technical Advice Notes which provide more detailed guidance on particular aspects of planning policy. This petition is concerned with Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies.

PPW states that, as part of the development plan process, planning authorities need to understand their local housing markets and the factors influencing housing requirements in their area over the plan period (paragraph 4.2.3), and that:

4.2.6 The latest Welsh Government local authority level Household Projections for Wales, alongside the latest Local Housing Market Assessment (LHMA) and the Well-being plan for a plan area, will form a fundamental part of the evidence base for development plans. These should be considered together with other key evidence in relation to issues such as what the plan is seeking to achieve, links between homes and jobs, the need for affordable housing, Welsh language considerations and the deliverability of the plan, in order to identify an appropriate strategy for the delivery of housing in the plan area. Appropriate consideration must also be given to the wider social, economic, environmental and cultural factors in a plan area in order to ensure the creation of sustainable places and cohesive communities.

Also:

4.2.15 **Planning authorities must ensure that sufficient land is genuinely available or will become available to provide a five-year supply of land for housing** judged against the general objectives, scale and location of development required in the development plan. This means that sites must be free, or readily freed, from planning, physical and ownership constraints and be economically viable, in order to support the creation of sustainable communities. For land to be regarded as genuinely available it must be a site included in either a **Joint Housing Land Availability Study (JHLAS)** or, until a JHLAS is required to inform the first Annual Monitoring Report (AMR), in the housing trajectory agreed as part

of an adopted development plan. The housing trajectory demonstrates how the planning authority will maintain a five-year supply of housing land over the plan period. [Research Service emphasis]

TAN 1 states:

6.2 The housing land supply figure should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5-year requirement or where the local planning authority has been unable to undertake a study ... , the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies.

This paragraph effectively means that if a Local Planning Authority (LPA) cannot demonstrate that it has at least a 5-year land supply for housing then “the need to increase supply should be given considerable weight when dealing with planning applications”. This would make it more difficult for LPAs without a 5-year land supply to refuse applications for planning permission for development on land not earmarked in the Local Development Plan (LDP) for housing, if the proposed development otherwise complied with planning policy.

However, paragraph 6.2 of TAN 1 has been temporarily disapplied.

In May 2018, the then Cabinet Secretary for Energy Planning and Rural Affairs, Lesley Griffiths AM, who was then responsible for planning, announced [a review of the delivery of housing through the planning system](#). The review commenced in July 2018 with a ‘call for evidence’.

The Cabinet Secretary [issued a written statement](#) on the call for evidence which stated that:

As a result of the current housing land supply position across Wales some Local Planning Authorities (LPAs) are receiving ‘speculative’ applications for housing on sites not allocated for development in LDPs. This is generating uncertainty for communities and is to the detriment of the plan-led system.

Therefore, she said:

... paragraph 6.2 of Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies [has been dis-applied]. This removes the paragraph which refers to attaching “considerable” weight to the lack of a 5-year housing land supply as a material consideration in determining planning applications for housing.

As a result of the dis-application of paragraph 6.2 of TAN 1, it will be a matter for decision makers to determine the weight to be attributed to the need to increase housing land supply where an LPA has a shortfall in its housing land.

The dis-application of paragraph 6.2 of TAN 1 takes effect from 18 July 2018.

On 4 October 2018, the [then Cabinet Secretary was asked by the Assembly’s Climate Change, Environment and Rural Affairs Committee](#) how long this dis-application will last. The Cabinet Secretary stated that the dis-application is ‘still viewed as being temporary’ but no definitive timescale was given. A Welsh Government official later informed the Research Service that ‘a period of a year is reasonable’.

The letter to this Committee from the current Minister for Housing and Local Government, Julie James AM, states that the call for evidence stage is now over and consideration is being given to the next stage, including an indicative timescale for completing the review. She states that the next stage is likely to involve reviewing aspects of national planning policy for housing and related guidance in the [Development Plan Manual](#).

Joint Housing Land Availability Study

The Joint Housing Land Availability Study (JHLAS) is the mechanism for LPAs to demonstrate they have a 5-year housing land supply by providing an agreed statement of housing land availability for planning purposes. Guidance on how to prepare JHLAS is provided in TAN 1.

JHLAS must be produced annually with a base date of 1 April. LPAs must establish Study Groups of key stakeholders (ideally relevant local authority departments (e.g. housing), house builders' representatives, land owners, Registered Social Landlords, statutory undertakers, infrastructure providers and appropriate others) to ensure that each JHLAS is based on realistic and appropriate evidence.

[TAN 1 provides further information](#) on the JHLAS process including site categorisation and the formula for calculating housing land supply.

As noted in the Minister's letter, the JHLAS is a monitoring tool for maintaining sufficient deliverable land to provide for housing need. It therefore does not take account of issues such as empty or second homes. The Minister's letter states that LPAs should take account of wider issues such as these when assessing their local housing market and considering the housing requirement to be set out in their LDPs.

Planning appeals

The Minister's letter provides a succinct description of the planning appeals process in the context of this petition:

... Planning Inspectors will determine any appeals on the basis of the relevant local and national policies. People who are interested in the outcome of a planning application have an important role to play in the planning process. Local planning authorities and Planning Inspectors must take into account any relevant view on planning matters expressed by local residents and any other third parties. However, local opposition to a proposal is not on its own grounds for refusing planning permission.

Welsh Government action

The Welsh Government has temporarily disapplied paragraph 6.2 of TAN 1 as part of its review of the delivery of housing through the planning system, as discussed above.

The Minister has written to the Committee in relation to this petition, the contents of which are referred to above.

National Assembly for Wales action

Assembly questions

There have been a number of written and oral question in the Assembly on the issue of TAN 1 and the 5-year land supply issue in recent years. Since the disapplication of paragraph 6.2, Andrew R T Davies AM submitted a Written Assembly Question on 3 October 2018:

Given that 19 out of the 25 local planning authorities cannot meet the Welsh Government's requirement for there to be a five-year supply of housing land, how long will the temporary removal of paragraph 6.2 last? (WAQ77228)

The then Cabinet Secretary responded on 9 October 2018:

A decision about whether or not to reinstate paragraph 6.2 of TAN 1 will be made as part of the full review of the delivery of housing through the planning system which I launched on 18 July with a 'call for evidence'.

Committee inquiry

The Equality, Local Government and Communities Committee is undertaking and inquiry into empty properties. The terms of reference are to examine:

- The extent to which empty properties impact on the supply of affordable housing in Wales;
- The impact of empty properties on communities in Wales and challenges faced by local authorities dealing with the problem;
- The extent to which local authorities have the legislative powers they need to deal with empty properties;
- Examples of best practice in turning empty properties into affordable, energy efficient homes; and
- The extent to which the changes introduced by the *Housing (Wales) Act 2014* giving local authorities discretion to charge council tax premiums on empty homes have been utilised, and the effectiveness of this policy.

The Committee has issued a consultation and an online survey to help it gather evidence. The consultation closes on 31 May and the survey closes on 19 June. The Research Service has published a blog article on the issue of empty homes.

Every effort is made to ensure that the information contained in this briefing is correct at the time of publication. Readers should be aware that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.