

Report of the Head of Economic Regeneration and Planning

Development Management and Control Committee - 9 October 2014

RESPONSE TO THE CONSULTATION DOCUMENT: DRAFT TECHNICAL ADVICE NOTE (TAN) 1: JOINT HOUSING LAND AVAILABILITY STUDIES

Purpose:	To inform Committee of the Welsh Government's consultation on new planning guidance 'Technical Advice Note 1 Joint Housing Land Availability Studies' (Draft), and to consider and approve a response.
Policy Framework:	Planning Policy Wales (2014), Welsh Government
Reason for Decision:	To approve the draft consultation response and to forward the response to the Welsh Government
Consultation:	Legal, Finance, Equality and Engagement.
Recommendation(s):	It is recommended that: <ol style="list-style-type: none">1. The contents of the report be noted2. The draft consultation response be confirmed and forwarded to the Welsh Government in response to the consultation exercise.
Report Author:	David Rees
Finance Officer:	Kim Lawrence
Legal Officer:	Jonathan Wills

1.0 Introduction

- 1.1 Annual Joint Housing Land Availability Studies (JHLAS) are the mechanism by which the supply of housing land through the planning system is monitored. They demonstrate whether a Local Planning Authority (LPA) has a deliverable five year supply of housing land as required by Welsh Government (WG) policy (Planning Policy Wales 2014). Guidance on how to undertake the JHLAS is set out in the existing Technical Advice Note (TAN) 1: JHLAS (2006).
- 1.2 The City & County of Swansea has been consulted as a key stakeholder in the formation of this revised planning guidance and a response has duly been drafted by the Head of Economic Regeneration and Planning (see Appendix A). Members are invited to approve the comments as the

formal response by the Council, which must be submitted to the Welsh Government by 10th October 2014.

2.0 Background

- 2.1 The draft Technical Advice Note (TAN) 1 has emerged from the work of a Technical Advisory Group consisting of representatives from LPAs, house builders and the Planning Inspectorate.
- 2.2 The WG views new house building as essential in Wales in order to meet the growing need for housing and to help drive economic growth. Furthermore, having an up to date Local Development Plans (LDP) in place is deemed critical to ensuring sufficient viable and deliverable housing sites are brought forward. The overriding aim of the draft TAN 1 is to align JHLAS and LDP monitoring, and incentivise the preparation and adoption of LDPs across Wales. The Council's LDP Delivery Agreement, agreed with the WG, sets out that the Swansea LDP will be adopted late 2016.

3.0 General Issues

- 3.1 Overall, the Council supports many of the aspects proposed by WG, but with certain caveats or reservations. The full proposed draft response is set out in Appendix A. The main points are summarised below cross referenced to the relevant part of Appendix A.
- 3.2 A major concern for the Council is that under the proposals it would appear that if the Council is unable to adopt its LDP before the current Unitary Development Plan (UDP) expires in 2016, it will not be considered to have a 5 year housing land supply (Q5 and 6).
- 3.3 The Council agrees in principle that JHLAS and LDP annual monitoring should be integrated. This would help set the land supply in context (e.g. with economic trends and infrastructure provision). The Council has already integrated its JHLAS into the emerging LDP's evidence base. In practice though, the Council has real concerns that the timetables of the JHLAS and LDP monitoring are not compatible (Q1, 2 and 7).
- 3.4 The Council agrees that sites where it has been resolved to grant planning permission subject to the signing of a Section 106 Agreement should be included in the 5 year housing land supply. However, more discretion should be given to allow sites with unsigned agreements to remain in the supply for longer than the 1 year proposed, provided there is a realistic prospect of development within 5 years (Q3).
- 3.5 The Council welcomes the greater delineation introduced into the site categorisation to facilitate a better understanding of why some development sites are not considered to be deliverable within 5 years and what actions may help bring them forward for development (Q4). It is proposed to introduce the following categories:

- § Category 3: Sites/phases where development is held up by physical constraints
- § Category 4: Sites/phases free of physical or viability constraints but where development is unlikely due to the developer's proposed business decisions
- § Category 5: Sites/phases where it is financially unviable to develop in current market conditions

3.6 Categories 4 and 5 will provide a clearer picture and show that there is no physical reason / constraint on the development of around 3,700 dwellings on sites currently in 3(i) in Swansea's 2013 Study. The overriding reason for the majority of sites being in 3(i) in Swansea is market conditions. Any sites with long standing physical constraints were removed from the allocated land supply upon adoption of the UDP.

3.7 The Council agrees that an annual Study Group meeting should be convened where it is disputed by developers that sites are not deliverable within 5 years. The Council routinely does this already. Face to face discussions aid the resolution of disputed matters and minimise delays in the process (Q8).

3.8 The Council has taken the opportunity (Q9) to again flag up to WG that in addition to JHLAS, WG also separately collects dwelling completion statistics from Building Control Officer returns. It needs to be explored whether these processes can be better integrated to avoid duplication of resources and potential inconsistency. The Council has already raised this with WG at their 4th August 2014 Housing Information Group Meeting.

4.0 Equality and Engagement Implications

4.1 There are no equality and engagement implications associated with this report.

5.0 Financial Implications

5.1 The policy guidance will have limited new financial resource implications since the work is already undertaken. The new proposed requirement to complete the study within 6 months will put added pressure on Officer time.

5.2 The existing financial requirements are already linked to the Swansea LDP work programme and will primarily involve demands on Officer time along with software maintenance costs (in-line with the vast majority of other LPAs in Wales, Swansea uses the DEF JHLAS database software). It is anticipated that these requirements will continue to be contained within the existing LDP budget.

6.0 Legal Implications

6.1 There are no legal implications associated with this report.

Background Papers:

WG Consultation Documents for the Draft TAN 1:

<http://wales.gov.uk/consultations/planning/draft-technical-advice-note-1/?lang=en>

Appendices:

Appendix A – Draft Consultation Response

**Annex A
CONSULTATION RESPONSE**

CONSULTATION RESPONSE FORM

Draft Technical Advice Note 1 – Joint Housing Land Availability Studies

We want to know your views on proposed changes to Technical Advice Note 1, *Joint Housing Land Availability Studies*, which supports the Welsh Government's policy on housing land supply.

Please submit your comments by **10th October 2014**

If you have any queries on this consultation, please email: planconsultations-f@wales.gsi.gov.uk or telephone: 029 2082 3290

Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tick the box below. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Confidentiality

Responses to consultations may be made public on the internet or in a report.

If you do not want your name and address to be shown on any documents we produce please indicate here

If you do not want your response to be shown in any document we produce please indicate here

CONSULTATION RESPONSE FORM

Draft Technical Advice Note 1, Joint Housing Land Availability Studies (Consultation)

Date 18 July - 10 October 2014

Name	Phil Holmes, Head of Economic Regeneration and Planning	
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Telephone	01792 635740	
Type <i>(please select one from the following)</i>	Business	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency / Other Public Sector	<input type="checkbox"/>
	Professional Body / Interest Group	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self-help groups, co-operatives, enterprises, religious, not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above)	<input type="checkbox"/>

Q1	<u>Purpose / Context</u> (sections 2 and 3)	
	Do you agree that the Joint Housing Land Availability Study (JHLAS) and Local Development Plan Annual Monitoring Report (AMR) processes should be more closely aligned?	
	Agree <input checked="" type="checkbox"/>	
	Neither Agree nor Disagree	
	Disagree <input checked="" type="checkbox"/>	

Q1 Further Comments

Agree in principle where an adopted Local Development Plan (LDP) is in place. The JHLAS is the established method of monitoring each LPA's housing land supply, so it makes sense that it is integrated with the annual monitoring report (AMR) of the adopted LDP - the document which sets out the housing requirement and housing allocations. This integration would enable the JHLAS land supply figure to be set in context, for example with figures monitoring local economic trends, and infrastructure provision required to support new development. This would be helpful where the land supply drops below 5 years so that a fully informed evidence based commentary can be formulated and appropriate action(s) identified. The Council has already integrated the JHLAS into the evidence base for preparing its LDP.

In practice though, the Council has concerns that the timetables for the JHLAS and AMR may not be compatible (see Q2 response below).

Q2 Study preparation (section 4.1)

To enable the most up-to-date JHLAS to feed into the AMR it is proposed to shorten the timetable for its preparation to six months.

Do you agree that it is feasible to prepare a JHLAS in this revised timeframe?

Agree

Neither Agree nor Disagree

Disagree

Q2 Further Comments

Disagree. The Council has the following observations on the proposed timetable included in Annex 1:

Stage 2 allows only 2 months to:

- § Undertake site surveys (typically 120-150 sites)
- § Update the site proformas and forecast completion schedules via the database
- § Allow adequate time for consultation with the Study Group
- § Collate consultation responses
- § Gather further site information to respond
- § Arrange and convene a Study Group meeting

§ Follow up and seek to resolve differences arising from the Study Group meeting

This element of the proposed timetable is very tight. It is recommended that the developers/landowners who are members of the Study Group should be required to submit information on achieved and forecasted completions for their sites by 1st April each year rather than the onus being placed on the LPA to gather this information. This would make the data gathering process more efficient and quicker. Following a request made at the 2014 Study Group Meeting, the members of the Swansea Group have agreed to do this for the 2015 Study.

For clarity, guidance could be provided on how long Study Group members should be given to consider the draft site schedules/proformas (Stage 2) and Statement of Common Ground (SoCG) (Stage 3).

Stage 4 - It is the Council's experience that the longest delays in the JHLAS process occur regarding the resolution of disputed sites by the Planning Inspectorate (PINS). Only 2 months is allowed in the draft timetable but from past Studies it is the Council's experience that it can take much longer. For the 2012 Study it took 3 months and 20 days between submitting the SoCG and receipt of the accepted PINS recommendation from WG; and for the 2013 Study it took 2 days short of 4 months. This has had implications not only for the publishing date of that specific study but also a knock on effect on the preparations for the subsequent study (because the site schedule cannot be finalised and rolled forward).

It also raises the question whether PINS (and the Home Builders Federation – who are a key consultee) would have the capacity to deal with all Welsh LPAs' (with disputed sites) SoCGs within the same allotted time period.

Stage 5(b) – where disputed sites are to be resolved by PINS, no time is allowed for completion of the JHLAS report.

For LPAs with an adopted LDP, it is questioned whether a full JHLAS report is required if the findings are to be integrated into the AMR?

Q3	<u>Sites for inclusion (section 4.3)</u>	
	Do you agree that sites subject to section 106 agreements should be included in the 5 year housing land supply (subject to their removal if the agreement remains unsigned after 1 year)?	
	Agree <input checked="" type="checkbox"/>	
	Neither Agree nor Disagree	
	Disagree <input checked="" type="checkbox"/>	

Q3	Further Comments
<p>Agree that sites subject to Section 106 agreements should be included in the 5 year housing land supply. If it is resolved to grant planning permission for a planning application, then an assessment must have been made by the LPA that the proposal is viable and deliverable, so the site should be included within the 5 year land supply.</p> <p>Disagree that where the legal agreement remains unsigned for more than one year after the date of resolution to grant planning permission, the site should automatically be removed from the 5 year housing land supply. The Council feels more local discretion should be given to the Study Group, similar to the wording in paragraph 4.4.5 along the lines of: "in situations where such sites are not reclassified there should be an explanation based on clear evidence". The Council considers that the important consideration is whether the site is realistically likely to be developed within 5 years.</p>	

Q4	<u>Site categorisation (section 4.4)</u>	
	<p>Greater delineation has been introduced into the site categorisation to give more precise information about why a site has not been included in the 5 year housing land supply. The former 2* category (sites affected by low market demand) has been removed as a result.</p> <p>Do you agree that these changes will assist in the understanding of a local planning authority's housing land supply?</p>	
	Agree	X
	Neither Agree nor Disagree	
	Disagree	X

Q4	Further Comments
<p>Agree with u/c, category 1 and 2 which continue from the existing TAN 1.</p> <p>The Council accepts the removal of the 2* category, which the Swansea Study Group had resolved did not apply to any sites within the City & County of Swansea.</p> <p>The Council welcomes the re-categorisation of 3(i) development sites (i.e. those not considered to be within the 5 year supply) to categories 3, 4 and 5. It is important to have a clearer understanding of the housing land supply position and to be able to clearly identify the reason why sites are being held back. This information is currently presented in the proformas but not in a standardised way.</p> <p>Categories 4 and 5 will provide a clearer picture and show that there is no physical constraint on the development of around 3,700 dwellings on sites currently in 3(i) in Swansea's 2013 Study. The over-riding reason for the majority of sites being in 3(i) in Swansea is market conditions. Any sites with long standing physical constraints were removed from the allocated land supply upon adoption of the UDP.</p> <p>It is the Council's view that where there is a deficit in the 5 year supply, but a significant amount of development in the longer term land supply (Categories 3 to 5), then releasing additional land for development, particularly Greenfield sites at edge of settlements, would risk making the category 5 sites even less viable and attractive to developers in relative terms and further limit the prospects for the development of these sites. This would also re-direct development towards potentially less sustainable Greenfield sites, and hinder regeneration within existing settlements. The first priority for the Study Group in</p>	

the event of the land supply dropping below 5 years should be to identify ways of bringing category 3, 4 and 5 sites into play.

The Council considers that there is a need for a further category. Some of the 3(i) category in Swansea are just phases of larger sites which are not subject to constraints or poor market conditions but on the basis of agreed expected annual completion rates on the site, phases have been forecasted to be completed outside of the next five years.

The Council considers that there is potentially some overlap between categories 3 to 5 and it may be difficult to assign each site into just one category. For example, a developer's business decision (cat. 4) may be partly based upon site constraints (cat. 3) and/or financial viability issues (cat. 5). A site may be unviable (cat. 5) because of site constraints (cat. 3). Having to assign a site to a particular category may result in further disputes over sites.

Q5	<u>Calculating housing land supply (section 5)</u>	
	<p>It is proposed that only local planning authorities with an adopted LDP (or an adopted Unitary Development Plan that is still within the plan period) will be able to undertake a JHLAS calculation (using the residual methodology) and thus be able to demonstrate that they have a 5 year housing land supply.</p> <p>Do you agree with this approach, which is aimed at incentivising the preparation and adoption of LDPs?</p>	
	Agree	X
	Neither Agree nor Disagree	
	Disagree	X

Q5	Further Comments
<p>The Council is concerned that where an LPA's adoption of its LDP does not completely overlap with the expiry of its UDP (i.e. if there is a gap period before adoption of its LDP for whatever reason), the LPA will no longer be able to demonstrate that they have a five year housing land supply and will effectively be considered not to have one.</p> <p>It is noted that LPAs in this situation will still be expected to carry out an objective annual assessment of the housing land supply situation in preparation for their LDP but no guidance is provided on how to do this.</p> <p>There are several places in the document which infer that only an adopted LDP</p>	

is acceptable (with no mention of UDPs). It is only when the reader gets to Section 8 that clear mention is given to transitional arrangements for LPAs still with an adopted UDP.

Clearer reference should be given to LPAs with an adopted UDP elsewhere in the document. For example:

- § Para 2.3 - infers that only LPAs with an adopted LDP can be regarded as having a soundly based identified housing requirement, thereby undermining the evidence base of adopted UDPs.
- § Para 4.3.1 bullet points – there are 2 references which infer that only housing sites allocated in an adopted LDP should be included in the JHLAS schedule.
- § Para 5.1 - the second sentence states that LPAs without an adopted LDP will be considered not to have a 5 year housing supply.

Q6	<u>Calculating housing land supply (section 5)</u>	
	It is proposed that the residual methodology based on an adopted LDP or UDP will be the only methodology allowed for calculating housing land supply. Do you agree with this approach?	
	Agree X	
	Neither Agree nor Disagree	
	Disagree X	

Q6	Further Comments
<p>Agree that the residual methodology enables monitoring of how well the identified housing requirement is being delivered against the residual amount of allocated land and identified windfall sites.</p> <p>However, the Council is concerned that by allowing only the residual method, where an LPA has a gap period before adoption of its LDP following expiry of their UDP (Q5 above refers), the LPA will not be able to demonstrate that they have a five year housing land supply. LPAs in this situation will be expected to continue to carry out an objective assessment of their housing land supply annually in preparation for their LDP but no guidance is provided.</p>	

Q7	<u>Housing supply figure (section 6)</u>	
<p>Where an LPA has an undersupply of housing land (i.e. less than 5 years) it is proposed that the action to be taken would no longer be set out in the JHLAS report, but would be addressed in the AMR in order to link it directly with LDP monitoring.</p> <p>Do you agree with this approach?</p>		
Agree		X
Neither Agree nor Disagree		
Disagree		X

Q7	Further Comments	
<p>Q2 sets out the Council's practical concerns regarding integration of the JHLAS into the AMR.</p> <p>However, where an adopted LDP is in place, since the JHLAS is the established method of monitoring each LPA's housing land supply, it makes sense that it is integrated with the annual monitoring report (AMR) of the adopted LDP - the document which sets out the housing requirement and housing allocations. This integration would enable the JHLAS land supply figure to be set in context, for example, with figures describing local economic trends, and the monitoring of infrastructure provision required to support new development. This would be helpful where the land supply drops below 5 years so that a fully informed evidence based commentary can be formulated and appropriate action(s) identified.</p>		

Q8	<u>JHLAS process (section 7.3)</u>	
<p>Do you agree that where the inclusion of sites is disputed by members of the Study Group, a Study Group meeting <i>must</i> be held?</p>		
Agree		X
Neither Agree nor Disagree		
Disagree		

Q8 Further Comments

Agree. Face to face discussions can be the most effective and efficient way of reaching agreement on sites rather than through written correspondence. It is important to minimise the number of disputed sites that require resolution particularly in view of the timetable constraints proposed.

This Council routinely convenes and chairs a Study Group meeting.

Q9 Any other comments

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The Council is aware that in addition to JHLAS site surveys recording dwelling completions, separate dwelling completion returns are published by WG Statistical Directorate (<https://statswales.wales.gov.uk/Catalogue/Housing/New-House-Building>) based on the reports of local authority building inspectors and the National House Building Council (NHBC). There seems to be a duplication of resources, potential for inconsistency between the datasets, and there are known to be some flaws regarding the latter data source (e.g. exclusion of information from Private Approved Inspectors).

At the 4th August 2014 Housing Information Group Meeting convened by WG, the Council raised the need to explore the possibilities of integrating the two completions surveys/datasets together for consistency and to avoid duplication of effort and suggested use of the Local Land and Property Gazetteer (LLPG) to assist the data collation.

From discussions with colleagues in the Council's Research & Information Unit, it is possible to identify new residential addresses added to the LLPG and this could be used as an indicator for new dwelling completions. New residential units are added to the LLPG by our Street Naming & Numbering Officer based on expected completion dates provided by the developers and his site knowledge/visits. The Council considers that this potential data source is worth further consideration and avoids duplication of effort. The Planning Policy Team already works closely with the Street Naming & Numbering Officer and LLPG Officer to help pinpoint sites that are being built and require site visits for the JHLAS.

How to respond

Please submit your comments by **10th October 2014** in any of the following ways:

Email	Post
<p>Please complete the consultation form and send it to :</p> <p>planconsultations-f@wales.gsi.gov.uk</p> <p>[Please include 'TAN1 Consultation WG22580' in the subject line]</p>	<p>Please complete the consultation form and send it to:</p> <p>TAN 1 Consultation Planning Policy Branch Planning Division Welsh Government Cathays Park, Cardiff CF10 3NQ</p>

Additional information
<p>If you have any queries about this consultation, please</p> <p>Email: planconsultations-f@wales.gsi.gov.uk</p> <p>Telephone: Paul Robinson on 029 2082 3290 or Nick Lloyd on 029 2082 6802</p>