



Llywodraeth Cymru
Welsh Government

Longitudinal Viability Study of the Planning Process

Final Report

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Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

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1 Introduction

1.1 Aims of the Study

- 1.1.1 Arcadis Consulting (UK) Limited was commissioned by the Welsh Government in April 2016 to undertake research into the role of viability in the planning process.
- 1.1.2 The purpose of the research is to identify reasons why housing allocations or commitments that are assessed as deliverable during the Local Development Plan (LDP) process are becoming stalled due to viability issues at later planning stages, and to make recommendations in respect of further changes to planning policy, processes and/or behaviours, which address the research findings.
- 1.1.3 The Welsh Government wants to develop a shared understanding between the house building industry and local planning authorities (LPAs) of the importance of accurate assessments of site deliverability / viability at all stages of the planning process. The research project has therefore taken a holistic and longitudinal view of site deliverability / viability in respect of planning, from site identification during the preparation of an LDP to the assessment of sites at the development management stage.

1.2 Overarching Policy Context

- 1.2.1 The delivery of new housing is one of the key issues facing the planning system in Wales. New housing is required to meet social needs and it is essential that supply is increased in order to address issues such as homelessness and house price inflation. New house building is also a very important component of economic growth. The planning system must facilitate the construction of new homes in the right locations in Wales.
- 1.2.2 A main principle of the development plan is to act as an effective tool for the delivery of sustainable development and local aspirations. The importance of deliverability is a key guiding principle for LDPs and is a key element of meeting the tests of soundness as set out in Planning Policy Wales (PPW) (Edition 8, January 2016), the Welsh Government LDP Manual (Edition 2, 2015) and examination guidance prepared by the Planning Inspectorate (PINS July 2014).
- 1.2.3 The LDP Manual states that 'it is important to be able to demonstrate that there are no fundamental impediments to the development of the sites allocated in the plan' and that the LDP strategy is to take account of a range of matters, including a broad assessment of the deliverability and viability of strategic sites. PPW identifies three soundness tests, of which Test 3 covers issues such as: can the sites allocated be delivered, is the Plan sufficiently flexible and will development be viable?
- 1.2.4 The policy position reflects the growing recognition within planning of the critical link that exists between aspirations set out within development plans and the delivery of individual site allocations in achieving timely and sustainable development during the course of the Plan period and to remove the uncertainty that has hitherto existed around the deliverability of site allocations.
- 1.2.5 PPW also states that local planning authorities must ensure that sufficient land is available or will become available to provide a five year supply of land for housing

and that the level of housing provision to be proposed over a plan period must be considered in the context of viability and deliverability. PPW is supplemented by a series of Technical Advice Notes (TANs). TAN 1 (January 2015) states that the requirement to maintain a five year supply of readily developable housing land in each LPA across Wales remains a key planning policy requirement of the Welsh Government. Joint Housing Land Availability Studies (JHLAS) are the mechanism by which LPAs can demonstrate that they have a five year supply and form important evidence which should inform LDP strategies, policies and allocations as well as monitoring the effectiveness of the LDP. As part of the process of improving housing land supply, the mechanism for monitoring supply was updated in 2015 to align it more closely with local development plan making, with land supply now monitored solely against the provisions of LDPs in order to simplify the process and incentivise LDP production.

- 1.2.6 In 2015, the previous Welsh Government signed an agreement with the Home Builders Federation (HBF) to increase housing supply and committed to active engagement with the housing industry to help shape policy and identify barriers to housing supply in Wales.
- 1.2.7 The Homebuilder's Federation highlight factors raised by their members such as high regulatory burden, high land remediation costs in some areas and weak housing market fundamentals as amongst the issues that have resulted in reduced private investment in house building in Wales. The regulatory burden is characterised by factors such as the requirement for sprinkler systems for new homes, unrealistic local affordable housing policies, the requirement for use of Acceptable Cost Guidelines, high Community Infrastructure Levy (CIL) rates and energy performance requirements.
- 1.2.8 The issue of viability being a reason for the delay in bringing forward housing sites was highlighted in a piece of research funded by Welsh Government in 2015 (Stalled Sites and Section 106 Agreements, undertaken by Arcadis). The research, which considered stalled sites and the role of Section 106 agreements in the planning process, identified the need for further research into reasons for sites that are assessed as deliverable during the LDP process becoming stalled due to viability issues at later planning stages.

1.3 The Definition of Viability in the Planning Process

- 1.3.1 The issue of viability in planning and development is widely debated by academic, public and private sector organisations alike. The Harman Report 'Viability Testing for Local Plans: Advice for Planning Practitioners' was launched by the Local Housing Delivery Group in England in 2012 and usefully defines viability in the following way:

'An individual development can be said to be viable if, after taking account of all costs, including central and local government policy and regulatory costs and the cost and availability of development finance, the scheme provides a competitive return to the developer to ensure that development takes place and generates a land value sufficient to persuade the land owner to sell the land for the development proposed. If these conditions are not met, a scheme will not be delivered.'

1.3.2 The report goes on to state that *'a Local Plan can be said to be deliverable if sufficient sites are viable to deliver the Plan's housing requirement over the Plan period'*.

1.4 Research Methodology

1.4.1 The research has incorporated two main phases, namely a review of LDP housing allocations followed by a phase of more detailed analysis and development of recommendations. Methodology and outputs from each of the two phases are summarised below.

Phase 1 Methodology

1.4.2 The scope of Phase 1 of the research was to:

- Select a representative sample of adopted LDPs and review the allocated / committed housing sites within them to examine whether they are being developed in accordance with their delivery timetable;
- Where allocations / commitments have not been developed in accordance with their delivery timetable, to review the deliverability / viability evidence available that has been submitted at various stages of the planning process (LDP preparation/adoption, JHLAS, and development management process);
- Where allocations / commitments have been/are being delivered in accordance with their delivery timetable, to review whether they have met policy requirements (for example delivery of affordable housing) set out in the respective LDP and / or other relevant planning documents such as Supplementary Planning Guidance (SPG); and
- Undertake interviews with relevant stakeholders in the planning process.

1.4.3 Of the twenty-five LPAs in Wales, eighteen have now adopted their LDP. From these eighteen, five case study LPAs were selected to participate in the research, taking into account such factors as:

- A mix of urban and rural authorities;
- Geographical representation across Wales;
- Inclusion within the sample of at least one LDP for which housing trajectory information was submitted as part of its LDP examination process.

1.4.4 Selected case study LPAs were as follows:

- Carmarthenshire County Council
- Conwy County Borough Council
- Newport City Council
- Neath Port Talbot County Borough Council
- Monmouthshire County Council

1.4.5 The five LPAs listed above have all adopted their LDPs within the last four years. Inclusion within the sample of an 'early adopted' LDP (i.e. more than five years ago) was considered important and Rhondda Cynon Taff (RCT) County Borough Council

were identified as being of particular interest. RCT has recently commissioned research into viability issues within the County Borough and as such, it was felt there could be duplication/confusion over the two pieces of work. The findings of the RCT research has been considered as part of this study through a meeting with officers and discussion of research findings.

1.4.6 For each of the five case study LPAs, the following has been undertaken:

- Allocated / committed housing allocations contained in the adopted LDP were listed and progress was analysed for each site. A threshold of sites of more than ten dwellings has been used in order to concentrate on the main contributors to housing supply. An exception to this has been Carmarthenshire, for which a five dwelling threshold has been accepted in order to consider the range of sites allocated within the LDP and reflecting the rural character of a large part of the area. Due to the large number of sites allocated within the Carmarthenshire LDP (over 350 in total), only a sample of sites has been considered; the sample includes all strategic sites for the County and is representative of sites allocated within each tier of the settlement hierarchy as well as geographically representative;
- Meetings were held with Planning Officers in each case study LPA, in order to discuss individual sites and their progress in more detail as well as general approaches to viability / site deliverability;
- Relevant data collated for each site where available, including deliverability and viability information submitted at various stages of the planning process, policy requirements (for example affordable housing) and how these have been met;
- Telephone interviews were conducted with a range of landowners, private sector developers and Registered Social Landlords (RSLs) in order to identify why site deliverability / viability may have changed between various stages of the planning process and why no progress may have been made with regard to specific sites.

1.4.7 Other consultations undertaken at Phase 1 have included attendance and discussion at a meeting of the Home Builders Federation, as well as at a meeting of Registered Social Landlords (RSLs) at CHC Cymru.

Phase 2 Methodology

1.4.8 The purpose of Phase 2 of the research was to:

- Identify the reasons why housing allocations / commitments are not being delivered in accordance with LDP policy requirements and/or their delivery timetable.
- Detail the differences between the deliverability / viability evidence that is submitted to support housing sites at different stages of the planning process:
- Consider the suitability of current planning policies and guidance in demonstrating site deliverability and viability, including reviewing guidance from the rest of the UK.

- Make recommendations which improve the transparency and understanding of site deliverability and viability in the planning process.

1.4.9 This phase of the research therefore comprised a more detailed analysis of the information collected during Phase 1. In addition, further consultations were undertaken. All LPAs in Wales that had not been selected as case studies were invited to attend workshops in order to corroborate initial findings and identify any additional issues. Two workshops were held (one each in North and South Wales), and both were well attended by local authority officers. A list of attendees at each workshop is included at Appendix A. A workshop with a selection of developers/agents and RSLs is due to be held in October to further validate findings of the study.

1.5 Report Structure

1.5.1 This report is structured as follows:

Section 2 sets out the evidence base collated during the research, including quantitative evidence relating to the sample of sites taken from case study LDPs; evidence from Joint Housing Land Availability Studies from across Wales; qualitative findings from the extensive consultations with public and private sector organisations; and evidence from other administrations elsewhere in the UK;

Section 3 summarises the key issues to emerge from the evidence base in relation to the various stages of the planning process, from LDP preparation through to the development management stage and sets out draft recommendations (including the identification of good practice) in relation to viability in the planning process.

2 Evidence Base

2.1 Introduction

2.1.1 This chapter provides a summary of the evidence base that has been collated during the research. This includes information relating to the sample of sites taken from the LDPs of case study authorities, evidence provided by Joint Housing Land Availability Studies (JHLAS) across Wales and within the five case study authorities, and an overview of findings from consultations with stakeholders (including local authority officers, developers, landowners and RSLs).

2.2 Evidence from Case Study Local Planning Authorities

2.2.1 This section contains a summary of evidence collected from the five case study LPAs, including both qualitative evidence in terms of policy context and studies that have been undertaken to support LDP preparation, and also findings from the quantitative assessment of the sample of sites taken from the five LDPs.

Local Policy Context

2.2.2 Table 2-1 summarises the local policy context in relation to the five case study LPAs. Further detail relating to the local policy context can be found at Appendix B.

Table 2-1 Summary of Local Planning Policy Context

LPA	Date of LDP Adoption	Affordable Housing Viability Study	Planning Obligations SPG	Affordable Housing SPG	Community Infrastructure Levy Position
Carmarthenshire	December 2014	Andrew Golland Associates (May 2013)	Yes (December 2014)	No	Viability study to inform CIL undertaken
Conwy	October 2013	Three Dragons (March 2011)	Yes (July 2014)	No (being prepared)	Preliminary Draft Charging Schedule consulted on 2016
Monmouthshire	February 2014	Three Dragons (October 2010)	No	Yes (March 2016)	Draft Charging Schedule consulted on 2016
Neath Port Talbot	January 2016	NPT Estates Dept (August 2012)	No (due Oct 2016)	Yes (May 2014)	No
Newport	January 2015	Dr Andrew Golland (March 2012)	Yes (August 2015)	Yes (August 2015)	Draft Charging Schedule consulted on 2016 Draft Infrastructure Plan prepared

2.2.3 The content of the case study LDPs in terms of policy wording and supporting text in relation to viability has been reviewed, with a summary provided at Appendix C. The LDPs demonstrate consistency in approach – for example in relation to the inclusion of split affordable housing provision targets for sub-market areas, and also in terms of acknowledging the need for flexibility (in that viability varies on a site by site basis). Areas where the LDPs demonstrate slight differences in approach and emphasis include:

- **Carmarthenshire** – the LDP notes the importance of negotiations where a lower viability is justifiable and necessary for a development to come forward;
- **Conwy** – the LDP differs in terms of the emphasis placed on specific elements of viability, notably land values. The LDP identifies that the success of its policy approach to deliver affordable housing will require not only flexibility from the LPA but also ‘a ‘step change’ from landowners and developers when negotiating land purchase or option costs in the future’; the LDP includes a policy assumption that land has been purchased at the right price and requires developers to complete a ‘viability pro-forma’ where there may be a need to deviate from policy requirements;
- **Neath Port Talbot** – the LDP identifies that not achieving target percentages for affordable housing provision may only happen as a result of ‘exceptional circumstances’;
- **Monmouthshire** – identifies the need for prioritising contributions in instances where viability considerations mean that not all policy requirements can be met;
- **Newport** – is the only LDP to refer to viability work being based upon ‘open book’ appraisals and potentially independent third party analysis. The LDP also notes that where the expected percentage of affordable housing may not be met for reasons of viability, developers may negotiate with the LPA to ensure delivery of a *reasonable* number of affordable homes.

Characteristics of Allocated and Committed Sites in Case Study LDPs

2.2.4 All allocated and committed sites from each of the case study LDPs (including a representative sample of sites from Carmarthenshire) were collated into a single database and initial analysis was undertaken to identify broad characteristics. Table 2-2 sets out key data in relation to these sites.

Table 2-2 Key Characteristics of Allocated and Committed Sites

Key Characteristics of Sampled Sites	
Total number of allocated / committed sites in sample	338
Total area of land (ha)	1,486 ha
Total number of potential dwellings	32,417
Greenfield sites (%)	45%

Brownfield sites (%)	54%
Sites complete or under construction	124 (37%)
Sites with planning permission	70 (21%)
Sites awaiting planning decision	16 (5%)
Sites at pre-application stage	28 (8%)
Sites identified as 'no progress' or where current status is 'unknown'	86 (25%)
Sites identified as 'other' (e.g. alternative use identified, planning permission lapsed or withdrawn)	14 (4%)

2.2.5 Figures 2-1 to 2-3 illustrate how the sites may be differentiated in terms of current ownership, scale of developer (classified as volume housebuilder (one of the eight major publicly listed housebuilders in the UK), regional housebuilder (medium sized developers typically operating within a particular region of Wales, and local housebuilders (small building firms or individual builders operating in specific localities)) and scale of site (based on number of units and recorded as small (less than 20 units), medium (between 20 and 150 units) and large (over 150 units)). It is noted that ownership of sites is obviously an evolving process, with sites progressing through various stages, for example from being in the ownership of a private landowner through to a volume housebuilder. In terms of scale of developer, whilst there are some 45 sites within the total sample where a volume housebuilder is in ownership of the site, the spread of these sites varies across the five case study LPAs, with few sites in Conwy compared to higher concentrations in Newport, for example.

Figure 2-1 Allocated / Committed Sites – Ownership (as at July 2016)

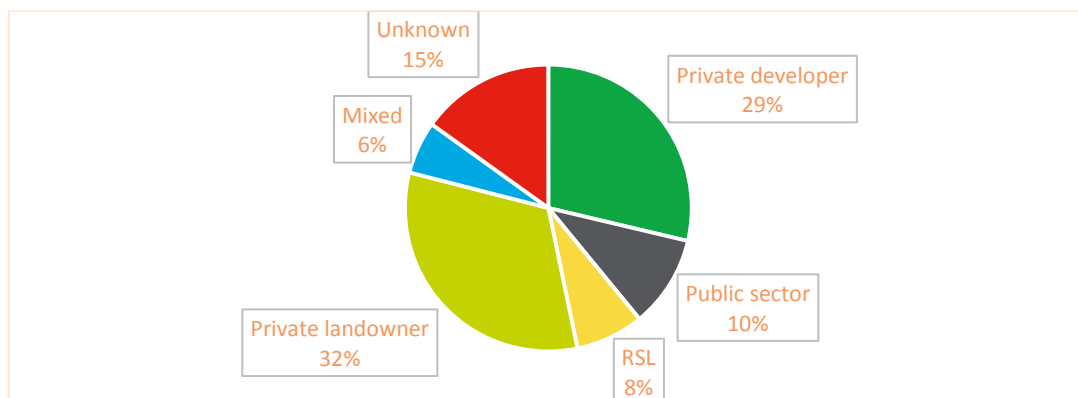


Figure 2-2 Allocated / Committed Sites – Scale of Housebuilder

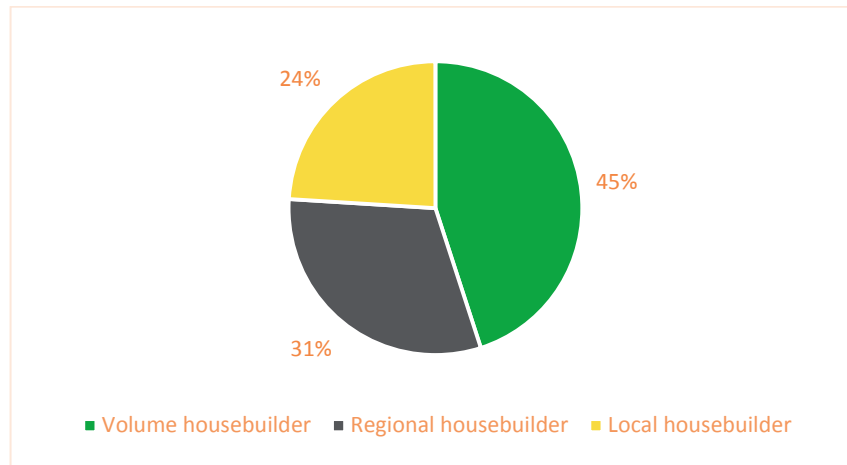
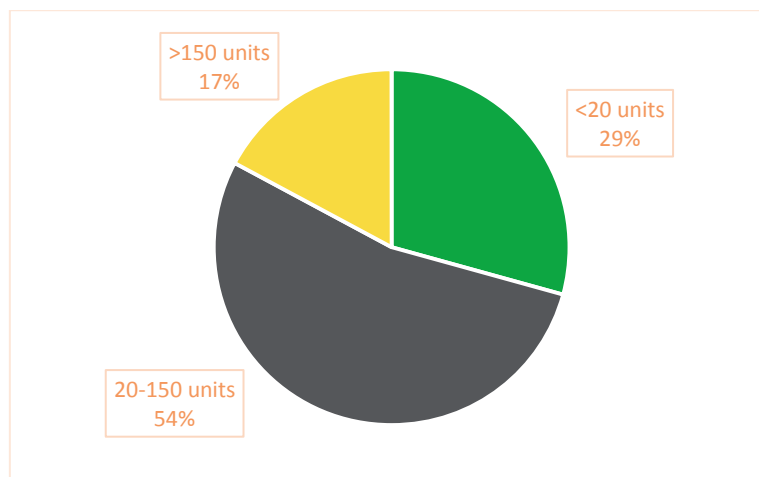


Figure 2-3 Allocated / Committed Sites – Size of Site (number of units)



Sites Currently Being Delivered

2.2.6 A total of 124 sites within the sample are either complete (33%) or under construction (67%). Summary information relating to the characteristics of sites currently being delivered is set out in Table 2-3. The table shows a higher proportion of brownfield sites have been delivered compared to greenfield sites. Sites have been assessed as to how they have complied with local authority policy requirements, such as affordable housing, education or open space. The table shows that a relatively high proportion of sites (19%) have not met policy requirements; this proportion increases if those sites for which LDP policy requirements may not be applicable are removed from the sample (for example where sites were an old permission or a former UDP allocation), in which case the proportion not meeting policy requirements rises to 24%, nearly a quarter of all sites currently being delivered. The evidence also shows that off-site contributions are relatively common.

Table 2-3 Characteristics of Sites Currently Being Delivered

Characteristics of Sites Being Delivered	
Greenfield / brownfield percentages	36% / 64%
Number of dwellings complete or under construction	16,553 (51%)
Proportion of sites known to have met policy requirements (e.g. affordable housing, education, open space)	25%
Proportion of sites where viability issues identified	17%

2.2.7 Over 20 sites (17% of the total number of sites identified as complete or under construction) have experienced issues with viability. Consultations with LPA officers and site developers have identified the following factors that have contributed to site viability issues:

- Site remediation costs;
- Infrastructure requirements (for example new access roads);
- Site drainage works;
- Demolition works necessary on site;
- Level of affordable housing contributions required;
- Type of housing proposed (amendments to applications to reflect changes from apartments to houses);
- Price paid for the land.

2.2.8 The percentage of sites delivered within individual local authorities to date varies significantly between the five case study LPAs, with the more rural authorities of Monmouthshire and Carmarthenshire experiencing lower levels of delivery than their urban counterparts of Newport and Neath Port Talbot.

Sites Not Delivered in Accordance with Delivery Timescale

2.2.9 Some 214 sites within the sample (58%) have not been delivered to date. Delivery timescale data that has been used includes housing trajectory information /phasing plans submitted with LDPs. The 214 sites are at varying stages of delivery, broken down into various categories in Table 2-4.

Table 2-4 Summary of Sites Not Being Delivered

Stages of Delivery	Number (%)
Sites with planning permission for either all or part of the site	78 (37%)
- Of these, sites with outline planning permission	23
- Of these, sites with full planning permission	47

- Of these, sites at reserved matters stages	8
Sites awaiting planning decision	12 (6%)
Sites where planning application withdrawn or lapsed	4 (2%)
Sites where developer / landowner intention is known	
- pre-application discussions / site studies	26 (12%)
- preparation of site development brief, masterplan or other disposal strategy	7 (3%)
Sites where delivery is uncertain	
- no progress being made	42 (19%)
- developer / landowner intentions not known	37 (17%)
- site unlikely to come forward due to current or alternative use	8 (4%)

2.2.10 Of sites currently at planning stage (i.e. that either have planning permission, have planning permission subject to a Section 106 agreement, or for which a planning application is currently under consideration by the LPA), 32% have been identified as experiencing issues with viability that may potentially cause delays in delivery. The main issues that have been identified are as follows (note that some sites are experiencing viability problems as a result of more than one issue):

- Land value (13% of sites with planning permission);
- Inability to meet affordable housing requirements (9%);
- Ground conditions (5%);
- Infrastructure requirements (10%);
- Drainage / flood risk issues (6%);
- Ecology (8%);
- Challenging location / low market values (5%).

2.2.11 For sites where no progress is currently being made, viability has been highlighted as an issue for over a third (36%); reasons include affordable housing targets being too high, sites located in low value market areas or where there is 'housing saturation', poor quality sites (topography/environment) or where specific infrastructure requirements have been identified.

2.2.12 Looking across the five case study LPAs overall, rural authorities appear to have experienced greater issues with regard to viability of sites than their urban counterparts (for example approximately a quarter of as yet undelivered allocated LDP sites in Monmouthshire have been subject to problems with viability, compared to some 6% of sites in Newport). Reasons for this in Monmouthshire could relate to the high affordable housing target required in the rural villages (60%); however

there are also issues with strategic sites where the requirement is much lower. Other rural case study LPAs such as Carmarthenshire, experience viability issues on sites as a result of market conditions and low land values in much of the County's rural hinterland.

2.3 Viability Evidence

2.3.1 This section summarises the evidence with respect to how site deliverability and viability is determined at various stages of the planning process, from LDP preparation through to development management (including planning appeals). The evidence has been taken from a combination of stakeholder consultations and from the database of sites (notably the associated site specific information that has been submitted/prepared at each stage of the planning process).

LDP Preparation

2.3.2 During LDP preparation, site specific information appears to be largely restricted to 'deliverability' in its broadest sense (for example land ownership or presence of infrastructure / environmental constraints) rather than dealing with specifics of viability. Viability information has not typically been requested as part of the call for sites at the candidate site stage; equally, viability has not been considered in significant detail at candidate site assessment stage.

2.3.3 LPAs that have undertaken site viability work at early stages of LDP preparation have included Conwy and Monmouthshire. The former LPA prepared a 'Site Viability Assumptions Paper' to inform preparation of the Affordable Housing Viability Study and which used the Three Dragons Development Appraisal Toolkit (DAT) to set out assumptions for the assessment of viability of sites; following on from this a number of strategic sites were separately assessed to provide supporting evidence following the submission of the LDP for examination. Monmouthshire, on the other hand, prepared a report to consider what economic/viability issues that the council may need to be aware of when allocating sites and specifically considered the six strategic sites.

2.3.4 As part of their evidence base, a number of LPAs have developed and maintain a database which can both support LDP preparation and development management stages. Databases have included information such as percentage of affordable housing achieved on sites in particular sub-market areas, Section 106 costs on individual sites, sales values achieved at completed sites. Where this information has been available at early stages of LDP preparation, it has been produced at Examination to support the LPA's case (for example Newport City Council produced empirical evidence at Examination).

Good Practice – Viability Evidence

Swansea City Council has taken an innovative approach to viability in terms of its use of an external viability professional within the planning department. The remit of the professional has included encouraging staff to establish and maintain a database of completed housing developments (for example finished costs and sales values) and training of staff about viability in order to provide confidence when negotiating with developers.

- 2.3.5 Consultations have identified a general consensus amongst planning officers that it would be useful to undertake more site specific viability work at an earlier stage in the planning process, although it is acknowledged that there are issues with scarce officer resources and capacity to undertake this type of work. Areas that might be particularly useful to firm up prior to site allocation, include estimates of site abnormals. Closer contact with developers throughout the planning process, not just at development management stage, would be beneficial and may result in a less ‘adversarial’ approach as it can be at present. It is acknowledged that there needs to be a balance between levels of aspiration and levels of deliverability.
- 2.3.6 A final area at LDP preparation stage relates to population projections and housing numbers. Whilst it is understood that aspirational housing numbers encourage growth, there is evidence that it may lead to over-allocation of sites. This is particularly noticeable in areas where there might be a lack of suitable available land (for example as a result of flood risk, landscape designations, restrictions with land ownerships), which can lead to sites being allocated but not deliverable. There is also a need for housing sites to be allocated in order to provide an appropriate level of growth to maintain communities and to enhance their level of sustainability; these sites can be in low market value areas, where delivery timescales may not be easy to predict.

Examination

- 2.3.7 Information submitted at Examination stage, together with findings from the Planning Inspectorate in relation to each LDP was reviewed. Areas of commonality across the LDPs under examination included adjustments to affordable housing contribution levels so as to reflect local housing market area evidence (this was the case for Newport, Conwy and Carmarthenshire), consideration of approaches taken to assess deliverability of individual sites, and allocation of additional / replacement sites as necessary. Evidence prepared during the Examination in relation to Inspector’s questions and hearing evidence was also reviewed.
- 2.3.8 Areas of interest in relation to each LDP Examination are summarised below and set out in more detail in Appendix D:
- **Carmarthenshire** – revised affordable housing contribution percentage targets and thresholds and consequential amendment to overall affordable housing provision target. There is little evidence provided at Examination stage to suggest sites cannot be delivered during the LDP period;
 - **Conwy** – discussions relating to development land values. Some site specific viability work was undertaken during the Examination stage;
 - **Neath Port Talbot** – review of sites allocated for housing identified concerns over a number of sites where there had been no progress for years, with revised timetables, trajectories and proposed site densities provided;
 - **Monmouthshire** – main changes at Examination stage related primarily to increases in quantity of housing provided, the allocation of additional sites and extensions to existing strategic sites where possible;

- **Newport** – affordable housing contribution levels adjusted so as to reflect local housing market area evidence. The Inspector’s Report noted that ‘there will always be an element of uncertainty about future delivery rates’.

Development Management

- 2.3.9 At development management stage, viability evidence relates to appraisals submitted to support planning applications. Viability appraisals can take various forms, including for example paper statements for small projects; Excel spreadsheets; use of the Three Dragons system; and specialist development appraisal software such as Argus/Circle. Excel spreadsheets are often considered to be open and transparent systems; the Three Dragons system on the other hand is a ‘toolkit’ system based on Excel. Whilst many LPAs use this system, it is not so readily transparent, with particular formulas and calculations hidden within locked cells. Finally, Argus/Circle is a specialist appraisal system used by surveyors and the District Valuer, particularly for large and more complex applications.
- 2.3.10 It is interesting (but perhaps not surprising) to note that very few site specific viability appraisals were forthcoming from site agents and developers, on the grounds of commercial sensitivity.
- 2.3.11 From submitted evidence made available to us, together with detailed discussions with site developers (volume housebuilders as well as small and medium sized developers), the following main points have emerged of issues at development management stage:
- The high level of instances at which affordable housing requirements are negotiated down on the back of a variety of factors affecting site viability (ranging from abnormalities such as ground conditions through to agent demands for land value). There is little evidence to suggest that other policy contributions (for example education or open space requirements) are reduced to help with scheme viability;
 - The extent and cost associated with additional work required to deliver sites. Examples cited include hydraulic modelling costs and subsequent works as well as highways improvements;
 - The implications of land values over time, for example where sites were bought at the height of the market and the original proposals for the site are no longer viable, again due to land value;
 - Changes to completion dates / build rates to those identified at housing trajectory stages, as a result of new information / changes to circumstances (one example cited of a gypsy and traveller site adjacent to the allocation);
 - Developers have highlighted issues with timing of sites coming forward, slow improvements in the economy and where sites may still be marginal in terms of their contributions as reasons where sites with planning permission have not been delivered;
 - Applicants negotiating other policy contributions, such as off-site landscaping/pavement improvements as well as education contributions;

- Sites which have planning permission but where there is no developer interest, for example in smaller settlements and rural areas;
- Financing issues experienced by smaller building companies may cause delays at the development management stage;
- Land values the subject of detailed discussions, with some developers considering that LPAs should increase what they believe to be a reasonable return to landowners in order to ensure that sites are delivered;
- In some instances, applications are delayed because applicants have not recognised the viability implications of section 106 requirements prior to Planning Committee.

2.3.12 When viability appraisals are received by LPAs, they can be reviewed / scrutinised in one of three ways – by the local authority’s in-house estates department, by an independent professional, or by the District Valuer (typically at the cost of the applicant, or with the cost shared with the LPA).

2.3.13 Planning appeals form the final stage in the development management process. Key findings from a review of planning appeal decisions include that:

- Issues relating specifically to the viability and deliverability of individual sites have been raised in a very small proportion of planning appeal cases. In relation to deliverability, the difficulty of having certainty has been a particular feature;
- A very small number of planning appeals in Wales relate to modifications to planning obligations;
- Weight is given at appeal to the need to increase housing supply, particularly within those LPAs where the housing land supply is less than five years. However, the lack of a five year land supply is usually only one factor amongst others (for example the age of the current development plan, relevance of current settlement boundaries, environmental factors). Where appeals have been allowed in this area, it has tended to be where there is no imminent prospect of a plan-led approach;
- Accordingly, the majority of appeals made on the back of a five year land supply have to date been dismissed; there is concern amongst LPAs that this may change going forward and hence a feeling of ‘vulnerability’ where there is a lack of a five year land supply;
- There is a small amount of appeal evidence relating to developers’ profit, for example cases showing that some developers may be willing to accept a reduction in developer’s profits at the outset.

2.4 Evidence from Joint Housing Land Availability Studies

2.4.1 This section summarises evidence taken from Joint Housing Land Availability Studies, looking from a Wales-wide perspective in addition to focusing in on information provided within the JHLAS of the five case study LPAs.

2.4.2 TAN1 (January 2015) states that sites, or the phases of sites, should be categorised as follows:

- **Category 1:** Sites or the phases of sites which are under construction;
- **Category 2:** Sites or the phases of sites where development either can commence immediately or the constraint on development is likely to be removed so that there is reasonable time for dwellings to be completed within 5 years;
- **Category 3:** Sites or phases of sites where the Study Group agree that it is not financially viable to develop the site due to market conditions, but which are otherwise free from constraints; and
- **Category 4:** Sites or the phases of sites where development is unlikely within 5 years by virtue of major physical constraints or other constraints as agreed by the Study Group.

2.4.3 One of the criteria for sites to be included in Categories 1 and 2 is that there is agreement amongst the Study Group (comprising local authority officers and stakeholders from the housebuilding industry) that it is financially viable to develop the site.

2.4.4 Table 2-6 shows the quantity of land supply identified in JHLAS from all LPAs in Wales with an adopted LDP since 2013. Of the LPAs listed in the table, only five have a five year land supply. Further, 15 LPAs have shown a decrease in the quantity of land supply between 2015 and 2016, and six have shown a steady decrease since 2013. It should be noted that the 2015 and 2016 studies were conducted under the provisions of the revised TAN1.

Table 2-6 JHLAS Land Supply across Wales (LPAs with Adopted LDP only)

LPA	2013	2014	2015	2016
Blaenau Gwent	3.3	2.57	2.01	1.35
Brecon Beacons NPA	1.3	5.5	5.8	5.0
Bridgend	5.7	6.0	5.4	5.1
Caerphilly	2.9	2.5	1.9	1.5
Cardiff	3.2	3.6	5.2	3.8
Carmarthenshire	5.3	4.9	3.7	4.1
Ceredigion	6.5	3.7	3.9	3.4

Conwy	4.1	4.8	4.0	3.7
Denbighshire	3.49	1.8	2.1	2.02
Merthyr Tydfil	2.9	2.5	2.8	1.6
Monmouthshire	3.6	5.2	5.0	4.1
Neath Port Talbot	2.6	2.5	5.5	5.0
Newport	7.4	9.2	6.3	5.9
Pembrokeshire	4.9	5.3	5.0	Not available
Pembrokeshire Coast NPA	2.96	2.66	1.8	2.1
Rhondda Cynon Taf	3.7	2.8	2.4	1.5
Snowdonia NPA	9.5	8.3	7.0	5.4
Torfaen	6.6	4.7	4.8	3.6

- 2.4.5 The absence of a five year land supply has implications for increases in speculative applications for development, and has been proven in planning case law to be a material issue at appeal. Examples of practices to deal with this situation have included the preparation of guidance notes for developers, for example Denbighshire County Council published a guidance note in November 2015 designed to assist with the consideration of housing development proposals outside of LDP boundaries and requires that submission of planning applications for housing development justified on the basis of a shortfall in housing land supply will require comprehensive supporting evidence, including a viability assessment to demonstrate that the site can be developed on the basis of accommodating all of the Council's policy requirements as well as providing all other necessary infrastructure requirements. Evidence of housing delivery is also required including a timeline for development (expected start date, annual completion rate and expected completion date for the whole development). Finally the note identifies that any consent recommended will be time limited to commencement within two years. Other LPAs to have followed a similar approach include Flintshire County Council (although this LPA has not yet adopted an LDP).
- 2.4.6 Analysis of the 2015 JHLAS for the five case study LPAs identified that, of the sample of allocated / committed sites, approaching one hundred sites (27%) had all or part of their allocations classified as deliverable outside of the five year land supply (i.e. categories 3 and 4); this equates to over 6,300 units (some 20% of the total number of potential dwellings allocated in the case study LPA sample).

2.5 Evidence from Consultations

- 2.5.1 As noted in the methodology section, this piece of research has involved wide-ranging consultations with Welsh Government, local planning authority officers, developers and landowners, registered social landlords and representatives of other stakeholder organisations such as the Homebuilders Federation and the Welsh Local Government Association. Information derived from consultations has been used alongside the quantitative analysis of data to help establish evidence of the role of viability in the planning process. Different stances and viewpoints in relation to the delivery of housing have been obtained to assist in the development of ideas, recommendations and suggestions for good practice.

2.6 Evidence from Other UK Administrations

- 2.6.1 This section considers current planning policies and guidance in relation to viability from the rest of the UK.

England

- 2.6.2 Paragraph 173 of the National Planning Policy Framework (NPPF) in England states that *“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.”*
- 2.6.3 Paragraph 174 goes on to state that *‘evidence supporting assessment should be proportionate, using only appropriate available evidence.’*
- 2.6.4 The NPPF goes on to identify what is meant by deliverable, namely that *‘to be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans.’*
- 2.6.5 Viability assessments have gained increasing weight as a result of the NPPF. However there is a suggestion that the clause *‘should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened’* may have led to *‘an entire industry grown up around the idea of dodging planning obligations’*¹, encouraged by the fact that financial modelling may take place behind *‘closed doors’*. A 2015 paper for the RTPI (Viability and what does it mean for the plan-led system) states that *‘there is perhaps no more controversial*

¹ The Guardian 25/06/2015 ‘Revealed: how developers exploit flawed planning system to minimise affordable housing’

aspect of planning right now than development viability, and the impact that this is having on the delivery of development plan policies, in particular affordable housing'. Since the introduction of the NPPF, viability has become a 'standard and increasingly dominant part of the planning process'². A RICS research paper has identified that 'landowners and developers can manipulate the situation to their financial benefit'.

- 2.6.6 Some LPAs in England are developing development viability Supplementary Planning Documents, a number of which require viability appraisals to be made public in order to ensure the assessment of the viability of planning applications is efficient, consistent and transparent. Some LPAs, for example the London Borough of Southwark, go so far as to state in SPD that a financial viability appraisal should be provided for a planning application to be validated where there is a planning policy requirement to provide affordable housing or where the proposed development departs from the planning policy requirements due to viability. SPDs also set out methodology which viability appraisals must follow with clear guidance on appraisal inputs and assumptions.
- 2.6.7 A final indication of the role that viability now plays in the planning process in England relates to the inclusion of specific 'development viability officers' within a handful of local authorities, for example a number of London Boroughs and also Plymouth City Council (see below). London Boroughs have also formed a viability group so that expertise can be shared, a consistent approach taken and capacity built. A draft London Borough Viability Protocol was issued for consultation in February 2016, setting out overarching principles for how boroughs will consider development viability as part of the planning process and providing greater clarity to developers and members of the public.

Case Study of Plymouth City Council

Plymouth City Council launched its Plan for Homes initiative in 2013 with the aim of speeding up housing supply through the delivery of 1,000 new homes each year for a five year period. The award-winning initiative has recently been relaunched to cover the period 2016 to 2021 and sets out a number of ways for how the Council can use financial resources and land to support housing investment. These include support for more flexible land and Section 106 payments to improve development cash flows to enable an early start on site; an affordable housing loan facility to support Plymouth Housing Development Partnership projects; together with the Homes and Communities Agency, the creation of a Land Acquisition Fund of £30 million to buy up stalled and lapsed sites to accelerate housing delivery; exploration of new approaches to housing delivery to secure a sustained increase in supply; and implementing two year planning consents with immediate effect to tackle developer land banking and encourage the delivery of sites that already have planning permission.

² Ibid.

Scotland

- 2.6.8 Advice from the Scottish Government is that *'viability is the key factor which determines whether development proceeds or not'* and that *'it is more important than ever that public and private sectors work together to deliver development on the ground'*.³ A development viability factsheet has been prepared by the Scottish Government to assist with building the development economics and viability skills of planning authorities and others involved in development projects.
- 2.6.9 Research into development delivery and viability undertaken in Scotland in 2010 concluded that supporting the costs of upfront infrastructure was important (or alternatives such as assisting developer's cash flows through 'pay back as you sell' methods of infrastructure provision). The research also highlighted the need to enable planners and other professionals to have the skills to determine development viability and that clear guidance has a role to play here. Other recommendations of interest related to consideration of a 'central infrastructure team' which could assist in partnership working and could focus on housing delivery by joining masterplans with business plans in order to deliver good outcomes; and 'better place selection' – ensuring that areas selected for development or redevelopment have the potential to be developed.

³ Development Viability Factsheet, Scottish Government, 2010

3 Key Issues and Recommendations

3.1 Introduction

- 3.1.1 This chapter summarises the key issues that have arisen through data analysis and consultations and clearly identifies the reasons why housing allocations and commitments are not being delivered in accordance with LDP policy requirements and/or their delivery timetable. The chapter is structured around issues that arise at various stages in the planning process, from LDP preparation through to development management to provide a longitudinal perspective. There are also wider issues that may transcend a specific planning stage, and these are discussed at the end of the chapter. Following on from the discussion of each issue, potential recommendations have been highlighted. Examples of good practice identified during the research are included to illustrate specific points where relevant.

3.2 Overarching Issues

- 3.2.1 Viability is clearly an important consideration in planning, and at all stages of the planning process, from LDP preparation through to development management. Evidencing viability and deliverability to the extent that it creates certainty is becoming more critical, in order to deliver regeneration objectives, provide infrastructure and bring sites forward for development. However it is also clear from the research that viability is an area of relative complexity, and that there is evidence of a real disconnect between the aspirations of housebuilders/developers on the one hand and local planning authorities on the other. Open and positive engagement between stakeholders in the planning process appears to be a relatively rare occurrence. Ultimately, a lack of certainty about how and when sites may come forward for development may undermine the robustness of the development plan process, creating uncertainty and prolonged negotiations for later development management stages, making the JHLAS process a less effective tool for monitoring housing land supply, and with knock-on effects on housing delivery.
- 3.2.2 In order to overcome some of these issues, it is evident that there is a need for viability to be effectively incorporated into the very beginning of the plan process, in order to ensure that development plans are robust and to enable development to be delivered in line with the vision of the local authority and meet the needs of the local population. The recommendations outlined in this chapter emphasise the importance of early and proactive engagement with stakeholders and the need for openness and transparency about viability in the planning process. These two areas are critical to help overcome some of the issues currently experienced and ensure the delivery of housing going forward.

3.3 LDP Preparation

- 3.3.1 This section sets out the key issues and proposed recommendations in connection with viability during LDP preparation, from candidate site assessment work through to preparation of a deposit plan.

Key Issue 1 There are inconsistencies in approach to local authority wide viability studies and there is evidence that LDP policies are not sufficiently ‘future-proofed’ on the basis of the assessment.

- 3.3.2 LPAs prepare local authority wide viability studies as part of the evidence base to support the affordable housing policies. These studies have been intended to set targets for the amount of affordable housing to be provided in the local authority area, taking account of the economic viability of land for housing, risks to delivery, available funding and likely levels of developer contributions that could reasonably be secured (Welsh Government guidance on the preparation of Affordable Housing Delivery Statements between 2007 and 2011). Guidance notes that viability calculations should be equally relevant in a buoyant or depressed market.
- 3.3.3 Good practice on methodologies for these studies has been prepared by the South East Wales Strategic Planning Group⁴ that has helped advise case study LPAs, and in summary, suggest that the following steps should be undertaken, whilst involving the development industry at every step:
- Develop a draft high level testing framework including sensitivity tests that should be undertaken regarding residual land value and other typical costs;
 - Undertake high level testing on a notional site, with a series of residual land values and costs in different market areas of the LPA;
 - Identify suitable case studies and undertake the same tests as for the notional site appraisal;
 - Review results against comparison information (for example market values); and
 - Draw on evidence to prepare suitable affordable housing policies.
- 3.3.4 The research has identified that there are some issues that have emerged from the undertaking of the studies. Firstly, the choice of appropriate case study examples is critical to insight into average development costs and viability of sites within the local authority area. There are variations in whether the assessment is reliant on large sites and how small sites are taken into account, and whether the particular choice of sites reflects the abnormal costs of some brownfield sites or those requiring significant infrastructure investment.
- 3.3.5 Secondly, the approach to sensitivity testing can vary and how the results of the sensitivity tests are translated through into the affordable housing policy. Good practice would be that policies withstand changes in residual land values over time such that adverse changes to viability at later stages in the planning process are exceptional rather than the norm (such as a large unforeseen abnormal cost). National Planning Practice Guidance in England on viability identifies that *'plan makers should not plan to the margin of viability but should allow for a buffer to respond to changing markets and to avoid the need for frequent plan updating'*.
- 3.3.6 There is some evidence that affordable housing policies may be set at the upper limits of targets, as aspirations, but with limited margin for change. As noted in Swansea City Council's 'Affordable Housing Topic Paper' (updated June 2016), *'if the affordable housing target is set too high, the adverse impact on development viability will choke off supply. If the target is set too low, opportunities to deliver affordable housing will be lost and the identified need for affordable housing will not be met.'*

⁴ SEWSPG's (South East Wales Strategic Planning Group) Good Practice Guide, as cited in Conwy CBC Final Viability Report 2011

- 3.3.7 The purpose of and need for an appropriate buffer to be incorporated into viability testing is to ensure that predicted levels of affordable housing can more easily transcend economic cycles / changes in the housing market. The Harman Report recommends that plans should ‘include a viability cushion so that modest changes in the value of development variables, or changes in the types of sites being developed, do not render the Plan unviable or undeliverable’.
- 3.3.8 Consideration as to the scale and nature of the buffer would vary between local authority areas. Initial findings from a review of viability appraisals are that a buffer in the range of 20-30% is likely to be appropriate in most locations, although this should be the subject of further consultation and testing.

Recommendation Number 1

Local Planning Authorities / Developers / Site Promoters

LPAs should work with the development industry to identify suitable sensitivity tests and case studies for assessment that appropriately reflect conditions in the LPA area. An appropriate buffer is needed within assessments to enable an effective response to economic cycles. To be effective, these areas require more open engagement with developers and site promoters in the provision of required information.

Key Issue 2 Evidence of site viability is generally not prepared at early stages of the planning process.

- 3.3.9 The LDP Manual (2015) states that *‘at the plan-making stage, LPAs are not expected to be able to evidence every small site or minor issue nor will they be able to second guess major swings in the market. Nevertheless they must be able to show that schemes are likely to remain viable after applying all relevant plan policies such as affordable housing, open space, highway works etc as well as meeting other requirements...This will include checking the availability of relevant infrastructure and the implications for delivery, timetabling and site viability’* (para. 6.4.2.12). The Manual goes on to state that, at candidate sites stage, LPAs will have *‘sought information from the proponents about the site’s availability, the basis on which it is being proposed and an indication that they (developers) are aware of, and have factored in, the costs of any mitigation requirements on development’* (para 6.4.2.14).
- 3.3.10 Affordable housing viability studies typically consider hypothetical sites within the local authority as part of the evidence base to identify appropriate targets for affordable housing within sub-market areas. Some LPAs have taken this a step further and undertaken more detailed viability work on specific strategic sites in their area, the purpose of which has been to highlight issues about the economics of site development. Whilst this would appear to be good practice, it is interesting to note that even where site specific viability work has taken place, there have still been deliverability issues associated with the same sites post-LDP adoption, confirming the complex range of factors involved.

- 3.3.11 Evidence from the five case study authorities, and corroborated by other LPAs during workshops, shows that very little site-specific viability work has typically been undertaken at an early stage in the planning process. At candidate site stage, site promoters are rarely required to provide information concerning viability, with the focus instead being on more generic deliverability issues such as land ownership or environmental / infrastructure constraints. Similarly, when candidate sites are assessed for suitability, assessment criteria primarily relate to deliverability rather than viability *per se*.
- 3.3.12 Achieving an allocation in the LDP results in the greatest increase in land value of the different stages in the planning process and the asset value of the land substantially increases. Therefore, getting a site allocated can be the key driver for the site owner, rather than housing delivery itself, leading to reluctance to identify issues affecting viability at this early stage.
- 3.3.13 A further issue leading to limited provision of viability information is the investment that may be required in technical surveys and studies in order to identify and cost abnormal items. Without an LDP allocation, this investment can be seen as unduly risky. However, a basic level of costs incurred to assist in consideration of viability is a demonstration of commitment to take the site forward.
- 3.3.14 As a consequence of limited investigation at an early stage of the process, evidence suggests that landowners frequently can have unrealistic / over-optimistic expectations of land values. Changes in market conditions over time can play a major role here (for example land bought during economic peaks may have subsequently declined in value) and prevent sites coming forward for development. Landowners may have been advised on land value without fully understanding the difference to the residual value, once abnormal costs or strategic infrastructure are taken into account. Moreover, it will depend on the landowners' circumstances as to how and when they wish to realise the value of their land. For example, it may be held in a family for the long term as inheritance for children. Moreover, between the LDP preparation/adoption and development management stages, the site may have been sold on to a developer or put under option, with a different body taking forward the site from this stage with potentially different requirements. Greater consideration of the development costs and viability at an early stage would bring these issues to be fore earlier in the process.
- 3.3.15 There is growing consensus amongst local authority officers that having more viability information at an earlier stage in the LDP process may reduce issues of a shortage of five year land supply and minimise the need for lengthy negotiations at the development management stage. Furthermore, some LPAs currently in the process of revising their LDP are considering ways to incorporate more detailed deliverability information into their candidate site assessment stage, for example asking site promoters for information specifically relating to *when* and *how* sites may be delivered.
- 3.3.16 It is clear that there needs to be a greater level of *certainty* over deliverability in relation to sites allocated in the LDP – and this includes the need for a greater degree of certainty over the viability of such sites, with more information collected and analysed at an earlier stage. This reflects the statement made in an RTP1 research paper in 2015, which noted that '*viability needs to support rather than*

weaken the delivery of the plan' (RTPI paper 2015). At present viability is used to bolster arguments against the delivery of social housing or infrastructure at development management stage, which undermines what the LDP has tried to achieve; by all parties having a more holistic understanding of the facts at an earlier stage, this may help with housing delivery.

- 3.3.17 It is recommended that LPAs are essentially more prescriptive in terms of the level of detail required in order for a site to pass through the allocation process. Firstly, at the call for candidate sites, site promoters/developers would need to undertake and submit a simple Residual Land Value (RLV) appraisal, using land values from the locality. If the answer from the RLV appraisal is negative, then the site should not progress any further through the LDP process without further evidence. This would put the onus on the owner/promoter to provide further evidence that the site could meet the tests of deliverability and would prevent the least viable sites coming forward. It is noted that this requirement could prejudice small scale promoters / local developers who perhaps were not able to provide such information (for reasons of affordability or technical awareness), however this may avoid the true speculators submitting sites for allocation that they have no intention of progressing through the LDP process.
- 3.3.18 LPAs should offer a template for developers / promoters to submit information on and ideally (particularly as developers may be promoting sites within different LPAs), this should be consistent across Wales. It should be based on a standardised approach through agreement between bodies such as the Welsh Local Government Association (WLGA) and the Royal Institution of Chartered Surveyors (RICS).
- 3.3.19 For sites that do have a positive RLV, these could then progress to the next stage of consideration. This would give an early indication of how the 'policy compliant' version of the scheme could inform any developing planning obligations for that scheme or area. For example, if the RLV is marginal but positive when 'policy compliant', the LPA could then consider what the policy obligations of the plan should be to ensure that the RLV would be acceptable to a land owner seeking reasonable returns.

Recommendation Number 2

Developers / Site Promoters

At candidate site submission, a Residual Land Value appraisal to be undertaken and submitted by site promoters/developers, based on methodology and requirements identified by the LPA and developed on a Wales-wide basis by bodies such as the WLGA or RICS.

- 3.3.20 The next recommendation relates to the assessment of sites for allocation in the LDP. For all strategic sites (LPAs can set their own threshold as to what might constitute a 'strategic site' depending on local characteristics), it is recommended that an outline viability assessment should be prepared by the LPA. The outline viability assessment should incorporate the following information:

- Abnormals, quantified by means of averages in the local authority area;
- A standard profit margin for developers and agreed level of contingency;
- Land values would also need to be benchmarked (and locally specific, for example using average values by postcode).

3.3.21 The outline viability assessments would need to be sufficiently rigorous in order that developers could be expected to comply with the outcomes at development management stage, except where exceptional circumstances may come forward.

3.3.22 The assessments would initially be based upon the existing policy of the LPA with regards to affordable housing and other contributions. The analysis would assist the LPA in understanding the impact of changes to such policies in the emerging LDP.

3.3.23 It is considered that the assessments should be prepared in the first instance by the LPA to give consistency of approach but in conjunction with the developers/ promoters of the strategic sites and using a standardised approach. The RLV appraisal submitted by site promoters / developers as part of the call for sites could provide a starting point for information. Site promoters / developers would then be given an opportunity to respond to the outline viability assessments. LPAs may wish to appoint independent advisors to review outline viability assessments, where this may assist in coming to common agreement prior to Examination.

3.3.24 The recommendations would assist the planning process in a number of ways. Firstly, the benefits of providing more, and more rigorous, viability information at an early stage would result in greater certainty over the viability of allocated sites and potentially result in less negotiation at development management stage; less abortive work would be undertaken on taking forward options that are not truly deliverable; evidence would then be available to support the Examination; and finally, could help prevent sites relied upon at LDP examination to deliver houses from falling away at later stages in the process, and thereby prejudicing the deliverability of the LDP itself.

Recommendation Number 3

Local Planning Authorities / Developers / Site Promoters / Welsh Government

Outline viability assessments to be prepared by the local planning authority in conjunction with developers / site promoters for strategic sites prior to their allocation in the Local Development Plan. Guidance should be provided through the LDP Manual as to the approach to be taken.

Key Issue 3 Local Development Plans may include allocated sites that are not realistically deliverable within the Plan period.

3.3.25 At present, LDPs include allocated sites for which there is uncertainty over *when* they may come forward, and in some instances *whether* they will be realistically able to be delivered during the Plan period. The research has identified that reasons for this uncertainty are varied, and may include:

- Landowner intentions (wanting to hold on to an ‘asset’);
- Publicly owned land (including local authority and Welsh Government) for which there is no disposal strategy or for which disposal is likely to be outside of a five year period;
- Sites that have been ‘rolled over’ from Unitary Development Plans; and
- Sites that are included for their wider regenerative role, but which are likely to be complex and costly in terms of bringing forward (for reasons including marginality of the housing market in that location, contamination or the need for strategic infrastructure).

Recommendation Number 4

Local Planning Authorities / Welsh Government

LPAs to make greater use of de-allocation as a means to restrict sites allocated within the LDP to those likely to come forward for development within the Plan period.

Reference to the use of de-allocation as a tool available for LPAs, together with the purpose and benefits of such, to be added to national guidance.

3.3.26 As part of the five-year review process of the LDP, LPAs should be prepared to remove long standing site allocations that do not pass the outline viability assessment (Recommendation Number 3). The exception would be if there are strong social or economic reasons for including the site, in which case the allocation could be in the LDP to encourage bringing the site forward but should not be included in the housing supply figures. A number of LPAs are currently considering using de-allocation as a way of encouraging site promoters / developers to progress their sites, and to take out those for which there is clearly no intention or likelihood of delivery. This may form part of a suite of measures that may also include shorter timescales for planning permission (such as development to be started within two years) to encourage delivery. Evidence will be required of lack of viability or deliverability to support planning decisions made in this context.

3.3.27 The implication of de-allocation or short term planning permissions that are not implemented is likely to be the requirement to bring forward other sites to meet the five-year land supply, and this would be through the LDP review process.

Recommendation Number 5

Local Planning Authorities / Welsh Government

Public sector organisations to develop deliverable disposal strategies for land in public ownership with a policy imperative of supporting the delivery of homes, for all housing sectors, for Wales.

3.3.28 The case study evidence identified that some 10% of allocated or committed sites are in public sector ownership and that a considerable proportion of these have

either not been delivered or are not likely to be delivered within the Plan period. Land in local authority ownership in particular may make its way into LDPs as allocated sites for housing in order to 'make up numbers' rather than because the sites may realistically come forward within the Plan period. Moreover, the public sector has a key role to play in the delivery of homes in Wales to support the wider policy agenda, not just as an owner of assets. As part of a drive to ensure that only those sites where there is a high level of certainty concerning deliverability are allocated in the LDP to meet housing supply, public sector organisations need to 'get their own house in order' in terms of liaising with property departments, ascertaining intentions, the preparation of a realistic disposal strategy and the subsequent translation of this into the LDP.

Recommendation Number 6

Local Planning Authorities

A clear distinction could be drawn in LDP policy between housing sites allocated to meet housing land supply and those sites allocated for their regenerative role.

3.3.29 While in theory, there may be '*no fundamental impediments to the development of the sites*' and '*theoretical timescales within which constraints will be overcome*' (LDP Manual) can be identified to justify their inclusion within the plan, the evidence has shown that a proportion of sites allocated in LDPs are particularly challenging to deliver. These are typically key brownfield regeneration sites, of which there are many throughout Wales, and the development of which is inherently difficult and uncertain to achieve. They are also sites where the development costs are such that it is difficult to achieve a positive residual land value or provide infrastructure. It is often difficult to specify timescales for delivery given the number of 'unknowns' and yet such sites may potentially contribute towards an LDP's overall housing provision (although it is noted that they may not contribute towards the five year land supply as they may be 'Category 3 sites' according to the JHLAS). Issues arise then when LDPs may be reliant on one or two such sites to meet housing supply figures.

3.3.30 Sites identified in the LDP as strategic housing regeneration sites might be afforded specific policy requirements with respect to affordable housing or other obligations in order that delivery can be assisted. Moreover, as noted earlier, these sites might sit outside of the housing land numbers in order that the LDP is not dependent on their delivery. There is potential that this would undermine the potential of bringing them forward, by focusing the housing land on easier to deliver sites. Therefore the establishment of support to bring these sites forward should be considered in tandem (as set out in Recommendation Number 21).

Key Issue 4 Uncertainties regarding strategic infrastructure costs and delivery

3.3.31 At the LDP preparation stage, there can be significant uncertainties relating to the costs of and means of delivery of strategic site infrastructure, such as road improvements, upgrades to water supply and sewerage connections and energy supply. For example, it is usually the case that Welsh Water will cost infrastructure

based on the adopted LDP. This means that these costs may not be fully available to inform site selection and may arise at a later point in time as requirements for significant abnormal investment. Moreover, there is limited potential for the housing site allocations to take account of overall value for money of the sites allocated.

- 3.3.32 There is a need for greater collaboration regarding programmes for infrastructure investment and consideration of their linkage to LDPs. These inputs are vital for the viability modelling to reflect the strategic infrastructure costs of developments. Memorandums of Agreement or a Concordat between LPAs and statutory undertakers are a means of improving the alignment of policy and programmes during LDP preparation, together with Key Performance Indicators (KPIs) for statutory undertakers to be considered relating to providing responses at the plan preparation stage.

Recommendation Number 7

Statutory Undertakers

Early and effective involvement of statutory undertakers in LDP preparation is required to help overcome uncertainties over strategic infrastructure costs. Memorandums of Agreement or Concordats could be prepared with LPAs to structure inputs into the LDP preparation process.

Key Issue 5 Planning Officers lack viability evidence to support discussions with developers

- 3.3.33 Consultation with planning officers has identified that, where the authority has created and maintained an up-to-date evidence base, they are more likely to feel able to confidently input into site assessment work and to negotiate with site developers or promoters about individual viability assessments. There are a small number of local authorities in Wales that have produced such an evidence base, for example Newport, Swansea and Flintshire. The type of information monitored and recorded by these authorities varies, but typically includes sales values, planning contributions achieved by site, Section 106 costs. All such data allows planning officers to have comparative information to use when new sites come forward for development, for example to identify whether sales costs put forward by developers may be unrealistic.
- 3.3.34 Whilst this is primarily a tool for the development management stage of the planning process, its usefulness at earlier stages of LDP preparation should not be underestimated, in terms of building a knowledge base for staff and contributing to the assessment of sites identified for allocation. It is suggested that a Wales-wide approach to collecting key information should be developed, potentially by the Planning Officers Society Wales (POSW), and used within strategic planning areas or by LPAs, populated with locally based data. This would form part of the evidence base for LDPs.
- 3.3.35 Furthermore, the workshops held with Planning Officers as part of this research were considered useful as a way of bringing officers together to discuss the variety of approaches to viability and tools (such as the preparation of an evidence base)

used to help understand it. Welsh Government and POSW are considered to have an invaluable role in organising events and gathering and preparing information to disseminate such innovative approaches and practices more widely amongst planning officers.

Recommendation Number 8

Planning Officers Society

The preparation of an evidence base within each LPA or within strategic planning areas, looking at recently completed sites in different market areas and recording key information such as finish costs, sales value and affordable housing contributions achieved. The evidence base should be a Wales-wide approach led by the Planning Officers Society Wales and then populated in each area as a live document to ensure changes in the market are incorporated over time and by area. Engagement with developers to assist in the provision of site specific information where necessary.

Recommendation Number 9

Welsh Government

Welsh Government and other stakeholders to disseminate good practice in relation to LDP preparation and viability and deliverability, including examples of robust evidence bases and sound approaches. Possible dissemination methods may include use of the LDP Manual.

3.4 LDP Examination

3.4.1 This section summarises the key issues that have been identified at LDP Examination stage, together with potential recommendations for improvement.

Key Issue 6 Housing trajectory information submitted at Examination stage may not be meaningful or realistic.

3.4.2 Housing trajectory information is now required as part of the evidence base for LDP Examination. Consultations have raised the issue of how realistic housing trajectory information provided to support LDPs actually is, and whether the provision of such information has had any positive impact in terms of bringing sites forward for development.

3.4.3 Examples have been cited of housing trajectories that do not take into account 'real-world' factors, such as the lead-in times for developments or the complexities associated with getting contractors on site. For example, following allocation, it may take approximately two years to achieve outline planning, reserved matters and be in a position to start on site. Part of the issue here may be a need for greater awareness and understanding of commercial practices and timescales. Unrealistic housing trajectories will impact in particular on the five year land supply, as the forecasts of housing delivery in the first five years may not be accurate.

- 3.4.4 Evidence collected during the research has highlighted instances of site specific housing trajectories not being challenged by site promoters and developers at Examination, only to be the subject of prolonged negotiation at the development management stage. This may happen for a number of reasons, but the primary driver is likely to be the increase in land value to follow from sites being allocated in an adopted LDP. Other changes that may take place between Examination and development management stages may relate to the need for development schemes to be cost effective and deliverable, which may change over time as a result of market conditions; there is also an issue relating to housing supply and how it is controlled and managed.
- 3.4.5 Whilst the theory behind housing trajectory information is sound – in terms of having a realistic picture of what might reasonably be delivered and by when – in reality, it seems to be primarily a desk-based exercise that has no real bearing on how sites come forward for development. There is therefore a need to make sure the information is more robust and realistic. To achieve this, there is a need for better liaison/dialogue between LPAs and developers, to better develop mutual understanding, which could involve the same grouping as the JHLAS groups in each LPA. Furthermore, housing trajectory work should commence at an earlier stage in the plan-making process; requests for the information have been made by the Planning Inspector at Examination stage, but it should ideally form part of the site assessment/LDP preparation stage, whilst recognising that there will be a need to keep housing trajectories updated if new information comes forward in the lead up to adoption, as developing housing trajectories is an iterative process.
- 3.4.6 Once agreed at the stage of LDP adoption, the trajectories should form the basis for the monitoring of the plan for the first year, deferring the requirement for the JHLAS in that initial period.

Recommendation Number 10

Planning Inspectorate / Stakeholders in LDP process / Welsh Government

Housing trajectory information to be subject to greater scrutiny and challenge by stakeholders in the LDP process (LPAs and site developers) and the Planning Inspectorate, to ensure that it is realistic and robust. Following agreement, the housing trajectory should form the basis for monitoring housing land supply for the first year following LDP adoption, deferring the requirement for a JHLAS during this time. Further guidance as to the role of the housing trajectory to be provided by Welsh Government in the LDP Manual.

Key Issue 7 There is not always sufficient scrutiny and challenge of viability information by individual parties at Examination.

- 3.4.7 The Examination stage of an LDP is affected by many factors, not least that it may be the first real opportunity that external parties will have had to question the choice of allocated sites sufficiently in the round. Further, whilst some developers may like to contest the assumptions behind other allocated sites, there may not be an

appropriate process for doing so in Examination. A further factor is that their interests may be better served by letting sites go through, be allocated and then be able to negotiate (or worst case appeal) sites at a later stage in the planning process (for example sites going to appeal based on the lack of a five year land supply).

- 3.4.8 There are instances, therefore, at Examination, where evidence may not be presented or challenged by parties on either side – the example of housing trajectory information has already been given (build rates and start dates accepted and then only challenged at development management stage). A similar situation may arise with viability information, which may simply be accepted in the absence of evidence to the contrary (whether this may be through for example capacity of local authority officers to respond, or inclination of developers). Yet this does not mean that further scrutiny may not be required. This raises the question of whether there might be a need for greater independent scrutiny in these situations, together with continuing to ensure that Planning Inspectors are suitably equipped and trained to make such judgments on this specialist area.
- 3.4.9 The process of preparing outline viability assessments for strategic sites that was highlighted as a recommendation in the LDP preparation stage, would culminate in the preparation of statements of common ground for inclusion as evidence during Examination. These would cover viability and deliverability issues in order that agreement is reached between the developer/ site promoter and the LPA prior to Examination, wherever possible. This would enable a more rigorous approach to be taken to individual sites, and for Planning Inspectors to have more detailed information before them. Further, it would provide a stronger basis for the development management stage in that there would be agreement in principle in relation to planning obligations, with departure only in light of exceptional circumstances.

Recommendation Number 11

Welsh Government

Guidance to be provided in the LDP manual by Welsh Government to provide clarity over expectations of the treatment of viability in the Examination process (for example standardised information that should be provided, benchmarking, clarity of definitions, use of various models, and the inclusion of flexibility).

Recommendation Number 12

Planning Inspectorate

Viability training to continue to be provided to Planning Inspectors.

Recommendation Number 13

Local Planning Authorities / Developers

Statements of Common Ground to be prepared for individual sites, covering the key components of viability and deliverability.

3.5 Development Management

3.5.1 This section summarises key issues that have been highlighted by the research in connection with the development management stage of the planning process, together with potential recommendations.

Key Issue 8 Emphasis placed on the role of pre-application discussions.

3.5.2 The role and importance of pre-application discussions has been highlighted in numerous other research papers, with many LPAs now having formalised this process and the expectations of what should derive from it (for example written reports from the LPA of requirements to be met by the proposal) through making a charge. The benefits of pre-application discussions, as set out in the Welsh Government Practice Guide⁵ include establishing the information required to support applications, identifying the relevant planning policy framework, identifying potentially difficult issues early and establishing timescales and administrative procedures. Evidence from consultations as part of this research has highlighted the continued importance placed on these discussions by both local planning authority and developers alike, as a way of providing clarity of both perspectives and encouraging openness and transparency about policy requirements. Good practice highlights that pre-application meetings should include discussion of Section 106 requirements and indicative Heads of Terms where possible.

Good Practice Example – Pre-Application

Neath Port Talbot has established a pre-application development viability advice request protocol in order to enable developers to discuss at the earliest opportunity the likely planning obligations based on open book viability discussions. The authority has also established a Section 106 Monitoring Group.

Key Issue 9 There is a lack of openness and transparency with regard to site viability assessments.

3.5.3 The Royal Institute of Chartered Surveyors (RICS) professional guidance document 'Financial Viability in Planning' (2012) encourages practitioners to be 'reasonable, transparent and fair in objectively undertaking or reviewing financial viability assessments'. However, consultees (primarily representatives from LPAs) have variously described assessments prepared which present sites as unviable as '*smoke and mirrors*' and '*developer fun and games*'. Whilst it is acknowledged that developers may not be intentionally creating this impression, the lack of openness

⁵ Realising the Potential of Pre-Application Discussions, Welsh Government Practice e Guide 2012

and transparency only serves to fuel the fire. Areas that can cause poor perceptions, particularly when trying to negotiate down affordable housing or other policy contributions, are developer profits, the level of contingency included, and prices paid for land. This often stems from a lack of understanding on the one side of how the development industry works and a distrust of local authority requirements on the other.

- 3.5.4 Even for the purposes of this research, where site specific findings would be anonymised, it was very difficult to encourage developers to provide copies of viability assessments on the grounds of 'commercial sensitivity'. Clearly, a cultural shift is needed whereby increased openness and transparency may lessen the extent to which viability is viewed as a 'black box'. Indeed, this approach is being tested elsewhere in the UK – for example the London Borough of Greenwich are considering introducing a policy *requiring* viability assessments to be in the public domain.
- 3.5.5 It is acknowledged that there is a commercial sensitivity around some areas, for example the price paid for land. Whilst there is a rationale for not being transparent with regard to the land price paid, as this is a commercial transaction that may not be able to be declared, even to the Land Registry, this is different to the valuation of the site, which can be agreed for the purposes of a viability assessment. Elements such as this may therefore need to be redacted from publically available documents; greater transparency (and ultimately greater consistency) around areas such as developer profits would however be an improvement.
- 3.5.6 Greater transparency should prove to be beneficial for all parties; with a more open approach the decision making and requirements of the LPA are also able to be scrutinised, encouraging consistency of approach and public understanding.
- 3.5.7 Without greater transparency, it could be argued that more restrictions rather than less become necessary.

Recommendation Number 14

Developers

Viability assessments prepared to accompany planning applications should be available in the public domain in order to promote greater transparency.

Key Issue 10

The extent to which renegotiation takes place at the development management stage in relation to affordable housing and other policy requirements.

- 3.5.8 Following the submission of a planning application where policy contributions are likely to be necessary, there is typically a period of negotiation and discussion prior to a decision being made; the evidence base of sites sampled from the case study LPAs show that this is indeed the case, and discussions with developers and planning officers have affirmed this. Developers are coming from the perspective of making a scheme cost-effective and would wish to minimise contributions as far as possible, whereas planning officers naturally need to ensure that LDP policy requirements are met.

- 3.5.9 Viability is often used as the premise for resubmission of applications for more economically advantageous proposals – the evidence base showed instances of scheme changes including to type of housing (apartments to houses, two bedroom to three bedroom properties) as well as to density of housing. Revisiting such critical elements of the proposal inevitably leads to renegotiation and perhaps emphasises the point that more detailed work could be beneficial at early stages of site allocation / LDP preparation to properly establish outline viability and site constraints, as well as a buffer being provided in the affordable housing policy in order to accommodate typical changes over time.
- 3.5.10 Although negotiation is an anticipated part of the process (as can be seen in wording of LDP policies and supporting text, which frequently refers to ‘negotiation on a case by case basis’), it results in a significant workload for planning officers. Whilst a degree of negotiation may be inevitable in the planning process, the extent to which it currently takes place represents a ‘bottleneck’ in the planning system, with poor decision-making a possible outcome as planning officers are overwhelmed with complex information at a time of scarce resources.
- 3.5.11 To an extent, the recommendations set out earlier in this report for the LDP preparation stage (relating to preparation of outline viability assessments and the gathering of more and more detailed information prior to site allocation, with sufficient financial buffers included to enable assessments to transcend an economic cycle), together with other recommendations relating to a move towards greater transparency and a focus on skills and training, should assist with reducing the bottleneck at development management stage. A further recommendation is for greater clarity in terms of what LPAs require from developers, specifically policy contributions required. All LPAs in Wales should be encouraged to produce and regularly update Planning Obligations SPG or CIL guidance as applicable, and in line with the policies of the LDP. Developer contributions can then be specified and discussed at pre-application stage.

Recommendation Number 15

Local Planning Authorities

LPAs to ensure that clarity is provided in terms of developer contributions, through for example up to date SPG or CIL and to share good practice between LPAs. Developer contributions to be outlined at pre-application stages.

Key Issue 11

There is a need for flexible and innovative approaches to bring housing delivery forward, whilst at the same time securing social benefit.

- 3.5.12 The policy requirements for affordable housing can later prove restrictive to innovation in delivery of certain models of affordable housing. There is a need for Welsh Government and LPAs to have the ability to exercise some flexibility to enable sites to come forward, at the same time as meeting social and economic

aims and being clear about requirements upfront. It should also be noted that this is also a Welsh Government and local authority wide matter, involving other departments such as housing and corporate policy, in order to effectively consider a range of ideas and opportunities to help deliver affordable housing, such as the use of gifted units or shared equity tenures.

Recommendation Number 16

Welsh Government and Local Authorities

Welsh Government and local authorities to consider more innovative approaches to the provision of affordable housing.

Key Issue 12 Planning appeals can be the first time that a full consideration of viability issues takes place in the public domain

3.5.13 Where agreement is not reached between the LPA and the developer on contributions and site viability this can lead to an appeal during which full deliberation may then take place on the viability issues, with reports submitted by both parties and often with a third party commissioned to take an independent view. This level of evidence would have been beneficial earlier in the process, thus avoiding the expense for all parties of an appeal, and delays to housing delivery. Moreover, some recent examples suggest that as with LDP examination, the evidence submitted may be taken as read due to lack of evidence to the contrary. This may be due to limited knowledge by the LPA or Inspectorate on typical development costs such as strategic and site infrastructure and technical studies.

3.5.14 It is considered that the recommendations outlined for the earlier parts of the process should assist in reducing the instances of appeal as well as improve understanding of the development process at an earlier stage.

3.6 Joint Housing Land Availability Studies

3.6.1 This section highlights particular issues that have arisen in relation to the JHLAS system, together with potential recommendations going forward.

Key Issue 13 Land supply as reported in the annual JHLAS reports has declined for many LPAs, including those with very recently adopted LDPs.

3.6.2 The revised TAN1 (January 2015) altered the JHLAS system, further increasing the emphasis on the importance of a five year land supply for housing and incentivising LPAs to adopt LDPs for their areas. The key changes have been the stipulation that the long established residual method (applying a housing target from an adopted development plan) is the only appropriate means of calculating housing requirement, together with amendments to site categorisation.

3.6.3 The evidence base set out in Chapter 2 of this report, showed that only five out of the eighteen LPAs with an adopted LDP (less than a third) currently have a five year land supply, that eight of the eighteen LPAs have shown a decrease in the housing land supply since 2013, and that fifteen LPAs have shown a decrease

between 2015 and 2016 figures. TAN1 states that where a land supply is below the five year requirement, '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.' Nevertheless, LPAs without a five year land supply feel that they are more vulnerable to challenge at appeal for sites not allocated within their LDP, although there is little evidence to suggest at present that this may be the case.

3.6.4 There have currently been only two 'rounds' of the new JHLAS. Whilst the statistics provided in Chapter 2 and referred to above make for challenging reading, it is likely that the perceived weaknesses in the JHLAS system are a result of issues elsewhere in the planning process. One such example might be the allocation of sites for housing which are essentially undeliverable or only likely to come forward at later stages of the LDP period. With a more rigorous and clearly identified approach for LPAs to adopt where land supply has fallen below five years, coupled with a more rigorous assessment process of sites prior to their allocation and increasing engagement by developers in the process, it is considered that the JHLAS system will 'bed down' in future years.

3.6.5 TAN1 identifies that 'where the AMR identifies a shortfall in the five year housing land supply, the local planning authority should consider the reasons for the shortfall and whether the LDP should be reviewed either in whole or in part'. It is suggested that at this stage when considering reasons and the approach to addressing the problems, there is a stage whereby a proactive approach to unlocking the stalled sites could be introduced. This could involve a policy decision by the LPA to accept a departure to affordable housing percentages on a site which in a revised LDP might be identified as a strategic housing regeneration site. Alternatively or in combination, advice and funding support could be made available by Welsh Government to accelerate the bringing forward of the land. These sites might form part of a Wales-wide programme, as outlined in Recommendation Number 21.

Recommendation Number 17

Welsh Government

Clear guidance to be given as to best practice processes LPAs should follow when the land supply has fallen below five years. To include:

- a) **Consideration given to ways to accelerate the delivery of site allocations;**
- b) **Consideration of special case in policy requirements; and**
- c) **LPAs are able to access advice and funding to assist with unlocking sites.**

Recommendation Number 18

Stakeholders in the Planning Process

The identification and dissemination of emerging good practice in relation to viability will be of benefit to all LPAs in Wales. This should be undertaken by

groups including the Welsh Local Government Association (WLGA), planning officers groups (such as SEWSPG) as well as organisations such as the Royal Town Planning Institute (RTPI). LPAs also to engage in cross border collaboration.

3.6.6 A further possibility to help strengthen the JHLAS system may be the consideration of ways to improve consistency of information. At present although there is a requirement for the provision of consistent data, LPAs provide it in different formats and styles, making it difficult to easily monitor local, regional or national issues of relevance / interest. Ensuring a more consistent approach to data collection across Wales would allow organisations (not only other LPAs and the Welsh Government but also housebuilders for example) to view data and more easily identify trends and issues of interest.

Key Issue 14 There is a need for further independent scrutiny and challenge of disputed sites.

3.6.7 Sites where no consensus can be reached by the Study Group (disputed sites) are subject to the preparation of a statement of common ground (SoCG) setting out the extent of agreement, following which the SoCG undergoes a review process with the Planning Inspectorate. Whilst this is considered to be a robust process, it is only as useful as individual parties make it – disputed sites can still be placed back in the five year land supply by the Planning Inspectorate on the basis of evidence before them, but still then not progress; there is also anecdotal evidence that suggests Planning Inspectors may benefit from better guidance to improve consistency of decision-making.

3.7 Wider Issues

3.7.1 Wider issues that have been identified, which may not relate to any specific stage in the planning process, are highlighted below, together with recommendations as appropriate.

Key Issue 15 Viability is a complex subject that can be difficult to fully understand by people outside of the housebuilding profession.

3.7.2 RICS Professional Guidance identifies that *‘a certain degree of knowledge and understanding is required of planners and decision-makers as to the viability implications of all of the requirements placed on development.’* Evidence from consultations with local planning officers confirmed that development viability is a complex subject; officers may lack confidence in applying viability knowledge particularly when negotiating with volume housebuilders for whom the preparation of viability assessments may be ‘bread and butter’. Elected members too, can find the technical viability information supporting planning applications to be daunting. There is a risk of poor or inconsistent decision-making when officers lack resources, capacity or skills.

3.7.3 Local authorities face many competing demands for officer time, often coupled with restricted officer resources. The emerging emphasis on deliverability and viability as a crucial aspect of plan-making and development management has led to further

pressure. Collaboration and dialogue between individual local authorities is acknowledged to be useful in sharing best practice, as is the work of planning officer groups in North and South-East Wales. Emphasis could be given to using partnership working practices and groups to explore ways in which understanding of viability could be further developed.

Recommendation Number 19

Welsh Government / Local Planning Authorities

There is a need for greater awareness and understanding of viability amongst local authority officers and elected members. Possibilities include the dissemination of good practice, collaborative working between LPAs and the use of local and national training events for Planning Officers.

Key Issue 16 Planning officers and developers can each benefit from collaborative working practices on viability.

3.7.4 Evidence from consultations has shown that there can be a clear disconnect between the objectives of planning officers and those of developers. This can be illustrated by the sometimes adversarial approach to development management, a concern on the one hand that developer profits are being 'hidden' from the process, and concern on the other hand that there is a lack of a commercial viewpoint or understanding necessary to deliver homes. There are instances in Wales, however where closer working practices have been developed between local authority officers and housebuilders. In RCT, the quarterly meeting of a 'developer forum' (see good practice box below), for example, has helped develop understanding on both sides. The Harman Report (2012) emphasises the importance of a collaborative and co-operative approach as a way to ensure the equal development of expertise and understanding in local government and the house-building industry.

Good Practice – Collaborative Working

Developer Forums were introduced in RCTCBC three years ago and are attended by local developers, RSLs and planning officers. The purpose of the forums, which meet quarterly, is not only to discuss individual sites but also to develop an understanding of the different perspectives held by local authority officers and developers. Local authority officers have developed a greater understanding of the commercial drivers for individual projects, with developers equally being able to understand policy needs and requirements. Officers consider that the Developer Forum practice has led to a reduction in lengthy negotiations at development management stage as many problems and issues can be ironed out earlier.

Key Issue 17 **Wales currently lacks detailed, clear guidance in relation to viability.**

- 3.7.5 Currently, Planning Policy Wales points to both the Harman Report (2012) and RICS Professional Guidance (2012) as good sources of information relating to viability. The LDP Manual (2015) notes that *‘when putting forward sites, developers and landowners should include sufficient data to allow a robust assessment to be made, including affordable housing, community infrastructure and that the development is financially viable’* (para 5.3.4.5).
- 3.7.6 The majority of LPAs consulted during this research were of the opinion that a single clear guidance document is necessary to cover the many aspects of viability and to address the variety of perspectives. For example, awareness and understanding of viability also varies amongst the housebuilding industry, with some smaller / local housebuilders having much less understanding of viability / market issues than volume housebuilders. The guidance could form a starting point for building up the skills base within LPAs, through the provision of simple, clear and consolidated guidance.

Recommendation Number 20

Welsh Government

Clear guidance about the role of viability and expectations within the planning process should be developed.

A further guidance leaflet could be developed for local developers and disseminated by LPAs.

Key Issue 18 **There are sites which may not be easily deliverable or viable but would deliver strategic regeneration benefits**

- 3.7.7 A consistent theme from the research is that there are certain sites which are in LDPs that have not come forward due to abnormal costs of contamination, market demand, requirements for strategic infrastructure or land ownership constraints. Some of these sites might never come forward as there is not the demand for homes in those areas (and would be most appropriately de-allocated); however there are other strategic sites that would offer wider strategic regeneration benefits and can come forward if certain constraints can be addressed.
- 3.7.8 A strategy to bring forward strategic housing regeneration sites could be developed, together with appropriate expertise and funding to support their delivery. Whilst such a strategy would need to be Wales-wide, it would also tie in with recent funding and policy developments, notably the securing of £1.2billion investment in the Cardiff Capital Region as a result of the City Deal, affecting ten of Wales’ local authorities. The City Deal commits the Welsh Government and the Cardiff Capital Region to a new partnership approach to strategic planning, in order to ensure the delivery of housing development and regeneration. There would need to be criteria for sites to form part of the strategy, which might include that sites need to demonstrate high credentials in terms of sustainable development and place-making, such as aligned to transport hubs on the South Wales Metro, or addressing

contamination and industrial legacy; that there is a proven need and demand for housing in that area; and such an intervention is the best means of addressing the sites' issues. Consideration of best value in terms of costs required compared to other sites delivering similar benefits would also be beneficial.

- 3.7.9 Measures forming part of the delivery of the strategy might include specific policy or planning advantages, an advisory service to support the complexities of assembling sites and infrastructure; financial grants for remediation or land purchase and/or loans for up front strategic infrastructure that can be paid back as the development builds out to assist cash flow and risk.

Recommendation Number 21

Welsh Government / Local Authorities

Welsh Government and Local Authorities to develop a delivery programme for strategic housing regeneration sites in Wales.

APPENDIX A

List of Workshop Attendees

North Wales Workshop, Monday 21st September

Denbighshire County Council	Lara Griffiths, Senior Planning Officer
Flintshire County Council	Andy Roberts, Service Manager Strategy
Gwynedd & Anglesey Joint Planning Unit	Rhodri Owen, Joint Planning Policy Unit Manager.
Snowdonia National Park	Rebeca Jones, Senior Planning Officer
Wrexham County Borough Council	Nic Corbishley, Planning Policy Manager

South Wales Workshop, Wednesday 23rd September

Welsh Local Government Association	Jane Lee
Caerphilly County Borough Council	Victoria Morgan, Principal Planner
City and County of Cardiff	Matthew Williams, Strategic Planning Caren Richards, Strategic Planning
Merthyr Tydfil County Borough Council	Craig Watkins, Planning Officer
Swansea City Council	Tom Evans, Team Leader Strategic Planning Andrew Burrows, Burrows-Hutchinson Ltd Rachel Willis, Planning Officer
Powys County Council	Peter Morris, Professional Lead Planning Policy
Torfaen County Borough Council	Adrian Wilcock, Principal Planner Forward Planning
Bridgend County Borough Council	Richard Mathams, Development Planning Team Leader

APPENDIX B

Case Study LDPs – Local Planning Policy Context

Carmarthenshire County Council Local Policy Context

Relevant Document	Key Points
Phasing and Housing Trajectory Topic Paper 14 (July 2013)	Illustrates how it is anticipated that housing allocations would contribute to the delivery of the housing land requirement identified in the LDP, providing an estimate of the number of dwellings to be delivered each year over the Plan period. Focus on environmental and infrastructure constraints.
Assessment of Sites Paper (June 2011)	Site deliverability included as assessment criteria (likely to be restricted to environmental and infrastructure constraints only).
Affordable Housing Viability Study (2011, with Update Report May 2013)	2013 Report provided a refresh of the original 2011 study. A 20% affordable housing target was originally proposed across the county; a split target now preferred with a target of 30% in higher value areas (Llandovery and Llandeilo, St Clears and Carmarthen) and 20% elsewhere.
Planning Obligations Supplementary Planning Guidance	Adopted December 2014; includes affordable housing contributions.

Conwy County Borough Council Local Policy Context

Relevant Document	Key Points
Site Deliverability Assessment (August 2012)	Background paper to accompany the revised deposit LDP. Stage two site assessments included primarily environmental / infrastructure deliverability criteria. Site information relating to land ownership was included where known, otherwise no viability information sought (reference given to Affordable Housing Viability Study).
Affordable Housing Viability Study (March 2011)	Highlighted considerable variation in residual values achieved across Conwy CBC and in particular the viability differences between the range of sub-markets. Advocates a split target (although noted this does not fall in line with the single target of 50% advocated in the Council's Housing Delivery Statement adopted in April 2009).
Site Viability Assumptions Paper (March 2011)	Background paper to support LDP preparation and to inform preparation of Affordable Housing Viability Study. Uses the Three Dragons Development Appraisal Toolkit (DAT) to set out the assumptions for the assessment of the viability of sites with potential for housing.
Supplementary Planning Guidance 'Planning Obligations' (adopted July 2014)	Separate supplementary guidance in relation to affordable housing is currently in production.

CIL Background Paper – Viability Assessment report (June 2015)	Andrew Golland Associates appointed to assess the impact of the Council's relevant policies on plan viability.
Annual Monitoring Report (2015)	The first AMR to be prepared since the adoption of the LDP. Lack of a 5 year housing land supply highlighted as a significant concern; whilst no review is proposed at this stage, the issue will be a key consideration for the future.
Pre-application Development Viability Advice Request Protocol	Established by the LPA in order to enable developers to discuss at the earliest opportunity the likely planning obligations based on open book viability discussions. A Section 106 Monitoring group has also been established.

Monmouthshire County Council Local Policy Context

Relevant Document	Key Points
Affordable Housing / Strategic Viability Study (2010)	Identified possibility of a slit target across the County, with analysis suggesting that a target of 60% affordable housing without grant would not be unrealistic in certain of the rural submarkets (notably the Rural North West and Rural South East). Update note prepared in September 2012 providing updated analysis and potential affordable housing requirements.
Affordable Housing Strategic Viability Study (Strategic Sites) (May 2011)	Following on from the Affordable Housing / Strategic Viability Study, a further report was prepared to consider whether there are issues about the economics of developing sites that the Council may need to be aware of in allocating sites. The report considers the six strategic sites of Fairfield Mabey (Chepstow), Crick Road (Caldicot), Rockfield Farm (Undy), Wonastow Road (Monmouth), Deri Farm (Abergavenny) and Sudbrook.
Annual Monitoring Report (2015)	Notes that Monmouthshire can demonstrate a 5.0 year housing land supply and that affordable housing policy targets are being met in relation to planning permissions granted in the main towns and Severnside settlements. Indicator targets and monitoring outcomes currently not being achieved include limited progress with the number of dwellings built and limited implementation of LDP allocated housing sites.
Affordable Housing Supplementary Planning Guidance	Adopted March 2016.
CIL Viability Assessment (July 2014)	Prepared using the Three Dragons residential toolkit and the Peter Brett non-residential model to assist with determining proposed CIL charging schedule for residential and non-residential uses.

Newport City Council Local Policy Context

Relevant Document	Key Points
Affordable Housing Viability Study (2012)	Identifies that a split target approach would reflect more specifically local market circumstances, although noted that the Council will need to take into account the pattern of potential land supply for housing. Setting a lower (than overall at 30%) target for some locations (e.g. Newport East) may not optimise delivery of affordable housing since there will inevitably be 'hot spots' in some of these generally weaker sub-markets.
Affordable Housing Background Paper (December 2013)	Affordable housing threshold of 30% proposed for the revised deposit LDP.
Delivery and Implementation Background Paper (June 2013)	
Newport CIL Viability Assessment (October 2015)	Identifies proposed residential development in Newport over the Plan period that may be CIL liable.

Neath Port Talbot Local Policy Context

Relevant Document	Key Points
Candidate Sites Assessment Report	Detailed assessment of sites included three questions relating to deliverability and viability, namely: <ul style="list-style-type: none"> • Are all landowners in agreement with the proposed land use? • Are there any restrictive covenants relating to the use of land/buildings contained within the proposed site? • Are there any other land uses on the site that are unable to immediately vacate?
Affordable Housing Viability Study (2012)	Methodology was broadly based on Three Dragons approach, with data also commissioned from Valuation office Identified significant differences in residual value across six sub-market areas, creating a strong case for the Council to promote a split affordable housing target.
Affordable Housing Topic Paper (September 2014)	Sets out issues to be addressed by the LDP in terms of: <ul style="list-style-type: none"> • Setting a suitable target threshold for contributions to affordable housing; • Maximising the supply of affordable housing through the planning system; and • Providing a flexible approach.
Affordable Housing Viability Assessment Procedures (March 2014)	Sets out and explains viability assessment guidance notes for applicants.

LDP Implementation Plan (August 2013)	<p>Identifies the anticipated scale, spatial distribution and timing of new development over the Plan period and highlights specific issues that will influence the rate at which development will occur.</p> <p>Includes site specific housing trajectory information, based on assessment of range of factors including deliverability.</p>
Deposit LDP Infrastructure Delivery Plan (August 2013)	<p>Seeks to provide an effective information and evidence base allowing the formulation of a viability analysis for a CIL charging schedule.</p>
Supplementary Planning Guidance on Affordable Housing (May 2014)	
Supplementary Planning Guidance on Planning Obligations	<p>SPG anticipated to be published in October 2016.</p>

APPENDIX C

Case Study LDPs – LDP Policy Wording and Content

LPA	LDP Policy Wording and Content
Carmarthenshire	<p>Policy AH1 Affordable Housing</p> <p>Affordable housing targets set at 30%, 20% and 10% for sub-market areas.</p> <p>‘where variability at the target levels cannot be achieved, variation may be agreed on a case by case basis’</p> <p>‘where an open market residential site falls below the above thresholds, a contribution through a commuted sum towards the provision of affordable housing will be sought. The level of contribution....will vary based upon its location within the high, medium and low viability sub-market areas’</p> <p>Supporting text for the policy ‘acknowledges the role of negotiations and where applicable, allows the LPA and developers to agree upon an affordable housing target if a lower viability is justifiable and necessary for a development to come forward’.</p>
Conwy	<p>Supporting text sets out that a ‘flexible policy approach to affordable housing contributions through negotiation and viability assessments....provides the basis for a realistic and achievable (housing) target’.</p> <p>Strategic Policy HOU/1 Meeting the Housing Need</p> <p>‘Tier 2 Main Villages, will seek to achieve 100% affordable housing for local needs, subject to viability’</p> <p>Strategic Policy HOU/2 Affordable Housing for Local Need</p> <p>Split affordable housing target of 35%, 30%, 20% and 10% for the main urban areas and Tier 1 villages.</p> <p>‘A lower provision may be acceptable where it can be clearly demonstrated and supported by the submission of evidence including completion of a Viability Assessment Pro-forma’.</p> <p>The LDP includes a section specifically on viability, referring to the LPA’s own evidence base on the financial viability of housing development, and reiterating the policy assumption that ‘land purchase costs are negotiated on the basis of taking on board known planning obligations as identified in the Plan and known constraints’.</p>
Monmouthshire	<p>Affordable housing target of 35% / 25% / 60% on rural sites.</p> <p>Policy S4 Affordable Housing Provision</p> <p>‘....development sites will make provision (subject to appropriate viability assessment)....’</p> <p>Policy S7 Infrastructure provision</p> <p>‘Planning Obligations may be sought to secure improvements in infrastructure, facilities, services and related works....In identifying appropriate contributions due regard will be paid to the overall development viability. In the event that viability considerations indicate that not all the identified contributions can be reasonably required, priority contributions will be determined on the basis of the individual circumstances of each case’.</p>

Neath Port Talbot	<p>Policy I1 Infrastructure Requirements</p> <p>Supporting text identifies that ‘the Authority will take into account the financial viability of the development proposal and the costs of the proposed new or improved infrastructure. Where necessary, the Authority will require that developers make available financial information to demonstrate the level of viability of a particular development.’</p> <p>Affordable Housing</p> <p>‘The LDP will seek to maximise the delivery of affordable housing through setting thresholds which will maximise contributions towards affordable provision without having a detrimental effect on development viability and consequently on build rates’.</p> <p>Policy AH1 Affordable Housing</p> <p>(split target of 25% / 10%)</p> <p>‘the exact affordable housing contribution to be provided will depend on the circumstances of each proposal and the viability of the scheme’</p> <p>‘The Council acknowledges there may be exceptional circumstances where achieving the target percentages may result in a development not being economically viable. In such circumstances the Authority will require evidence from the developer to demonstrate the economic viability of the sites is affected by genuine economic constraints.’</p>
Newport	<p>Policy SP13 Planning Obligations</p> <p>Supporting text notes that ‘the level of affordable housing provision will be set at a rate that reflects individual site viability, based upon ‘open book’ appraisals and potentially independent third party analysis.’</p> <p>Policy H4 Affordable Housing</p> <p>(split target of 40% / 30% / 20% / 10%)</p> <p>Policy wording includes that ‘specific site targets may vary subject to viability and negotiations’.</p> <p>Supporting text notes that ‘where a developer can demonstrate to the satisfaction of the Authority that the expected percentage is not deliverable, they may negotiate with the LPA to ensure delivery of a reasonable number of affordable homes, which contributes to meeting the needs of the area.’</p>

APPENDIX D

Case Study LDPs – Findings from Examination

LPA	Key Points
Carmarthenshire	<p>Revised affordable housing contribution percentage targets and thresholds and consequential amendment to overall affordable housing provision target.</p> <p>The review of site allocations includes statements such as there is ‘little to suggest that the site cannot be delivered during the Plan period’; however perhaps evidence is lacking to the contrary.</p> <p>Representations made by the HBF indicate that <i>‘provided the housing sites allocated are viable and deliverable and the Council has a clear focus on delivering housing, its members are confident that the planned number of homes could be delivered. Furthermore, whilst acknowledging that the target is challenging, the area has an attractive market and has interest from all the major developers in Wales. As such, there are no indications that there would be any issues in respect of the capacity of the industry to deliver.’</i></p> <p>Updated development appraisal work undertaken at Examination stage to re-assess residual value calculations in the four lowest value sub-market areas on sites built at densities of 30dph and 40dph. Initial viability appraisals were more general in scope with respect to prices and largely driven by second hand sales, whereas the revised work considered a number of new build schemes, unit sales and sizes. Reduction made in affordable housing targets in some of the lower sub-market areas.</p> <p>In relation to viability assessments, the Inspector’s Report emphasises that ‘the factors influencing the housing market could change, such as build costs, the availability of finance or financial support for affordable housing; and that modest house price increases could off-set the anticipated cost of sprinklers and additional s106 contributions.’</p> <p>Acknowledged that abnormals are subject to variation from site to site and will need to be factored into viability assessments at an appropriate stage.</p>
Conwy	<p>Evidence displayed a disconnect between the positions of local authority officers and developers, with the Inspector’s Report citing that <i>‘it has previously been accepted by stakeholders that development land values up to £1 million per hectare should be assumed, whilst CCBC appears to regard any increase in value as an indication of viability’.</i></p> <p>No clear evidence was made available to the Examination as to anticipated development land prices.</p> <p>Conclusion that because ‘viability is relative to individual circumstances’, a more flexible approach to affordable housing contributions is needed.</p> <p>No evidence was submitted at Examination to suggest that the necessary rate of building cannot be achieved in the County (as a result of the</p>

	<p>capacity of the local housebuilding industry to deliver).</p> <p>The Inspector's Report identified that in relation to the appraisal and selection of new housing sites for ten or more dwellings, the submitted evidence base was unchallenged in its essential methodology and that plan allocations were based on sound evidence (but noted that this primarily relates to evidence of environmental or infrastructure constraints).</p> <p>Site specific viability appraisals were undertaken during the Examination stage in relation to a number of strategic sites.</p>
Monmouthshire	<p>The main changes at Examination relate to increasing the quantity of housing provided, the allocation of additional sites and extensions to existing strategic sites where possible.</p> <p>The Inspector's Report noted that Monmouthshire CC made use of a traffic light assessment in assessing Candidate Sites and that this is something of a 'blunt tool' in that criteria vary significantly but are not weighted. However noted that this has been a starting point for assessment, bolstered by other forms of evidence as LDP preparation has continued.</p> <p>Housing trajectory information provided during the Examination. Some of the Council's forecasts might be optimistic, however found that a five year supply of housing land will be available at least during the first years following adoption.</p> <p>Whilst for strategic sites, it is acknowledged that affordable housing percentage contributions are set at the top end of the range and will form the basis for negotiation, it is noted that the affordable housing requirement of 60% for sites allocated in the main villages is non-negotiable and without this development will not take place. Also notes that 'all village allocations are made on sites which have a willing landowner... This assists viability in that the landowner is aware from the outset that the reason for the allocation is the provision of affordable housing and they adjust their expectations accordingly'.</p> <p>Noted that in relation to certain strategic sites, which may be brownfield and therefore complex in nature, delivery timescales have already slipped.</p> <p>The Inspector's Report notes that <i>'the fact that a planning application has been submitted does not conclusively demonstrate deliverability'</i>.</p>
Neath Port Talbot	<p>Review of sites allocated for housing identified concerns over a number where there had been no progress for many years. Revised timetables, trajectories and proposed number of units for such sites.</p>
Newport	<p>Affordable housing contribution levels adjusted so as to reflect local housing market area evidence concerning housing development viability.</p> <p>The AHVS not considered to provide a robust basis for a policy seeking a uniform 30% level of provision, even allowing for negotiation of a lower level of provision on the basis of individual site viability. As a result, different levels of affordable housing provision are now sought, including provision for contributions by way of commuted sums. Although NCC</p>

argue that in doing so, it may not be able to achieve higher proportions of affordable housing on some sites.

Removal of housing sites from the LDP with specific delivery constraints (for example flood risk) and identification of additional housing sites in their place so as to provide greater certainty that anticipated housing requirement over the plan period can be delivered. Sites also removed as a result of requirement of third parties or landowners to undertake works. Capacity of other sites also reduced in accordance with other ecological policies for example.

Site specific evidence in relation to key sites indicated that delivery rates will accelerate. Some questioning of whether the Eastern Area Extension can sustain level of completions put forward per annum; respective developers remain confident of the prospects for their sites. Noted in Inspector's Report that 'there will always be an element of uncertainty about future delivery rates'.

Inclusion of sums per unit relating to section 106 obligations, from empirical evidence. Cost of sprinklers considered to be accommodated within house prices.

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