Housing

Version no	**1.3**
Date of last update/review	**March 2026**
Responsibility of	**Subject Lead for Housing**
Amended advice provided on 'residential annexes' and 'decision-making for LPAs lacking an LDP or with an expired LDP'	

Key legislation and policy

Legislation	• Town and Country Planning Act 1990 ('TCPA') • Planning and Compulsory Purchase Act 2004 ('PCPA') • Town and Country Planning (Local Development Plan) (Wales) Regs 2005 (as amended) ('LDP Regulations')
National policy and guidance	• Planning Policy Wales (PPW) Ed 11 section 4.2 (Feb 2021) • Dear CPO Letter on 'Changes to planning policy and guidance on the delivery of housing', 26 March 2020 • Development Plans Manual Edition 3 • Circular 06/2014 'The Use of Planning Conditions for Development Management' • Technical Advice Note (TAN) 6 'Planning for Sustainable Rural Communities' • TAN 6 Practice Guidance 'Rural Enterprise Dwellings'
Caselaw	• Fawcett Properties Ltd v Buckingham CC [1961] • Macklin & others v SSE & Basingstoke and Deane Borough Council [27 September 1995] • Keen v SSE and Aylesbury Vale DC [12 May 1995] • Sevenoaks DC v SSE & Mr & Mrs Geer [1995] • Hambleton v SSE & Others [1994] • Thomas v NAW and Monmouthshire CC [1999] • Gravesham BC v SSE and O'Brien [1983] JPL 306 • Uttlesford DC v SSE & White [1992]
Ministerial decisions	• APP/K6920/A/19/3226294

Housing delivery/supply

National policy

1. On 26 March 2020 Technical Advice Note (TAN) 1 'Joint Housing Land Availability Studies' was revoked and section 4.2 of PPW was amended to remove the requirement for Local Planning Authorities (LPAs) to maintain a 5-year supply of housing land.

2. Although national policy still requires LPAs to secure a healthy supply of housing, the above changes mean that an authority's future housing land supply has become a matter to be tested at Local Development Plan (LDP) examinations rather than tracked via annual Joint Housing Land Availability Studies. In future, progress against the planned housing supply will be monitored via **housing trajectories** included in an LDP's **Annual Monitoring Report (AMR)**.

3. This means that, at appeal, the question about an authority's housing position has changed to one of **past housing delivery** (i.e. completions) measured against the planned LDP trajectory, rather than **future housing supply** (i.e. permissions) measured against a 5-year supply figure.

AMRs and housing trajectories

4. Edition 3 of the **Development Plans Manual (DPM)** was published at the same time as the Dear CPO letter of 26 March 2020. This provides guidance to LPAs on compiling housing trajectories for inclusion in AMRs.

5. As per Section 76 of the PCPA and LDP Regulation 37, all LPAs with an adopted LDP must publish and submit an AMR to the Welsh Government. The DPM states that this should be done by **31 October** each year. AMRs are to cover the period 1 April to 31 March and must be published after the first full financial year following an LDP's adoption (and annually thereafter).

6. AMRs for the period 2018-19 preceded the publication of the DPM and revocation of TAN 1. Further, WG has told LPAs that due to the Covid-19 pandemic they are not required to produce AMRs for 2019-20. Standardised AMR housing trajectories using the terminology expressed in the DPM are therefore not likely to be in the public domain for some time. Older AMRs will, however, include relevant data on housing completions. In the absence of data for the 2019-20 period, you may attribute significant weight to data from the previous year, unless compelling evidence is submitted of a change in circumstances in the intervening period.

7. For all LPAs with an adopted LDP[1] the **Average Annual Requirement (AAR)** method will be used to benchmark actual versus planned housing delivery. For a 15-year LDP the AAR is simply the total housing requirement[2] for the plan period divided by 15. The

[1] I.e. all LPAs apart from Wrexham and Flintshire. Housing delivery in Wrexham's LDP, once adopted, will also be monitored using this methodology. Future LDPs, including Flintshire, will monitor delivery via the 'Anticipated Annual Build Rate' method.
[2] This is different from the LDP's 'housing supply' figure, which will always be higher than the basic housing requirement.

DPM requires housing completions to be presented numerically and as a percentage of the AAR.

8. AMR trajectories will be presented as graphs comparing the LDP's anticipated housing trajectory vs actual delivery in each year following the LDP's adoption. These will be accompanied by **tables** recording the status of the planning permissions and allocated sites which (in combination with annual allowances for small and large 'windfalls') make up the trajectory.

9. The DPM says that LPAs should establish **Housing Stakeholder Groups** featuring representation from appropriate bodies such as housebuilders, Registered Social Landlords and infrastructure bodies. These groups should be used to agree future delivery timescales for sites included in the trajectory. The DPM makes it clear that the final judgement about a site's ability to contribute to future supply lies with the LPA, but that any dissent should be recorded in a transparent manner. Disagreements are, however, likely to focus on future start dates and build-out rates rather than housing completions. The change to national policy means that such concerns are for LDP reviews/examinations rather than decision-making.

Decision-making for LPAs with an up to date LDP

10. The AMR will state how many housing completions there were in the most recent monitoring year and the number of cumulative completions since the LDP's base date. Whilst PPW does not explicitly say so, the cumulative total will be the most pertinent measure of whether an LDP is delivering housing as planned. A surplus in the most recent monitoring year will not by itself demonstrate than an LPA's housing need is being met.

11. An illustration of the performance of two adopted LDPs in South Wales is provided in the **annex**. Actual completions are plotted against the planned trajectory, using the AAR method. In short, LPAs which have not sustained a 5-year housing land supply are also likely to struggle to demonstrate that housing completions have kept pace with planned trajectories.

12. PPW para 4.2.23 says that "Infill and windfall sites can make a useful contribution to the delivery of housing. Proposals for housing on infill and windfall sites within settlements should be supported where they accord with the national sustainable placemaking outcomes" (NSPOs).

13. One objective of the *'Creating and Sustaining Communities'* NSPO is to secure *'Homes and jobs to meet society's needs'*. If the number of housing units completed in an LPA's area has kept pace with that planned in the adopted LDP (benchmarked against the AAR), the LPA's housing needs will be being adequately met and any 'additional' contribution provided by a windfall development is likely to carry more limited weight as a benefit. Where the site lies outside a settlement this weight is likely to be negligible.

14. Conversely, where housing delivery has fallen short of the LDP's AAR trajectory, PPW para 4.2.23 indicates that all windfall sites can make a useful contribution to housing delivery. Other paras also underline the importance of housing delivery, e.g.:

- "Planning authorities must understand all aspects of the housing market in their areas, which will include the requirement, supply **and delivery of housing**. This will allow planning authorities to develop evidence-based market and affordable housing policies in their development plans and **make informed development management decisions** that focus on the creation and enhancement of Sustainable Places" [emphasis added] (4.2.1)
- "The planning system must: identify a supply of land to support the delivery of the housing requirement to meet the differing needs of communities across all tenures…and focus on the delivery of the identified housing requirement and the related land supply" (4.2.2)
- "The supply of land to meet the housing requirement proposed in a development plan must be deliverable" (4.2.10)
- "Planning authorities should also identify where interventions may be required to deliver the housing supply, including for specific sites" (4.2.12)

15. Any weight to be attached as a benefit will be a matter for you to judge but is likely to be influenced by: the extent of the past shortfall in delivery; the persistence of a shortfall over time; the degree to which a proposal could address that shortfall; whether there are alternative, deliverable allocated sites or windfall sites within settlement boundaries which could achieve similar aims to a proposal; and whether the adoption of a replacement LDP is imminent. The latter is a particularly relevant consideration given the plan-led approach to housing delivery embedded in PPW.

16. These factors must be balanced against the proposal's accordance with all NSPOs and relevant LDP policy objectives. When doing so, note that the requirement to monitor past delivery is quantitative and does not require an assessment of the qualitative nature of supply (including tenure) in relation to housing need.

17. Allowing an appeal will not immediately address historic under-delivery. The LPA may put it to you that other 'pipeline' permissions anticipated to be built out during the plan period will address past shortfalls. This argument is unlikely to be determinative as WG policy and guidance indicate that housing delivery is measured by completions rather than planning permissions. There can also be no certainty that pipeline permissions will be delivered as anticipated. Nonetheless, where there are legitimate concerns about the viability or deliverability of a proposal before you, its potential benefits in addressing a past shortfall may carry less weight as a result.

18. Where an appeal is allowed it might be that some or all permitted units would only be completed after the expiry of the adopted LDP's plan period. However this should have little bearing on your decision as it is likely that any future replacement or amended LDP would need to address historic shortfalls in any case.

19. In October 2020 the Minister dismissed an appeal for a housing development on an unallocated site against the Inspector's recommendation (Ref: APP/K6920/A/19/3226294). Whilst the Minister disagreed that the benefits of the proposal would outweigh the conflict with LDP policies, the decision does not comment on the approach taken by the Inspector in attributing weight to factors relating to that plan's failure to deliver housing to meet identified needs. It does, however, reinforce the importance placed by PPW on prioritising allocated sites and

windfall sites within settlements ahead of greenfield proposals which do not accord with an LDP. The deliverability of alternative sites is therefore an important consideration which may require consideration at appeal, with the planning balance ultimately a matter for the decision-maker.

20. As national policy no longer requires a 5-year land supply you should not refer to this in your decision unless other parties have raised it.

21. The absence of an AMR for the most recent monitoring year should not normally count against an LPA unless its publication has clearly been delayed beyond the 31 October date with no due cause or explanation. In the absence of an up-to-date AMR housing trajectory, it may be legitimate to attribute weight to the findings of the previous year's AMR. This includes, for the 2018-19 monitoring year, the housing land supply position determined from that year's JHLAS.

22. If the LPA intends to rely on a figure included in a draft version of an AMR, the weight you attach to it will depend on the stage it has reached. A draft AMR which is evidently nearing publication and submission to the WG, and where engagement with a Housing Stakeholder Group has been completed, is likely to carry significantly more weight than an early draft.

Decision-making for LPAs lacking an LDP or with an expired LDP

23. As Wrexham has not adopted an LDP they are not required to prepare an AMR. In any case the plan periods covered by both UDPs have passed.

24. Several other LPAs' LDPs have reached the end of their plan period. Once the plan period has expired there will be no mechanism by which to determine whether housing delivery has kept pace with that anticipated in the LDP.

25. In such cases the LPA may have produced a recent local housing needs/market assessment to inform an emerging LDP. Studies of this type will forecast future needs but, until an LDP has passed examination, there can be no guarantee that any identified needs will be adequately met by allocations and policies included in an emerging LDP. Moreover, housing delivery is now monitored retrospectively, i.e. after an LDP's adoption.

26. Consequently, in these circumstances your starting point should normally be that housing delivery has not been adequately planned for in the LPA's area. You should go on to determine the acceptability of the proposal in the light of the NSPOs and relevant policies of the adopted plan (if there is one).

27. Additional advice in respect of about how to approach casework where the LDP ceases to have effect is contained in Advice Note 5 (December 2025): https://documents.hf.wales.gov.uk/id:A60665450/document/versions/published

Other housing issues

Affordable housing

28. Affordable housing is likely to constitute a main issue where the LPA contends that affordable housing should be provided but it isn't; or where the LPA considers the provision being made is not sufficient or is not of the right mix. In such circumstances you could describe the main issue as "Whether the proposed development would make adequate provision for affordable housing".

29. The provision of affordable housing may also be an 'other matter' that weighs in favour of a proposal. This may be the case where it would help to meet an identified and outstanding need (even where the provision of affordable housing is already required by development plan policy).

30. PPW recognises 'intermediate housing' products[3] as affordable housing alongside social rent. Note that para 4.2.26 says that where schemes provide for 'staircasing' to full ownership, arrangements should be secured to recoup capital receipts for providing replacement affordable housing.

31. Planning applications that comply with LDP policies should normally be assumed to be viable, unless clear and transparent viability evidence is provided to justify a sub-target level of affordable housing.

32. Circular 06/2014 confirms that planning obligations, and not conditions, should be used to control matters such as tenure, price or ownership.

Housing outside settlement boundaries

33. New housing proposed outside existing settlements may be refused by an LPA where it is alleged that there is conflict with strategic/spatial LDP policies. This may arise where a site adjoins or is near the edge of a settlement (whether or not defined by a settlement boundary).

34. You should be clear of the underlying concern behind the reason for refusal, even if not immediately apparent. Be led by the **objectives of relevant LDP policies** and assess whether there would be harmful conflict with each. Such policy objectives may relate to:

    - Securing a distribution of development across an LPA's area according to a settlement hierarchy / spatial strategy
    - Avoiding car-reliant development
    - Protecting the character/appearance of the countryside/rural settlements
    - Focusing development where it would support the vitality/viability of settlements.

35. "Outside a designated settlement boundary", "within the open countryside" and "rural" do not always mean the same thing. Be clear about the site's geographic context and describe it accurately and consistently.

[3] NB 'discounted market housing' is not an intermediate housing product.

Rural enterprise dwellings

36. Appeals concerning rural enterprise dwellings usually focus on whether it is necessary for a worker to live at or near their place of work for that enterprise to function properly; and whether that enterprise is likely to endure in the long term. The main issue could be framed as:

    - whether there is an essential need for a dwelling to accommodate a rural enterprise worker; or
    - whether, having regard to national planning policy that seeks to avoid isolated new homes in the countryside, there is an essential need for a rural worker to live permanently at or near their place of work.

37. TAN 6 'Sustainable Rural Communities' and the accompanying 'Rural Enterprise Dwelling Practice Guidance' set out detailed advice on the assessment process for rural enterprise dwellings.

38. You may need to impose a condition limiting occupation to a specific role in connection with an enterprise; to rural workers in the locality (i.e. so it could continue to fulfil an identified local need for rural worker accommodation if no longer needed by the original enterprise); and to any dependants[4], widow/widower or surviving civil partner. If the enterprise is new or not yet established, you may also need to consider whether the accommodation should be provided initially on a temporary basis.

39. There may be a demonstrable need for an additional rural enterprise dwelling on farms where an existing farmhouse is not subject to such a condition. The Courts have held[5] that it can be appropriate to impose a condition restricting occupancy within the existing farmhouse as well as the new dwelling if this is necessary to ensure both dwellings remain available to meet the need and to limit further pressure for new dwellings. If you consider that such a condition may be necessary and the matter has not been raised then you should seek the views of the parties.

40. Sometimes an existing farmhouse is occupied by a farmer who proposes to retire. The proposal may be for a new dwelling for the person who is going to take over running the farm, e.g. a son/daughter and their family. In such circumstances it is relevant to take account of the judgment in *Keen v SSE and Aylesbury Vale DC* [12 May] 1995 where it was found unreasonable to expect a farm worker to relinquish his property on retirement to provide accommodation needed for the functioning of the holding. On the other hand, a retired farmer may still intend to play an active role in the holding's management and may be able to undertake tasks that require a continuous presence. In such cases a further dwelling may not be justified.

41. For appeals concerning the deletion/variation of an existing agricultural occupancy condition, you may need to consider issues such as:

---

[4] *Fawcett Properties Ltd v Buckingham County Council 1961* defined "dependants" as persons living in a family with the person defined and dependent on him/her in whole or in part for their subsistence and support.
[5] Macklin and others v SSE and Basingstoke and Deane Borough Council [27 September] 1995

- whether the original imposition of the condition was appropriate and, in the light of current planning circumstances, whether a rural enterprise justification remains (*Sevenoaks DC v SSE & Mr & Mrs Geer [1995]*)
- whether the condition would still be imposed if the planning application was made now (e.g. where a site was previously in the open countryside but now falls within a settlement) (*Hambleton v SSE & Others [1994])*
- whether the condition has outlived its usefulness, based on current prospects of selling or renting the property to a bona fide occupant, and evidence of continuing local need (*Thomas v NAW and Monmouthshire CC 1999*).

Holiday cottages

42. There is no definition of 'dwellinghouse' in the TCPA but in *Gravesham BC v SSE and O'Brien [1983] JPL 306* it was found that its distinctive characteristic was its ability to afford to those who used it the facilities required for day-to-day private domestic existence. It did not lose that characteristic if it was occupied for only part of the year, or at infrequent intervals, or by a series of different persons. Consequently, a holiday cottage that meets the Gravesham test will usually be treated as a dwellinghouse for the purposes of applying planning policies and not as a commercial leisure use, even if its occupation is restricted by condition. If allowing an appeal for a holiday cottage in a location where a normal dwelling would not be permitted, the description of development cannot be relied upon by itself. You should therefore impose a condition restricting occupancy.

Residential annexes

43. Residential annexes often arise in appeal casework where they would allow for a degree of independent living (e.g. by including a bedroom, kitchen and bathroom). Unlike outbuildings for parking, storage or home gyms, such annexes are not ancillary/incidental to the main dwellinghouse use; rather, they are part and parcel of it.

44. Such accommodation could have the potential to form a separate planning unit, whether or not it is attached to the main dwelling. *Uttlesford DC v SSE & White [1992]* found that even if accommodation provided facilities for independent day-to-day living it would not *necessarily* become a separate planning unit. Whether or not it could be used as such is a matter of fact and degree. In your assessment you should consider physical and functional connections such as:

    - Whether occupants would live as part of the household in the main house and/or whether care would be provided by one set of occupants to another
    - Whether the annex would share facilities with the main house (e.g. access for drivers and pedestrians, parking, garden, services/utilities)
    - The range of facilities that the annex would contain (i.e. which rooms)
    - How the annex and rooms within it would compare in size to the main house
    - Proximity to the main house.

45. If you find that an annex could be used <u>either</u> as an annex <u>or</u> as a separate dwelling, and there are sound planning reasons why the latter would not be acceptable, then you may need to consider the acceptability of imposing a condition to control the

annex's occupation against the tests set out in Circular 06/2014. See the ITM Conditions chapter for more advice.

46. If you find no planning reasons why the annex's independent occupation would be unacceptable, then it may be appropriate to treat the proposal as being for a separate dwelling. Doing so may contradict the description of development applied for. If so, or if your approach would come as a surprise to interested parties in another way, you would need to provide them with an opportunity to comment.

Annex – comparison of future supply vs past delivery

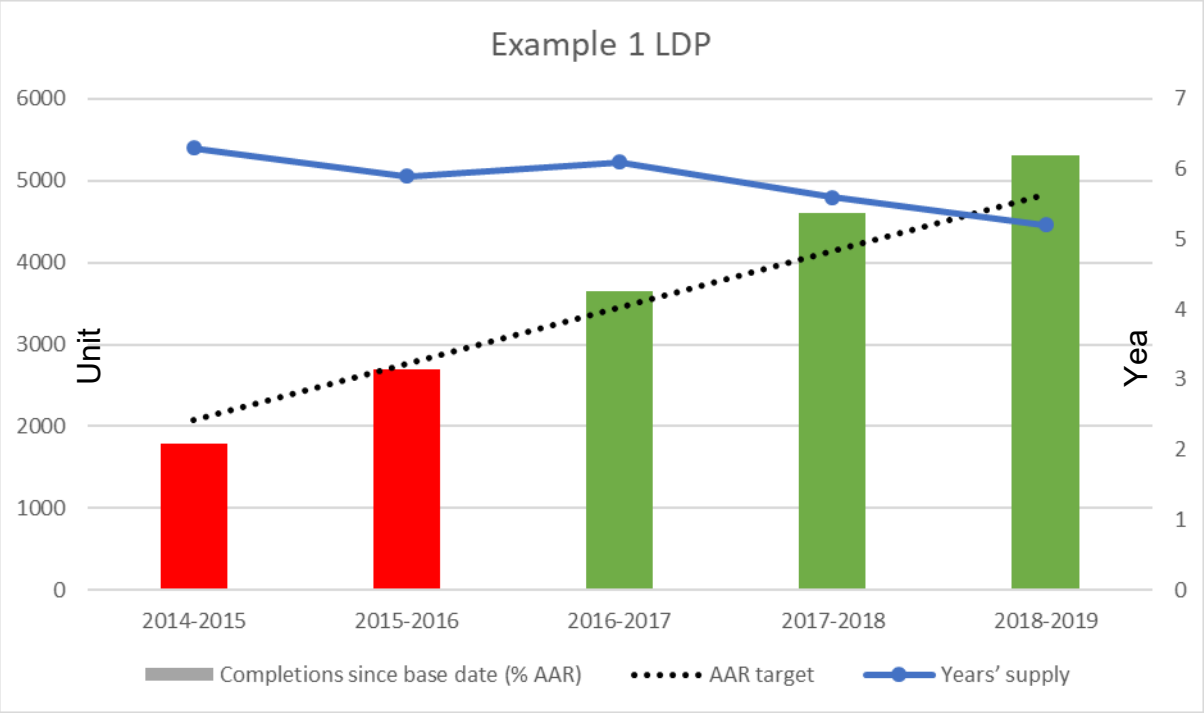
Figures for two LPAs in South Wales are provided below.

Both LPAs have managed to demonstrate a 5-year housing land supply at some point following adoption of their LDPs. Measuring completions against the AAR trajectory shows that, whilst the first example LDP has been largely successful, the second example LDP has consistently failed to deliver housing as planned in the trajectory. This is likely to be the case for many LDPs predicated on 'aspirational' growth forecasts and where sites' deliverability/viability was not tested in detail during the plans' production and examination.

Example 1

- Plan period: 2011 to 2026 (15 years)
- Adopted: January 2015
- Housing requirement: **10,350 units**
- Annual Average Requirement: **690 units** (i.e. 10,350/15)

	Future supply		Delivery	
Period	No. units in 5-year HLS	Years' supply	AAR target	Completions since base date (% AAR)
2014-2015	4,927	6.3 years	2,070	1,789 (86%)
2015-2016	4,518	5.9 years	2,760	2,697 (98%)
2016-2017	4,578	6.1 years	3,450	3,649 (106%)
2017-2018	4,051	5.6 years	4,140	4,600 (111%)
2018-2019	3,741	5.2 years	4,830	5,311 (110%)



Example 2

- Plan period: 2006 to 2021 (15 years)
- Adopted: September 2013
- Housing requirement: **9,690 units**
- Annual Average Requirement: **646 units** (i.e. 9,690/15)

	Future supply		Delivery	
Period	No. units in 5-year HLS	Years' supply	AAR target	Completions since base date (% AAR)
2013-2014	5,392	6.0 years	4,522	3,431 (76%)
2014-2015	5,106	5.4 years	5,168	4,052 (78%)
2015-2016	5,201	5.1 years	5,814	4,589 (79%)
2016-2017	4,237	4.0 years	6,460	4,978 (77%)
2017-2018	3,863	3.4 years	7,106	5,368 (76%)
2018-2019	3,033	2.9 years	7,752	5,947 (77%)

