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The following responses relate to Lichfields experience of the planning system in Wales.

#### **Question 4.1**

There are major costs and uncertainty associated with promotion of housing land that limits those able to effectively participate in the process and ultimately housing delivery.

In Wales the emphasis on a plan led system is fine in theory but the reality is that the timetable for plan preparation is very lengthy and subject to regular slippage creating uncertainty for house builders looking to build up or replenish a supply of housing land. A site promoter needs to be in it for the long haul and be prepared to risk significant up front expenditure to promote a site through the LDP system with little certainty about prospects of success. The political nature of the planning process means that even where a site being promoted performs well against national policy considerations it might not be allocated for 'local' reasons adding to uncertainty and risk.

Front loading the site suitability / deliverability requirements at the candidate site stage in Wales should help weed out poorly performing sites but also adds cost at an early stage when uncertainty of success is highest. It would perhaps be better to seek candidate sites once a preferred plan strategy is in place and there is some guidance on the level of additional housing that might be required.

There is no sanction on LPAs that fail to bring forward a replacement LDP in a timely manner. If a land owner is seeking to promote land for housing outside the existing settlement boundary in Wales there is very little prospect of success outside of the plan making process even if they might otherwise comply with policy requirements. There are a lack of levers within the Welsh planning system for house builders to ensure that they have an adequate supply of land for housing where LDP are not coming forward quickly enough.

There seems to be a prevailing view in Wales that the reason housing delivery is slow is primarily due to house builders land banking, a view that we have heard repeated by senior government officers. This has not been the experience of Lichfields, sites controlled by house builders have generally come forward as soon as planning permission and the requisite conditions have been discharged. We are concerned that there is a lack of understanding even at WG level about how long it can take for sites once they have been allocated to gain planning permission, for conditions to be discharged and site preparation works to be completed. The introduction of SUDS in Wales added an additional level of complexity that lead to at least 18 months of additional delay in bringing one of our sites forward as the differing agencies grappled with the new requirements.

#### **Question 4.2**

Viability is a key issue in Wales as sales values are generally lower than in much of England. This is an issue that was recognised in the Longitudinal Viability Study of the Planning Process undertaken by Arcadis on behalf of Welsh Government in 2017. Changes to the LDP preparation process have taken place following that study which mean that viability is theoretically given greater credence. However, the increased regulatory costs added through more stringent planning policy and building regulation requirements is then limiting the geography where house builders have the confidence

to promote sites through a time consuming, costly and uncertain plan led process.

Lichfields recognise the trends in figure 4.6 of reduced numbers of planning applications and decisions. Our experience is that the slow rate of LDP review limited to a strict plan led system has limited the number of new planning applications as the supply of deliverable LDP allocations are exhausted.

Lichfields recognises the CMA references to the fact that whilst LDP coverage across Wales is at first glance good the reality is that a significant proportion are time-expired and have limited value in providing a forward looking supply of land for new housing. There are reasons for these delays covid, nutrients etc but Lichfields is concerned that the thorny political complexities associated with plan making is all too often the key reason for delay.

In 2016/17 Lichfields analysed the data contained within the Joint Housing Land Availability Studies (JHLAS) site proformas for 14 local authorities in Wales, starting with the JHLAS published following the adoption of the most recent LDP. Our study then tracked delivery on these sites through each subsequent JHLAS. The vast majority of public and private landowners do not build homes themselves, so for most sites a house builder / developer is needed to come on board before construction can commence.

It is therefore, unsurprising that those sites with developer support at the study base date had more completions than those being promoted by a landowner. However, Lichfields' research shows that a significant gap has remained between delivery on sites with and without developer backing at LDP adoption, indicating that landowner-sponsored sites are not catching up. Lichfields identified that that delivery on allocated sites is closely correlated with whether there is developer support at an early stage, with developer-led sites accounting for the vast majority of completions within the first five years after LDP adoption. Of the local authority areas studied, sites with developer backing at the time of LDP adoption accounted for 96% of all completions on allocated sites within the first 2 years and 82% of those within 5 years.

The Lichfields 2017 research demonstrated a stark difference between rates of delivery on allocated sites between those with developer backing and those being promoted by landowners. Whilst rates of delivery for those sites being promoted by housebuilders as part of the LDP process are good, those that are being promoted by public or private landowners have been significantly slower. We are not aware of any reasons why the situation may have changed since that 2017 research and in our view sites in the next round of plan making are more likely to come forward if they have a know house builder / developer promoting them.

The opportunity for speculative applications on unallocated sites is limited primarily to brownfield sites within urban areas. The removal of the need for a five year land supply means there is no incentive for LPAs to grant additional planning permissions ahead of LDP review.

Welsh Government recognised that the first round of LDPs in Wales included too many allocations that were not deliverable and has sought to address this by placing greater emphasis on demonstrating site deliverability at an early stage of plan making (candidate site stage). Whilst the need for deliverable sites is welcomed it has required greater up front costs for site promoters when there is little certainty of site allocation and the return on investment is likely to be at least 6-7 years hence (i.e. time for LDP to be adopted plus gaining planning permission, discharging conditions and subsequent build period).

In the absence of the SDP in SE Wales (now anticipated 2029) WG has added an

additional requirement for LPAs to collaborate sub regionally. It is understood that this work will inform the scale of the sub regional housing requirement, its distribution and potentially how strategic housing allocations might be considered. There is no publicly available guidance on the format of this sub regional work should take or the extent to which statutory LDPs will be required to follow housing figures in a non-statutory plan that has not been subject to independent scrutiny. It is unclear how this informal process will capture the views of those promoting and indeed objecting to levels of housing growth. Lichfields is concerned that this uncertainty could undermine a proper and rigorous assessment of the full scale of housing needs in this part of Wales.

Allied to the lack of deliverability on too many allocated housing sites has been the absence of a mechanism for site promotion outside of the plan led system. The removal of the requirement for a five year land supply has meant that there is no short term mechanism by which site promoters can push LPAs to increase housing delivery.

### **Question 4.3: housing targets**

#### ***Assessment of housing need***

The approach to setting housing targets differs substantially in England and Wales. In England, a policy target exists for the delivery of 300,000dp. This figure which is well-established and has broad political support. There is no such target in Wales although *Future Wales* refers to a need for 110,000 dwellings between 2019 and 2039; this equates to just 5,500dpa. As a percentage of total housing stock, England seeks to deliver a 1.2% increase pa whilst the delivery of 5,500 new homes each year in Wales would equate to a 0.38% increase in housing stock pa. The WG's 2019 central estimate of housing need for Wales of 7,400 referred to in paragraph 4.29 of the CMA report relates only to the period 2019-2024. The longer term 20 year Welsh Government central estimate for housing need (5,500dpa between 2019 and 2039) is significantly below the 2015 WCPP figure of 8,700.

The lack of an all tenure housing target in Wales appears to send a signal that the need for increased market housing output is not of significant concern in Wales. Instead the focus is very much towards increased affordable housing delivery as referenced in paragraph 4.28 of the CMA paper. In Lichfields' view this signals a significant difference in the policy approach to housing delivery between Wales and England.

Lichfields understand that the Welsh Government central estimate methodology applies a 'policy on' requirement to affordable housing to address unmet need both existing and going forward but simply looks at household trend estimates for the open market housing element. This results in an inconsistency in methodology to estimating future market and affordable housing needs within Wales. It again underlines the primary focus in Wales on affordable housing delivery with limited guidance on whether or not there is a need for increased market housing delivery. In Lichfields view this creates uncertainty for new private housing investors in Wales.

The approach to assessing housing need at a local level similarly differs in England and Wales. In England, the Standard Methodology sets a clear basis for the calculation of need. It is based on a review of the 2014-based household projections plus an uplift to address issues of housing affordability. Local planning authorities are permitted (and encouraged) to adopt a target that exceeds the Standard Methodology figure but may not deviate downwards from it. Past trends might be used as a justification for an uplift to the Standard Methodology only and there is no basis by which historically low levels of delivery might inform an assessment of future need. Furthermore, existing constraints and delivery factors may not influence the assessment of housing need in England, although this might result in unmet need that should be addressed through the duty to cooperate.

The approach in Wales is much less structured. An assessment is to be undertaken by each local authority, based on a review of household projections, past trends, alignment with employment change, delivery issues and policy choices. Critically, past trends can be used to inform future requirement – potentially resulting in a reward for failure – whilst constraints and delivery factors can influence the LDP housing requirement figure – i.e. indicating that the ability to meet a particular level of housing growth might inform the level of growth that is actually needed.

The implication of this is that there is much more scope for local authorities in Wales to influence housing requirements – although this tends to result in a downward pressure on the requirement contained within LDPs. There is increasing evidence of the Welsh Government intervening in housing provision/flexibility matters at the LDP preparation stage. Examples in the South Wales trading area include Monmouthshire and Caerphilly:

1. Monmouthshire – Welsh Government expressed concern that the Preferred Strategy, as proposed, would undermine the role of Cardiff, Newport and the Valleys as the main focus for growth and could negatively impact on environmental assets and have adverse consequences for climate and nature emergencies. It advised that the housing requirement should not exceed the ten year past build rate plus a buffer of 10%.
2. Caerphilly – the Welsh Government raised a fundamental issue with the lack of evidence to support the delivery of a strategic site. There was also a lack of clarity as to how the level of housing provision has been calculated and concerns were raised on the approach to large windfall sites.

Going forward, we note that a subregional study is being undertaken. This might include an estimate of housing need at a sub-regional or local authority level. However, it will be a non-statutory document and it is not known what opportunity will exist to scrutinise and respond to the document. The weight that should be given to the document and any figures contained within it should be viewed in this context even though the Welsh Government has indicated that it expects local authorities to have regard to its findings in emerging LDPs. The process of preparing this study is creating additional delays to the LDP process.

### ***Monitoring of housing supply***

Significant differences also exist in England and Wales in relation to the monitoring of housing supply. In England, all local authorities are required to demonstrate a minimum of five years' housing supply. Where an authority is unable to do so, the presumption in favour of sustainable development will be triggered. In addition, the Housing Delivery Test provides an assessment of actual supply over a rolling three year period with sanctions being imposed where the test has not been passed.

In Wales, the requirement to demonstrate five year housing land supply was revoked in March 2020 and replaced by a new method of monitoring housing delivery based on trajectories set out in LDPs. The requirement for decision makers to afford 'substantial weight' to the lack of housing delivery has been removed. This change in monitoring reflects a clear message from Welsh Government that a Plan-led approach to the delivery of homes is paramount and that there should be a presumption against the release of non-allocated sites. This makes it much harder for such sites to be promoted or progressed outside of the development plan process. This is compounded by the fact that if an authority fails in its housing delivery it is responsible for deciding how to address the issue. Reviewing the LDP is an option but the time taken to undertake this process means that it would not represent a quick solution to the identified problem of under-delivery.

### **Question 5.1: Reforming the planning system**

Although we have concerns about the effectiveness of the Standard Methodology in

England and some of the underlying assumptions that have informed this approach, the existence of a clear and transparent methodology, which is unencumbered by past trends or supply-side considerations such as constraints and land availability, it to be preferred to the current system in Wales where each authority can adopt a seemingly different methodology with considerable weight given to constraints to supply and authorities being able to perpetuate low levels of past trends. Such an approach is permitted to happen because of a lack of recognition by the Welsh Government regarding the importance of, and the need for, open market housing. this represents a very significant barrier to delivery in Wales.

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