

# Planning and the Welsh Language Scrutiny Investigation Final Report

We wish to thank all the participants for their co-operation with the work.

## A MAIN RECOMMENDATIONS SUBMITTED TODAY (4 July 2019)

The Working Group members consider that they have delivered what is practical, and recommend:

1. That the Councils have the discretion to ask for a 'Welsh Language Statement' or 'Welsh Language Assessment' when dealing with any planning applications, be that on windfall developments or not, where the Welsh language is a relevant consideration, in accordance with Section 31(2), Planning Act (Wales) 2015.
2. That the *Joint Planning Policy Unit* should submit the following to a meeting of the *Communities Scrutiny Committee* as soon as possible:
  - The first Annual Monitoring Report of the new Development Plan
  - An analysis of the contribution of the current Planning Guidance to the impact of developments on the viability of the Welsh language in Gwynedd since 2009.
3. To identify clear thresholds wider than windfall developments for carrying out *Language Statements* and *Language Assessments* in the relevant policies.

4. Ask language enthusiasts for their support to deliver the work.

5. Bring the scrutiny investigation to an end.

**B Initial Recommendations and Responses**

6. Ask Members of the Joint Planning Policy Committee for an update to the responses below dated November 2018.

	Recommendation Gwynedd Scrutiny Investigation Working Group - Planning and the Welsh Language (April 2018)	The response of the Joint Planning Policy Committee (November 2018)
1a	A clear statement is required in the Guidance stating that the Developer needs to hold a <b>public consultation</b> on every development of 10 or more houses in an urban area and 5 or more in a rural area / village.	<p><b>It would be unlawful to include this statement in the Guidance.</b></p> <p>It is the Planning (Wales) Act 2015 that determines when an applicant needs to hold a public consultation for a proposed development. Under the Act, developers submitting projects including 'major developments' will need to carry out a pre-application statutory consultation. A definition of a major development is given in Article 2 of the Town and Country Planning Order (Development Control Procedure) (Wales) 2012 (DMPWO). In short, a major development is:</p> <ul style="list-style-type: none"> <li>• A development of 10 or more houses where the area of the site is 0.5 ha or larger (if the number of housing units is unknown);</li> <li>• Providing a building(s) where the floor surface area is greater than 1,000 sqm;</li> <li>• Excavation and working of mines or using land to store mine excavation deposits;</li> <li>• Waste development; and</li> <li>• A development on a site of 1 ha or more.</li> </ul> <p>However, it is agreed that engaging and consulting with the other various communities and stakeholders is important when considering a proposed development in the pre-application period and after submitting the planning application. Diagram 5, Appendix 7 and Appendix 8 note the Authorities' expectations for engagement and consultation during the pre-application period.</p> <p>See also 1b.</p>
1b	It needs to be clearly stated in the Guidance that the Developer is required	<b>It would be unlawful to include this statement in the Guidance.</b> Policy PS 1 of the Plan dictates when a

	<p><b>Recommendation Gwynedd Scrutiny Investigation Working Group - Planning and the Welsh Language (April 2018)</b></p>	<p><b>The response of the Joint Planning Policy Committee (November 2018)</b></p>
	<p>to submit a <b>Welsh Language Assessment and a Welsh Language Impact Assessment</b> for every development that is referred to public consultation.</p>	<p>Welsh Language Statement is needed and when a report about a Welsh Language Impact Assessment is needed with planning applications.</p> <p>When an assessment of the effect of a development on the Welsh language needs to be undertaken <u>and</u> hold a statutory public consultation prior to submitting a planning application (in accordance with the requirements of the Act), the Supplementary Planning Guidance notes clearly that the Welsh Language Statement and the Welsh Language Impact Assessment are expected to be published as part of the documents pack - Diagram 5, Appendix 7 and Appendix 8.</p> <p>In addition, it was resolved to <b>Authorise relevant Senior Officers on behalf of the Planning Services of both Authorities to write to Welsh Government to enquire about the rights to change policy within a local development plan and the rights to change the threshold to hold a pre planning application public consultation for five houses in villages and the countryside rather than for ten houses.</b></p> <p>A response was received from Welsh Government which confirmed the viewpoint of the Joint Planning Policy Committee.</p>
<p>2</p>	<p>That Panel members receive advice and guidance from independent experts in the area of <b>Linguistic Planning</b> when preparing the new Supplementary Planning Guidance and prior to consulting on the new draft Guidance.</p>	<p>Resolved to <b>Authorise relevant Senior Officers on behalf of the Planning Services of both Authorities to commission qualified outside experts to undertake a critical appraisal of the Supplementary Planning Guidance: maintaining and creating unique and sustainable communities, and specifically Section 2 of that Guidance.</b></p> <p><b>Cwmni Iaith and Cwmni Burum were appointed to work in partnership to undertake a critical appraisal of the first consultation draft Supplementary Planning Guidance.</b> The recommendations of the companies were accepted and the consultation draft Supplementary Planning Guidance, which incorporates changes recommended by the companies, has been approved for the public consultation.</p>

	<b>Recommendation Gwynedd Scrutiny Investigation Working Group - Planning and the Welsh Language (April 2018)</b>	<b>The response of the Joint Planning Policy Committee (November 2018)</b>
3	That Panel members receive advice and guidance from independent experts in the area of <b>Research and Analytics</b> when preparing the new Supplementary Planning Guidance and prior to consulting on the new draft Guidance.	<b>Guidance from independent experts in the field of research and analytics was not needed in order to complete the work of preparing the Guidance prior to a public consultation about it.</b>
4	That Panel members receive advice and guidance from independent experts in the area of <b>Engagement and Consultation</b> when preparing the new Supplementary Planning Guidance and prior to consulting on the new draft Guidance.	<b>Guidance from independent experts in the field of engagement and consultation was not needed in order to complete the work of preparing the Guidance prior to a public consultation about it.</b>
5	5 That Panel members request the <b>Timetable</b> to be extended if need be, in order to achieve work of the highest possible standard.	<b>The timetable to prepare the Supplementary Planning Guidance has been extended in order to undertake a critical appraisal and prepare a report about the public consultation to the Communities Scrutiny Committee during 2019.</b>

## **C BACKGROUND**

7. At the extraordinary meeting of the full Council on 28 July 2017, the *Gwynedd and Anglesey Joint Local Development Plan 2011-2026* was adopted.
8. A Briefing Meeting was held by the Cabinet Member for the Environment on 22 September 2017 and she asked the Members for support and ideas with the work of developing the *Supplementary Planning Guidance*.
9. A Planning and the Welsh Language Scrutiny Investigation was established at the Communities Scrutiny Committee on 7 December 2017.
10. The aim of the Investigation was as follows:

### Part 1 (specifically for the draft SPG)

Clause A Ensure that the consultation process on the Supplementary Planning Guidance (SPG) is inclusive;

Clause B Scrutinise a draft framework for preparing a Welsh Language Statement and a draft framework for preparing a Welsh Language Impact Assessment;

Clause C Scrutinise how it is intended to implement the SPG in the context of the requirements of the new TAN 20;  
(<https://gov.wales/topics/planning/policy/tans/planning-and-the-welsh-language/?lang=cy> )

Clause CH Receive an overview of the observations received from the public at the time of the public consultation on the draft SPG in order to present an opinion to the Joint Planning Policy Committee before the final SPG is adopted.

Part 2 (specifically for the policy/national advice context)

Clause D Gather evidence to draw up ideas and suggestions for the consideration of the Gwynedd Council Cabinet Member for the Environment to influence future national planning policy and guidance.

## **CH FINDINGS**

- 11.** There is a need to review the relevant Policies of the *Joint Local Development Plan* in terms of how they relate to the viability of the Welsh language.
- 12.** There is no evidence that neither the current Guidance nor the new draft Guidance are able to meaningfully contribute towards delivering one of the Plan's cornerstones of maintaining and creating communities with 70% Welsh speakers.
- 13.** The Planning Services has insufficient resources to complete the work on time.

## **D NEW DRAFT PLANNING GUIDANCE (See APPENDIX 1)**

- 14.** Following a request from the Joint Planning Policy Committee to the Communities Scrutiny Committee for observations regarding the new draft Planning Guidance, the Members of the Scrutiny Committee asked Members of the Working Group to send their observations on their behalf.
- 15.** Having considered the draft Guidance, the public's comments and responses of officers, the exercise was disappointing on the whole.
- 16.** Members of the Working Group consider that the most effective way of addressing this matter is to note the observations made by the public in the Engagement held by the Joint Planning Policy Unit in June 2016.

- 17.** It is suggested that it would be beneficial for Members of the Joint Planning Policy Committee to give detailed and careful consideration to the points noted and satisfy themselves that the new draft Guidance addresses the points raised by the public.
- 18.** It is suggested that the most effective way of doing this would be for you to consider the red observations in the appendix and update your green observations in order to address those matters.

## **DD THE METHODOLOGY AND WORK OF THE INVESTIGATION**

- 19.** 13 meetings of the Working Group were held between 9 January and 31 October 2018.
- 20.** The Planning Service noted that it held engagement on the current Supplementary Planning Guidance in June 2016.
- 21.** A list of approximately 100 stakeholders was provided by the Service who received an application to participate in the engagement.
- 22.** Some of the organisations on the list were randomly invited to meet with the Working Group to ask them for their opinion on the current Guidance and to note any suggestions on how it could be improved.

The following witnesses provided oral evidence to the Planning and the Welsh Language Scrutiny Investigation on the dates noted below:

Date	Name and organisation
22 January 2018	Dyfan Sïon, Welsh Language Commissioner representative Ieuan Wyn, Cylch yr Iaith representative Seimon Brooks, Individual Responder
01 February 2018	Gareth Jones, Senior Planning and Environment Manager Nia Haf Davies, Planning Policy Manager (Joint Planning Policy Unit - Gwynedd and Anglesey)

06 February 2018	Cynog Prys, Sociology Lecturer - Specialising in Linguistic Planning, Bangor University:  Rhian Hodges, Sociology and Social Policy Lecturer, Bangor University  Huw Prys, Cwmni Hanfod
12 February 2018	Owain Wyn, Cwmni Burum
22 February 2018	Rhys Jones, Gwynedd Council Biodiversity Team Leader
27 February 2018	Debbie Anne Williams Jones, (former Manager of Hunaniaith)  Gwenllïan Williams, Gwynedd Welsh Language Development Officer (Workplace)
14 May 2018	Rhun ap Gareth, Senior Solicitor, Gwynedd Council
29 June 2018	Elin Haf Gruffydd Jones, Mercator
10 September 2018	Rhys Davies, Cadnant Planning
17 September 2018	Gwion Lewis, Barrister  Siân Gwenllïan AM

**23.** Thank you to everyone for their valued contributions.

## **E Background Documents**

### **Reports 7 December 2017 (Items 6 and 7)**

<https://democratiaeth.cyngor.gwynedd.gov.uk/documents/g2155/Pecyn%20adroddiadau%20cyhoeddus%2007fed-Rhag-2017%2010.30%20Pwyllgor%20Craffu%20Cymunedau.pdf?T=10&LLL=1>

### **Working Group Report 22 February 2018**

<https://democratiaeth.cyngor.gwynedd.gov.uk/documents/g2156/Pecyn%20adroddiadau%20cyhoeddus%2022ain-Chwe-2018%2010.30%20Pwyllgor%20Craffu%20Cymunedau.pdf?T=10&LLL=1>

### **Working Group Report 19 April 2018**

<https://democratiaeth.cyngor.gwynedd.gov.uk/documents/g2157/Pecyn%20adroddiadau%20cyhoeddus%2019eg-Ebr-2018%2010.30%20Pwyllgor%20Craffu%20Cymunedau.pdf?T=10&LLL=1>

**Report 14 June 2018**

<https://democratiaeth.cyngor.gwynedd.gov.uk/documents/g2542/Pecyn%20adroddiadau%20cyhoeddus%2014eg-Meh-2018%2010.00%20Pwyllgor%20Craffu%20Cymunedau.pdf?T=10&LLL=1>

**Report 11 October 2018**

<https://democratiaeth.cyngor.gwynedd.gov.uk/documents/g2543/Pecyn%20adroddiadau%20cyhoeddus%2011eg-Hyd-2018%2010.30%20Pwyllgor%20Craffu%20Cymunedau.pdf?T=10&LLL=1>

**Report 4 April 2019**

<https://democratiaeth.cyngor.gwynedd.gov.uk/documents/g2546/Pecyn%20adroddiadau%20cyhoeddus%2004ydd-Ebr-2019%2010.15%20Pwyllgor%20Craffu%20Cymunedau.pdf?T=10&LLL=1>

## APPENDIX 1 - May 2019 (Analysis of June 2016 Engagement)

1. The comments are noted as follows
  - BLUE - Member of the Public
  - GREEN - Joint Planning Policy Committee
  - RED - Scrutiny Working Group
  
2. Does the SPG strengthen the priorities in terms of protecting the Welsh language in terms of the use of land or buildings?
  - The role of the SPG is to provide guidance to expand on the policies of the Local Development Plan, to assist in the Plan's implementation.
  - Policy PS5 (criterion 4) and Policy PS1 set out the need for new developments to contribute to protecting, supporting and promoting the use of the Welsh Language.
  - It is not clear from the Planning Committee's response whether or not the SPG strengthens the priorities.
  - You need to answer Yes or No and explain why.
  
3. Note whether or not the SPG is an appropriate tool to do this.
  - The role of the SPG is to provide guidance to expand on the policies of the Local Development Plan, to assist in the Plan's implementation.
  - Policy PS5 (criterion 4) and Policy PS1 set out the need for new developments to contribute to protecting, supporting and promoting the use of the Welsh Language.
  - It is not clear from the Planning Committee's response whether or not the SPG is an appropriate tool to do this.
  - You need to answer Yes or No and explain why.
  
4. How does the SPG protect Welsh-speaking communities?
  - The role of the SPG is to provide guidance to expand on the policies of the Local Development Plan, to assist in the Plan's implementation.
  - Policy PS5 (criterion 4) and Policy PS1 set out the need for new developments to contribute to protecting, supporting and promoting the use of the Welsh Language.
  - The process of preparing the Plan and its policies has ensured that the impact on the Welsh language has been considered appropriately, and that the Plan, through various policies (which includes Policy PS5 and Policy PS1) provides a framework to safeguard and promote the language.
  - The observations are vague and relate to the process.
  - They do not answer the question.

- You are making comments on the policies and not the SPG
  - You need to note how the SPG protects Welsh-speaking communities.
  - ....e.g. The SPG protects Welsh-speaking communities by...OR...The SPG does not protect Welsh-speaking communities....
5. How does the SPG differentiate between industrial and residential developments and large-scale and small-scale developments?
- The methodology for carrying out an assessment to be submitted in the form of a Welsh Language Statement and a Welsh Language Impact Assessment notes the factors that will need to be addressed for various developments that reach the thresholds in Policy PS1
  - There is a need to note the thresholds in the policy ...e.g. the thresholds for small industrial developments are... small residential are... large industrial are...large residential are....
6. The current SPG is not effective in terms of considering the impact on the Welsh language
- Disagree with this viewpoint in the context of the amended Guidance.
  - There is a need to add how the amended Guidance is effective in comparison with the current Guidance.
7. The current guidance is vague
- Disagree with this viewpoint in the context of the amended Guidance.
  - There is a need to note exactly where the amended Guidance is effective in comparison with the current Guidance.
8. The thresholds are open-ended and there is a need to identify types of developments that should be the subject of an assessment.
- It is criteria 1 and 2 of Policy PS1, and not the Guidance, that provide the thresholds to identify what type of development needs to be subject to an assessment.
  - The Guidance provides guidance to expand on these thresholds.
  - It is not clear whether or not you Agree or Disagree with the statement.
  - You need to note Agree or Disagree
  - Note something such as...Agree, the thresholds are open-ended.... OR... Disagree, the thresholds are clearly noted namely...
  - These are the types of developments that should be subject to an assessment...

9. The next series of comments by the Public respond to a request for suggestions on how to improve the Guidance.
10. Include an exemplar Linguistic Assessment and Linguistic Statement that is positive and negative.
  - No Circumstances relating to individual developments will vary.
  - Providing examples would not add value.
  - The Guidance focuses on providing clear methodologies to carry out the assessments
  - A more specific response is needed - e.g. No. Including exemplar Assessments and Statements would not improve the Guidance because...
  - It will not add value because....
11. Note clearly what is the significance of a negative Assessment or Statement.
  - Yes
  - The Guidance already notes this clearly as follows.....
12. Include examples of how a development can do the following to the Welsh language: Protect, Promote, Strengthen
  - No The Guidance focuses on providing clear methodologies to carry out the assessments, which identify the factors that will be important to consider to protect, promote and strengthen.
  - The Guidance also identifies possible mitigation and strengthening measures.
  - Examples cannot be included because....
13. Where has the amended SPG reduced and/or combined questions?
  - The Guidance provides new methodologies.
  - These are the questions that have been reduced...
  - These are the questions that have been combined....
  - OR... No questions have been combined or reduces because....
14. The following series of questions and observations by the Public derive from a request to see whether or not the Guidance is sufficiently clear in terms of the input of local language enterprises and language planners in assisting applicants
15. Can you explain clearly what is the input of Language Initiatives and Language Planning Experts?

- The Guidance says that the role of the competent person will be to use the methodology and advise the applicant.
  - When the competent person engages with the Language Initiative the Initiative may provide the information the competent person needs to complete the assessment.
  - The input of the Welsh Language Initiatives is...
  - The input of Language Planning Experts is...
16. This should not be a matter of assisting the applicant but a matter of evaluating the situation
- The Guidance says that the role of the competent person will be to use the methodology and advise the applicant.
  - Yes, this is a matter of assisting the applicant by... OR...No, this is not a matter of assisting the applicant.
  - Yes the Language Initiative's role is a matter of evaluating the situation by...Experts by... OR...No, they do not evaluate the situation.
17. The following series of questions and observations by the Public derive from a request for any other comments about the content of the current SPG.
18. Conditions regarding the use of the Welsh language should be strengthened in relation to signage, etc.; and also preventing old Welsh names from being changed into English.
- Criterion 4 in Policy PS 1 set out the requirements for a bilingual Signage Plan.
  - Criterion 5 in Policy PS1 provides encouragement to use Welsh language names on property and streets, although naming properties and streets is not a land use planning matter.
  - The role of the SPG is to provide guidance to expand on the policies of the Local Development Plan, to assist in the Plan's implementation.
  - This response is relatively good ....but could be more specific...e.g.
  - There are strong conditions already in place....OR.....It is not possible to strengthen the conditions because...
  - The SPG prevents the changing of names by....OR.... It is not possible to prevent changing names because....
19. We should consider who will be filling the gap (empty house) as local Welsh-speaking people buy new houses.
- Yes

- Consideration is given to this by.... OR...This cannot be considered because...
20. It should be noted at the beginning of the new SPG the key importance of Gwynedd as the Welsh language's strongest heartland and the need for specific policies to protect its unique characteristics and to ensure a sustainable future for the language.
- Yes
  - This is considered at the beginning of this new SPG... OR...This cannot be considered because...
21. The objectives of the Gwynedd Language Strategy should be noted in the new SPG which aims to secure a 5% increase in the Welsh-speaking population by 2021.
- Yes
  - This is noted as follows...OR...This is not noted because....
22. The Gwynedd and Anglesey Joint Local Development Plan objectives should be noted in the new SPG which aim to increase the number of communities where over 70% of their population are able to speak Welsh.
- Yes
  - This is noted as follows...OR...This is not noted because....
23. The objectives of the Welsh Government's Strategy should be noted in the new SPG which aim to increase the number of Welsh-speakers to a million by 2050
- Yes
  - This is noted as follows...OR...This is not noted because....
24. The objectives of Technical Advice Note 20 which are based on the language provisions of the Planning (Wales) Act 2015 should be noted in the new SPG.
- Yes
  - This is noted as follows...OR...This is not noted because....
25. Every proposed Development needs to be evaluated according to how in-keeping it is with the above objectives (points 20-24). It should therefore be ensured that every development in question either makes a positive contribution towards achieving the objectives or, at least, that it would not on any account hinder the efforts to achieve them
- Using the methodologies given to carry out assessments will be a means of reaching a conclusion on the impact of developments that reach the thresholds provided in Policy PS1 on the Welsh Language in Communities.

- It is not possible to evaluate every Development in this way because...OR...The objectives are evaluated by...
  - It is noted that every Development makes a positive contribution towards achieving the objectives by...OR...not hinder the efforts to achieve them by...OR...This cannot be achieved because...
26. In terms of the specific questions on the form, it is not possible, in our opinion, to respond in a meaningful way to them in the review of the current Supplementary Planning Guidance - Planning and the Welsh Language, without knowing to what extent the guidance has succeeded since it became operational in 2009.
- This is not a matter for the amended Guidance
  - This is not a matter for the amended Guidance because...
  - The questions may be responded to meaningfully by...
  - There is no need to know to what extent the Guidance has succeeded since 2009 because...
27. Before proceeding, a linguistic assessment of developments from 2009 to this day should be undertaken, in order to ascertain whether the current version of the guidance has contributed towards safeguarding, promoting and reinforcing the Welsh language.
- This is not a matter for the amended Guidance
  - This is not a matter for the amended Guidance because...
  - An assessment of developments from 2009 showed that the guidance has contributed by...OR.....has not contributed because...
28. Stop using the Community and Linguistic Statement and make it mandatory for developers to prepare a Linguistic Impact Assessment in the cases where a Statement is mandatory at present.
- The role of the SPG is to provide guidance to expand on the policies of the Local Development Plan, to assist in the Plan's implementation.
  - Policy PS1 sets out the need to make an assessment and to submit it in the form of a Welsh Language Statement and a Welsh Language Impact Assessment.
  - We will note the requirement to provide a Language Impact Assessment in accordance with your comment...OR...this cannot be done because...
29. That it is required for a linguistic impact assessment to be produced by those who have knowledge and expertise in the field.
- Yes
  - Agree. The Guidance addresses this as follows...OR...Disagree. This is not needed because...

30. Consulting with community councils, language initiatives and language organisations is an integral part of a Linguistic Impact Assessment.

- Yes
- Agree. The Guidance addresses this as follows...OR...Disagree. This is not needed because...