

Appendix 1 - What are the statutory requirements that are relevant to the planning system?

- a) The role of the planning system is regulating the use made of land and its development in the interests of the public.
- b) The planning system operates within a statutory framework which includes three tiers namely primary legislation, secondary legislation and then the material planning policies and guidelines. The primary legislation includes, since recently, the Planning (Wales) Act 2015, with other primary legislation including the Town and Country Planning Act 1990, The Planning and Compulsory Purchase Act 2004 and the Planning Act 2008.
- c) The main planning fields include planning policy, dealing with planning applications (development control) and planning enforcement and all these fields operate within the statutory framework. There is a statutory requirement to provide the functions which are relevant to these main work fields.
- d) It is stressed that the planning system is one which is led by a development plan, namely the (Gwynedd) Unitary Development Plan currently. This Plan will be superseded by the Joint Local Development Plan once it is adopted.
- e) There is a statutory requirement in relation to determining planning applications, which is noted in section 38(6) of the Planning and Compulsory Purchase Act. Section 38(6) states that decisions must be made on planning applications in accordance with the development plan unless material planning considerations state otherwise. This is the statutory test. Material planning considerations include Planning Policy Wales together with Technical Advice Notes (TAN). Those who make the decision have to come to a clear and coherent conclusion regarding how much emphasis to place on material planning considerations.
- f) Furthermore, more recently the Planning (Wales) Act requires a development to be sustainable, with this requirement being in accordance with the Wellbeing of Future Generations (Wales) Act 2015 "for the purpose of ensuring that the land development contributes to the economic, social, environmental and cultural well-being of Wales". The sustainable development principle means "that action must be taken in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs"

What are the requirements in terms of national and local planning policies?

- g) The statutory requirements in terms of planning policies have been explained above in terms of having to make decisions in accordance with the development plan, and the national planning policies are also material considerations when making decisions.
- h) The Planning (Wales) Act 2015 has confirmed four tiers of policy plans, namely:

- National Development Framework (Welsh Government is currently preparing this)
- Strategic Development Plan
- Local Development Plan
- Places Plans

i) Planning Policy Wales is a Welsh Government land use policy. The document, along with the supporting guidance within the 23 adopted Technical Advice Notes (TANs) note the Government's policy on fields such as housing, the Welsh language, tourism, economic development, sustainable rural communities, retail etc.

What are the material planning considerations when dealing with planning applications and how much weight is given to the various planning considerations?

- j) What is considered material planning considerations is entirely reliant on the nature and location of the development proposed in the application and can, therefore, vary from one application to the next. Also, the weight given to material planning considerations again depends on what the nature of the development proposed in the application is. Those who make the decision have to come to a clear and coherent conclusion regarding how much emphasis to place on material planning considerations when determining planning applications.
- k) Relevant land use planning considerations can include a provision of affordable housing, the effect on the economy, residential amenities, general amenities of the area, transportation matters, the Welsh language, biodiversity, visual amenities, impact on the landscape, impact on the environment etc. All the material planning considerations are assessed in the context of the Development Plan with consideration also being given to national policies.

How much freedom does the planning system have within the aforementioned frameworks?

- a) The framework is statutory and therefore there is no 'freedom' within the planning system. As noted above, decisions must be made on planning applications in accordance with the development plan unless material planning considerations state otherwise. There would be significant risks to the Council of not doing this because a third party could submit a case for a judicial review or the applicant/agent could submit an appeal to the Planning Inspectorate and the Council could be judged or there could be costs against the Council.

