

NAME OF SCRUTINY COMMITTEE	COMMUNITIES SCRUTINY COMMITTEE
DATE OF MEETING	17 November 2015
TITLE	Planning and the Welsh language
AUTHOR	Dafydd Wyn Williams, (Acting) Head of Regulatory Department
CABINET MEMBER	Councillor Dafydd Meurig
PURPOSE	To scrutinise the Council's arrangements for the planning process and the Welsh language.

Background and Purpose

- 1.1 This report is a follow-up from a discussion that was held at the Scrutiny Committee on 17 September 2015 regarding Planning and the Welsh language. The discussion dealt specifically with the scrutiny of the Planning Committee's arrangements for dealing with the documentation for language impact assessments being submitted with planning applications. This matter has now been resolved and arrangements are in place and are operational to facilitate access for Planning Committee Members (and others), to all background information of relevance to the applications on the Planning Committee's agenda.
- 1.2 At the Scrutiny Committee on 17 September 2015, it was agreed to report further on the broader issues in relation to the planning system and the Welsh language; therefore, the purpose of this report is to deal with the following matters;
 - i. Setting the statutory context in terms of the Planning (Wales) Act 2015
 - ii. Explaining the National Planning Policy (TAN 20)
 - iii. Explaining the Current Local Planning Policy (The Unitary Development Plan and the Supplementary Planning Guidance: Planning and the Welsh Language)
 - iv. Explaining how the Service operates within the current policy context
 - v. Providing information regarding the Joint Local Development Plan (Draft)
 - vi. Explaining how, in the context of the requirements of TAN 20, we will be required to deal with the Welsh language when determining planning applications after the Joint Local Development Plan has been adopted and how the Service seeks to respond to this.

The statutory context and planning policy context

- 2.1 The planning process operates within a statutory framework which includes three tiers, namely primary legislation, secondary legislation and material planning policies and guidelines. The primary legislation includes the recently issued Planning (Wales) Act 2015, along with other primary legislation including the Town and Country Planning Act 1990, The Planning and Compulsory Purchase Act 2004 and the Planning Act 2008.

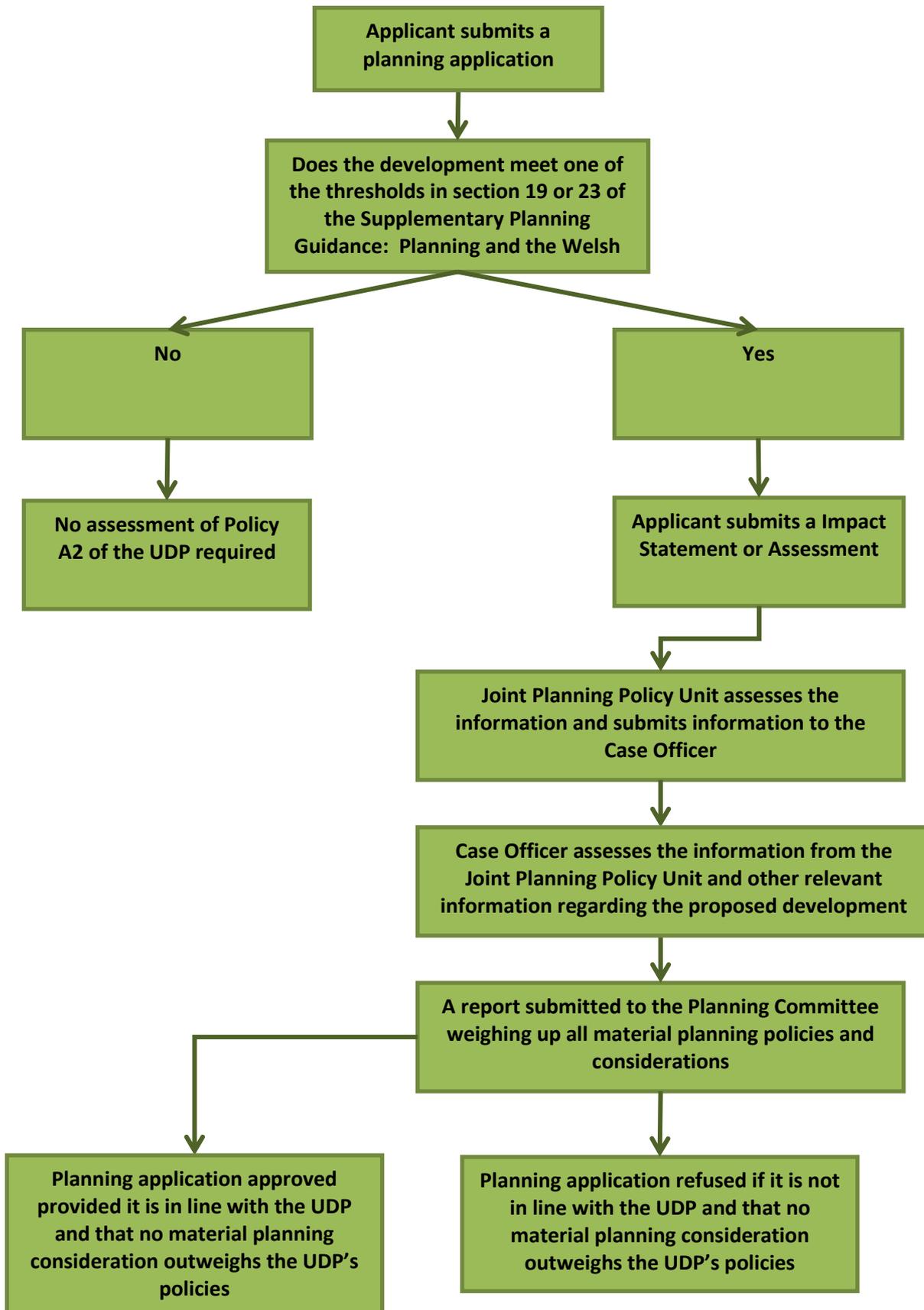
- 2.2 The Planning (Wales) Act 2015 refers specifically to the Welsh language and notes the need to give any relevant consideration to the use made of the Welsh language when it is a material consideration in the application in question. This raises the profile of the Welsh language in relation to the statutory framework; however, it must be borne in mind that the language was already a planning consideration that predated the Planning (Wales) Act 2015. Members of the Scrutiny Committee are reminded that Gwynedd Council and Snowdonia National Park Authority held a joint awareness-raising session on 5 November 2015 in relation to the Planning (Wales) Act 2015.
- 2.3 In terms of determining planning applications, section 38(6) of the Planning and Compulsory Purchase Act states that decisions must be made in accordance with the development plan unless material planning considerations state otherwise. This is the statutory test. The Gwynedd Unitary Development Plan (2009) (UDP) is the relevant development plan. 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.
- 2.4 Planning Policy Wales is a Welsh Government land use policy. The document, along with the supporting guidance in Technical Advice Note (TAN) 20: Planning and the Welsh language (2014), states that the Welsh Government is committed to ensuring that the Welsh language is supported and encouraged to thrive as the language of many communities across Wales. It is also noted that the future well-being of the language will depend on a broad range of factors, in particular: education, demographic change, community activities and sound economic grounds to maintain prosperous and sustainable communities (paragraph 4.13.1 Planning Policy Wales). The land use planning system should also consider the needs and interests of the Welsh language and, in doing so, contribute to its well-being. However, it is also noted that planning policies should not attempt to introduce any element of discrimination between individuals on the basis of their linguistic ability. Planning policy should not seek to control housing occupancy based on linguistic reasons.
- 2.5 TAN 20 includes guidance for local planning authorities on how Welsh language considerations can be incorporated as part of the process of preparing a Local Development Plan (LDP) and that this could be done as part of the LDP's sustainability appraisal. TAN 20 also notes that planning applications should not be subject to a Welsh language assessment because planning authorities should note their position on planning and the Welsh language through the LDP's strategies and policies and by using the Supplementary Planning Guidance.
- 2.6 It must be noted that TAN 20 does refer specifically to Local Development Plans by noting that planning applications should not be the subject of a Welsh language assessment. The Joint Local Development Plan (Gwynedd and Anglesey) that is currently being prepared is yet to be adopted and the Gwynedd UDP is the adopted plan for the Gwynedd planning authority area. The Council has adopted a series of Supplementary Planning Guidance which explain relevant policies in the UDP. The Guidance is not a series of documents which create policy. The Supplementary Planning Guidance: Planning and the Welsh Language provides guidance on how to apply Policy A2 of the UDP. The current situation in Gwynedd, since the Gwynedd UDP remains the adopted plan, is that we are continuing to consider the language

when dealing with relevant planning applications as noted in Supplementary Planning Guidance: Planning and the Welsh language, despite what is noted in TAN 20.

- 2.7 It must be borne in mind that dealing with planning applications includes the need to give consideration to a vast number of different planning considerations, and that the weight given to those considerations vary from one application to the next. If the assessment of the development plan and the assessment of the material planning considerations come to the same conclusion, the application can be approved or refused in accordance with that. In some cases, the assessments may come to a different conclusion. Bearing in mind the statutory test, when there is variance between the assessment of the development plan and the assessment of the material planning considerations, a clear and coherent conclusion must be reached as to whether or not the weight is sufficient to outweigh the development plan.

Planning applications and the Welsh language and the current arrangements

- 2.8 In accordance with the statutory requirement, the Council determines planning applications in accordance with the Gwynedd UDP unless other planning considerations state otherwise. The following chart displays the process implemented by the Planning and Environment Service when dealing with planning applications and considering the Welsh language.



3. Preparing the Joint Local Development Plan (JLDP)

Context

- 3.1 Gwynedd Council and Anglesey Council are collaborating to prepare a single Joint Local Development Plan for the Gwynedd and Anglesey planning authority area. A number of statutory steps must be followed before the JLDP can be adopted and the timetable included in Appendix A contains the main relevant steps. The JLDP must be based on sound evidence and when the JLDP is adopted, it will replace the Gwynedd UDP.

How will consideration be given to the Welsh language when preparing the JLDP?

The Sustainability Appraisal and Language Impact Assessment (LIA)

- 3.2 The JLDP has to ensure that the developments are economically, socially and environmentally sustainable. In order to do so, the Planning and Compulsory Purchase Act 2004 states that the JLDP must be the subject of a Sustainability Appraisal (SA) and to report on the findings of this work throughout the process of preparing the Plan.
- 3.3 The JLDP will deal with linguistic and cultural matters, equality matters and health matters. The SA process will assess the impact of the JLDP on these matters.
- 3.4 The Sustainability Appraisal process will be informed by information which will come to hand as a result of undertaking the Language Impact Assessment at key stages in the process of preparing the JLDP.
- 3.5 The Language Impact Assessment of the Plan is a repetitive process and the assessment will have to be reviewed when aspects of the Plan change as part of the process of producing the Plan. The Impact Assessment Report on the Welsh Language (May 2013) describes the methodology used, records statistical evidence and the conclusions of the assessment during the process of producing the Plan. As the process is repetitive and as the evidence base develops, the document will be changed during the process.
- 3.6 The information sources for this work include:
- Information from the Census
 - The Housing and Language Project. Questionnaires are being sent out to: (a) houses purchased during 2008 – 2012 in the wards of Llanrug, Clynnog, Hirael, Diffwys a Maenofferen, South Dolgellau and Abersoch (b) houses constructed in Gwynedd during 2007-2012. The purpose of the questionnaire is to obtain a picture of the households and then to see whether there is a correlation between this and the position of the Welsh language. This Project is part of a wider project under the Council's Strategic Plan;
 - Local Market Housing Project : This project looks for, and analyses evidence to ascertain whether a policy which promotes housing to satisfy specific local needs for open market housing can be justified. This type of housing, along with other infrastructure, could enable residents to remain in specific rural communities.

- The use of the language in primary schools : namely evidence on pupils' standards; the language used during play time and so on; the language of meetings of Governing Bodies.
- Operating Locally : namely a tool developed by the Welsh Language Board to undertake research to obtain a picture of the nature of an area regarding social aspects and characteristics; measuring the viability of the Welsh language locally in terms of its visual status, the use made of spoken Welsh and the value given to the Welsh language by residents. Mapping the information on a county level and receiving information from communities which have used the tool locally.

3.7 The JLDP was out to public consultation during February/March 2015 and the JLDP Panel (with representatives from amongst Gwynedd and Anglesey members), is in the process of considering the responses received to the public consultation. It must also be noted that it is a statutory requirement for the Council to monitor the LDP (post-adoption), and prepare an annual monitoring report. The purpose of this is to assess whether or not the plan's policies work and achieve the objectives.

New Supplementary Planning Guidance

3.8 As part of the process of preparing the Joint Local Development Plan, it is intended to prepare a series of new Supplementary Planning Guidance. It is proposed to give priority to preparing Supplementary Planning Guidance relating to sustainable communities that will include much more detail on planning and the Welsh language matters. There is concern regarding the requirements of TAN 20 which notes that planning applications should not be the subject of a Welsh language impact assessment, as it is expected for this to have been addressed when preparing the LDP. At the time of preparing the plan, it is impossible to anticipate every development that can take place over 15 years, and it is believed that it is inevitable that there will be developments for which the language will need to be considered as part of the process of dealing with the application. Therefore, it is proposed to attempt to facilitate this by means of the new Supplementary Planning Guidance.

Conclusions

3.9 The Council's arrangements in terms of the implementation of the planning process in the context of the Welsh language are in accordance with the statutory requirements and the relevant planning policy and guidance.

Appendix A

Steps and timetable for preparing the Gwynedd and Anglesey JLDP

1.	Placing the JLDP and associated documents on deposit – consultation period of 6 weeks <i>(Regulation 17)</i>	February - March 2015
2.	Considering and making a decision about the representations about the Deposit JLDP <i>(Regulation 18 & 19)</i>	April 2015 – January 2016
3.	Submitting the JLDP to the Welsh Government for Examination <i>(Regulation 22)</i>	February 2016
4.	Independent Public Examination <i>(Regulation 23)</i>	February 2016 – January 2017
5.	Publishing the Inspector's Report <i>(Regulation 24)</i>	January 2017
6.	Adopting the JLDP <i>(Regulation 25)</i>	February/ March 2017
7.	Monitoring and review	Annual report

(timetable for steps 4 – 6 is indicative as it depends on the time the Inspector will require to examine the Plan, which will include Public Hearings)