



Gwasanaethau Ymgynghorol

Owain Wyn

Consultancy Services



y ganolfan cynllunio iaith
welsh centre for language planning

**"SUPPLEMENTARY PLANNING GUIDANCE:
MAINTAINING AND CREATING
DISTINCTIVE AND SUSTAINABLE
COMMUNITIES DRAFT MARCH 2018 "
CRITICAL EVALUATION**

October 2018

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AUTHORS

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Acknowledgment

This work was commissioned by the Gwynedd and Anglesey Councils' Joint Planning Policy Committee through their Joint Planning Policy Unit.

The authors would like to note their thanks to the Committee and the Unit for their primary and innovative work drafting the draft SPG and special thanks to Mrs. Nia Haf Davies, Unit Manager, for her advice and support and for her comments and valuable and constructive feedback.

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1. The Gwynedd and Anglesey Joint Planning Policy Committee has authorised the relevant Senior Officers on behalf of the two Authorities' Planning Services to commission external experts to undertake a critical evaluation of the above Supplementary Planning Guidance in its current draft form before it is published for public consultation.
2. In short, the purpose of the work is to produce a summary report that will:

"i. Summarise and evaluate the advice and guidance given in Section 2 (and any relevant Appendix) regarding the application of Policy PS 1 of the Plan during the pre and post submission of planning applications;

ii. Analyse Section 2 of the Guidance (and any relevant Appendix) in a balanced way, which will identify its strengths and weaknesses. It is not the purpose of the critical evaluation to highlight negative attitudes only;

iii. Look at Section 2 of the Guidance (and any relevant Appendix) and evaluate its success, in the light of its purpose, which is to provide guidance on the use of Policy PS 1 (principally) for applicants (and those who advise them) who intend to submit a development for planning permission and those who have to decide on the proposed development.

iv. Demonstrate that the consultant has at least asked and addressed the following questions:

a. What is the objective of the Guidance? Has the objective been achieved?

b. Is the description of a competent person robust? Is the role of the competent person clear?

c. The Guidance refers to the applicant and the competent person who will advise him/her as to sources of information - are there other sources?

ch. What is the structure of Section 2 of the Guidance? Is it effective?

d. Is the screening given in Appendix 5 effective?

dd. Is the methodology in Appendix 7 for undertaking an assessment that will lead to a Welsh Language Statement effective?

e. Is the methodology in Appendix 8 for undertaking an assessment that will lead to a Welsh Language Impact Assessment report effective?

f. Suggest changes when needed to improve the soundness of the Guidance".

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3. An evaluation of the connection between Sections 1 and 2 of the Guidance was also requested at the initial meeting, to ensure it flowed effectively.

Methodology

4. We believe that the key question of the evaluation is whether the objectives of the draft SPG will be met. In addressing this question, we considered that using a variation of the criteria used by planning inspectors to prove the soundness of a local development plan would be useful and appropriate.
5. The criteria used to assess the soundness of a local development plan are:
 - Is the LDP consistent with other plans?
 - Is the LDP suited to the area in the face of the evidence?
 - Will the LDP achieve?
6. By modifying them to an extent, we used the following key questions to guide our lines of enquiry and evaluation and to contextualise the more specific questions asked in the brief:
 - Is the draft SPG consistent with Policy PS1 (and national policy)?
 - Is the draft SPG suited to the objectives and purpose of Policy PS1 in the face of the evidence?
 - Is the draft SPG likely to be effective and possible to implement?
7. These then provide an evaluation framework for the more specific questions:

The Body of the Supplementary Planning Guidance

- *Does the connection between Section 1 and 2 flow effectively?*
- *Is the structure of Section 2 effective?*

The Appendices

- *Is the screening procedure given in Appendix 5 effective?*
- *Is the methodology in Appendix 7 for undertaking an assessment that will lead to a Welsh Language Statement effective?*
- *Is the methodology in Appendix 8 for undertaking an assessment that will lead to a Welsh Language Impact Assessment report effective?*
- *Is the description of a competent person robust? Is the role of the competent person clear?*
- *Is the list of information sources complete?*

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8. Both of us (Owain Wyn and Dr. Kathryn Jones) contributed to the work as a whole. Owain Wyn focussed on the body of the draft Guidance, ensuring that the advice given in the main document is fit for purpose and follows the requirements of the act, policies and practices of land use planning. Dr Kathryn Jones subsequently focussed on the relevant Appendices and evaluated the tools used to measure the impact of language, the definition of relevant skills or experience to undertake likely impact assessments, the methods of gathering evidence to support these, and mitigation measures. We were both involved in editing and ensuring that the final report complemented the brief in full, that it was legible and gave clear guidance.
9. The detailed suggestions for the SPG have been made on the original text (the "draft SPG") using the 'Track Changes' tool to identify the recommended changes or additions. This is to make it easier for the reader to identify these changes and for the translator to build on the original work.
10. During the process, Mrs Nia Haf Davies, the project commissioner, was consulted regularly and we would like to thank her for her advice and support through the project.

Structure and Content of the Draft CCA ("the Draft")

11. The present Draft includes the following:
 - General Information about the nature, purpose and status of Supplementary Planning Guidance;
 - Introduction to the Draft - context, purpose and structure of the specific SPG;
 - Section 1
 - a. Part A is a broad description of what is meant by distinctive and sustainable communities;
 - b. Part B describes how certain types of sustainable development contribute to the maintenance and creation of distinctive and sustainable communities;
 - c. Part C - issues to be considered and additional information necessary to support a planning application so that it may be validated;
 - d. Part Ch - what can be built instead.
 - Section 2
 - e. The criteria used by the Planning Authorities when assessing the evidence presented about the likely impact of specific proposals on the Welsh language and when making decisions on applications against the requirements of Policy PS1.
 - Appendices include additional information that offers context and sources of information that may be useful in preparing evidence.

Context and General Comments

Context

12. In assessing whether the draft SPG is fit for purpose, the guidance and good practice for the preparation of Supplementary Planning Guidance were examined.
13. The current Planning Policy Wales (PCC)¹ describes key aspects of drawing up a Local Development Plan. These relate to the Local Development Plan Form and Content in Section 2 and give the context and the reasons why Supplementary Planning Guidance is required:
- The (LDP) should not be long, complex, ambiguous or too detailed, or a collection of policies to deal with all situations;
 - The plan should include policies to achieve the outcomes, support and identify site allocations/ development areas, define where restrictions apply and identify the general criteria for considering planning applications for the development and use of land and buildings, ideally through use generic policies rather than repetition;
 - Policies should be different to a concise rational justification, but should be supported by such a justification;
14. Section 2.3 of the PCC gives guidance on Supplementary Planning Guidance (CCA) - when to use it, their status and what to include and what does not include (our **highlights**):
- "2.3.1 LDPs should contain sufficient policies and proposals to provide the basis for deciding planning applications while avoiding excessive detail. They should not repeat national planning policy. **Selective use of supplementary planning guidance (SPG) is a means of setting out more detailed thematic or site-specific guidance on the way in which the policies of an LDP are to be interpreted and applied in particular circumstances or areas.**
 - 2.3.2 The LDP should not delegate the criteria for decisions on planning applications to SPG which **should only contain guidance and advice**. Nor should SPG be used to avoid subjecting policies and proposals to public scrutiny and independent examination in accordance with statutory procedures.
 - 2.3.3 **SPG does not form part of the development plan but it must be consistent with the plan and with national policy**. It must derive from and be clearly cross referenced to a generic LDP policy, specific policies for places, and/or – in the case of a masterplan or site brief – a plan allocation. SPG cannot be linked to national policy alone; **there must be an LDP policy or policy criterion that provides the development plan 'hook'**,

¹ Welsh Government (November 2016) Planning Policy Wales 9th Edition

whilst the reasoned justification provides clarification of the related national policy.
The LDP should note which policies are supplemented by SPG.

- 2.3.4 Only the policies in the development plan have special status under section 38(6) of the 2004 Act in deciding planning applications, but **SPG may be taken into account as a material consideration. In making decisions on matters that come before it, the Welsh Government and the Planning Inspectorate will give substantial weight to approved SPG which derives from and is consistent with the development plan, and has been the subject of consultation.**
 - 2.3.5 Even though SPG is non-statutory and does not require a Sustainability Appraisal (SA), the **Strategic Environmental Assessment (SEA) Regulations may apply to some types of SPG** – for example some site briefs/master-plans/place plans. Where screening indicates that SEA applies and there are likely to be significant environmental effects, the local planning authority will need to ensure it has met the requirements of the SEA Regulations.”
15. In its Glossary, the Handbook on Local Development Plans² includes a definition of CCA as:
- *“supporting information in relation to LDP policies. The SPG does not form part of the LDP and is not subject to independent examination but must be consistent with the National Planning and Planning Policy.”*

General Comments

16. As stated later in the report, impact assessments are related to a wider family of techniques devised to address uncertainty and the likelihood of an incident affecting a "receptor" - whether it is wildlife, property, person, organisation or language. Those techniques, like all other disciplines, have their own vocabulary or language. Where relevant, individual descriptions were amended through the draft SPG to reflect that vocabulary.

An Assessment of the General Information presented on the nature, purpose and status of Supplementary Planning Guidance

17. Overall, the General Information that includes explanation of purpose, policy context and status of the SPG is clear, and uses language that is fit for purpose.
18. The Planning Act Wales 2015, within the context of the five ways of working in the Welfare of Future Generation Act, strengthens measures to ensure public participation in the

² Welsh Government (2015) Local Development Plans Manual (Second Edition)

planning system. We therefore consider that it is appropriate for the SPG to reflect that by strengthening the reference to the targeted audience:

Recommendation 1

Adapt the description of the external target audiences (see 'Purpose' page 1) to make clear who the SPG is aimed at, as follows:

assist ~~the public~~ applicants and their agents in preparing the planning proposals and lead them in discussions with officers before submitting planning applications;

help members of the public and other interested stakeholders to understand the requirements and expectations of the relevant policy and help them to make meaningful comments and input into the decision-making process.

Section 1

19. This Section contains the following four sections.

- Part A is a broad description of what is meant by distinctive and sustainable communities;
- Part B describes how certain types of sustainable development contribute to the maintenance and creation of distinctive and sustainable communities;
- Part C - issues to be considered and additional information necessary to support a planning application so that it may be validated;
- Part Ch - what can be built instead.

20. Although the content of the four parts individually is clear, the purpose of the narrative is broadly split into two. Sections A and B describe the principles, purpose and requirements of Policies PS5 and PS6 and the relationship of wider sustainable development to the main focus of the Guidance, which is to explain the requirements of PS1. Parts C and Ch are then more of a guidance for the target audiences (predominantly applicants and other stakeholders) on how to take these wider sustainable development requirements into account when preparing and responding to pre-application consultations and planning applications that are relevant to Policy PS1.

21. Other stakeholders (for example, candidates or their agents and those who assess and make decisions) on other planning applications (i.e. the vast majority of planning applications) will not be likely to seek guidance regarding this specific SPG. They will not, therefore, be likely to turn to this specific Guidance for the guidance given in Parts C and Ch.

22. As the main purpose of the SPG is to give guidance on PS1, we recommend that it would be more logical in terms of document flow to create a new Section 3, and move Parts C and Ch there.

23. This will also help ensure that the connection between Section 2 and the content of Section 1 and Section 3 (the new "Ch" and "D" Parts) flows effectively.

Recommendation 2

Amend the structure of the SPG into three sections and modify the Introduction (page 4) as follows:

SECTION 1 (Parts A- B) - *what is meant by distinctive and sustainable communities and how certain types of development can contribute to maintaining or creating distinctive and sustainable communities*

SECTION 2 (Part C) – *how to use **Policy PS 1 The Welsh language and the Welsh culture** and present evidence to support the development:*

SECTION 3 (Parts CH and D) - *explain to the candidate how to present evidence in favour of the development against the wider requirements of sustainable development and to better understand the sustainable merits of different types of development.*

Section 2

24. Section 2 begins by describing the legislative and policy context, outlining the previous experiences of carrying out effective assessments of the likely impact on the Welsh language and culture and the difficulties experienced in doing so. It then goes on to describe the issues to be considered when carrying out an assessment and when a Language Statement needs to be made, and when to make a Language Assessment.
25. This content is generally acceptable in scope, as far as it goes. However, in our opinion, it would benefit from the following changes.
26. Firstly, it would benefit from the inclusion of a narrative that explains how language assessments belong to a wider family of methods of dealing with uncertainty and risk assessment and management.
27. The International Organisation for Standardisation is a worldwide federation of standards organisations. The ISO adopted ISO 31000 in 2009³ which lays down principles and guidance on how to carry out exercises to identify and regulate risk. The Introduction to the ISO guide includes the following description:

³ ISO (2009) ISO 31000:2009(en) Risk management — Principles and guidelines

“Organizations of all types and sizes face internal and external factors and influences that make it uncertain whether and when they will achieve their objectives. The effect this uncertainty has on an organization's objectives is “risk”.

All activities of an organization involve risk. Organizations manage risk by identifying it, analysing it and then evaluating whether the risk should be modified by risk treatment in order to satisfy their risk criteria. Throughout this process, they communicate and consult with stakeholders and monitor and review the risk and the controls that are modifying the risk in order to ensure that no further risk treatment is required. This International Standard describes this systematic and logical process in detail.

While all organizations manage risk to some degree, this International Standard establishes a number of principles that need to be satisfied to make risk management effective. This International Standard recommends that organizations develop, implement and continuously improve a framework whose purpose is to integrate the process for managing risk into the organization's overall governance, strategy and planning, management, reporting processes, policies, values and culture.

Risk management can be applied to an entire organization, at its many areas and levels, at any time, as well as to specific functions, projects and activities.”⁴

28. While the ISO guidance is primarily aimed at organisations, we believe the same principles and guidance are relevant to identifying and managing environmental, economic, social and cultural risk. It therefore includes likely impact assessments on language as well as identifying and managing risk to a business or organisation.

Recommendation 3

Include text in Section 2 (see page 13) to explain the principles, frameworks and assessment processes of likely effects to recognise the relationship and context of likely impact assessments on language for the wider family of impact assessments.

29. Secondly, although the narrative explains when to use a Language Statement and when to use a Language Assessment, it does not define what is different in both tools.
30. In our view, the main difference is not the result of the identification, assessment and risk-handling process (this is broadly similar) but is derived from the planning status of the proposed proposal or development.

⁴ Op. Cit.

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31. Criterion 2 of Policy PS1 describes proposed "major" developments that are subject to a statutory pre-application consultation procedure under the requirements of the Planning Act 2015. Before submitting a planning application for major development, the applicant is required under the Development Control Procedure (Wales) Order to:
- Publish the draft application;
 - Consult with the community and specialist consultants;
 - Write a report on the pre-application consultation made.⁵
32. As a minimum, the Procedure defines the "community" and "specialist consultants" requirements. However, Development Control Manual⁶ encourages "*candidates to consider publicity and broader notices so that the candidate can promote the development and respond to public concerns*".
33. In our view, although it is not a statutory requirement, it is reasonable and proper for the councils to give strong leadership and expectation for candidates to make assessments as part of the Pre-Application process.
34. Following this method of preparing a Language Impact Assessment would also be consistent with the third principle of the ISO, namely:
- "activities to communicate and consult with stakeholders throughout the process"*.
35. Thirdly, in terms of the issues to be considered, we believe it is important for the reader to be aware of the thrust of public policy, nationally and locally, in terms of increasing the number who can speak and use Welsh.
36. The Welsh Government has an ambition to ensure a million people speak and use Welsh by 2050 and it expects everyone to play their part in realising this ambition. The Government has also announced projections and trajectories of one possible way to reach the target by 2050⁷.
37. Although these trajectories are only available for Wales as a whole, in due course more detailed projections will probably be available to identify the contribution of each county towards the effort.

⁵ Welsh Government (2016) Town and Country Planning (Development Control Procedure) (Wales) (Amendment) Order 2016

⁶ Welsh Government (2016) Development Control Handbook, section 6.4.24

⁷ Welsh Government (2018) Technical report: The projection and trajectory of the number of Welsh speakers aged three and over, 2011-2050

38. Both Councils also have measures within their Language Strategies to increase the number of speakers within the two Counties, and they recognise the role that developments in the fields of employment and accommodation can play to achieve those targets.
39. It is likely that these targets will feed into reviews of the Joint Local Development Plan and become a target or baseline for the plan to aim for.
40. Therefore, it would be reasonable to expect developers to respond to these challenges positively by identifying how they could contribute to meeting these targets, and that the SPG highlights this.

Recommendation 4

Amend the content of Section 2 to include the following:

- amend the associated diagrams (Diagrams 3,4 and 5) to reflect that. (See page 14 onwards);
- amend text to explain Stage 2 (Preparation of Statement, Assessment or Supporting Evidence) (see page 17);
- amend the 'Issues to Consider' section to include guidance on strategies in relation to the Welsh language (see page 18);
- Include a sentence or paragraph to explain the contents of Diagrams 8 and 9 (see page 25 onwards).

Section 3 (New)

41. Finally, sections Ch and D tailor the guidance given in the Draft SPG to what is relevant to different types of development and in different places. Due to the nature of the text, the tables and the description given in these two sections are fairly broad and complex. As such, it is easy for the applicant and other stakeholders to become confused when considering what is relevant and useful to the proposed development in question. In our view, the Section would benefit from a simple table that summarises and identifies which parts of the Section are relevant.

Recommendation 5

Add (Table 5) which summarises the guidance and sets out clearly which parts of the information is relevant or not to a different type of development. (see page 42)

The Appendices

42. Minor additions and or amendments are suggested for Appendices 1,2, 3 and 5. No suggestions were made for any changes to Appendix 4. The main recommendations relate to appendices 6, 7 and 8.

Appendix 6 Possible mitigation and improvement measures - Welsh language

43. A number of suggestions have been made to strengthen mitigation and enhancement activities by tailoring those activities to what is appropriate and acceptable according to the type and scale of the development (see Appendix 6)

Appendix 7 Methodology for preparing a Statement

44. A number of suggestions have been made to expand and strengthen the consideration and questions that the applicant is asked to consider when preparing the statement. This includes a description of a Framework or Risk/Benefits Matrix for them to consider using to evaluate the likely effects on the resilience of the Welsh language. (see Appendix 7)

Appendix 8 Methodology for preparing an Impact Assessment Report

45. As engagement and consultation activities are a key part of preparing an Impact Assessment Report, we suggest that the need for this should be reinforced in the more detailed advice. We include the description of the Framework or Risk Matrix mentioned in paragraph 43 above, and asking the candidate to score different questions according to the perception of the pre-application consultation process.

46. We consider it appropriate to ask the applicant to give priority first to consider the likely impact the development will have on the resilience of the Welsh language before expanding the consideration to include wider sustainability aspects. We therefore recommend that Parts 1 and 2 of the process be changed to that effect. (see Appendix 8)

Recommendation 6

Adopt the suggested changes to the Appendices in paragraphs 42 to 46 and in the text to the relevant appendices.

General

47. As there are a number of diagrams, figures tables and a map in the document, it is suggested that the numbering of the pages and the addition of a Contents page would help the reader to navigate the SPG.

Recommendation 7

Number the pages within the SPG and include a Contents Page at the beginning of the document.

Summary of Findings

48. We were asked to evaluate whether the Guidance would be likely to meet its purposes and provide guidance to those stakeholders involved in the preparation, assessment and determination of relevant planning applications.
49. Our findings have identified several strengths in the original draft. We also identified areas where we believe that it would be possible to strengthen its fitness for purpose.
50. We therefore offer seven recommendations and suggestions for modifications to the structure and content of the draft comments to try to address this.

The Recommendations

Recommendation 1

Adapt the description of the external target audiences to make clear who the SPG is aimed at, as follows:

assist the ~~public~~ candidates and their agents in preparing the planning proposals and lead them in discussions with officers before submitting planning applications;

help members of the public and other interested stakeholders to understand the requirements and expectations of the relevant policy and help them to make meaningful comments and input into the decision-making process.

Recommendation 2

Amend the structure of the SPG into three sections and modify the Introduction (page 4) as follows:

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SECTION 2 (Part C) - *how to use **Policy PS 1 The Welsh language and the Welsh culture** and present evidence to support the development:*

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Recommendation 3

Include text in Section 2 to explain the principles, frameworks and assessment processes of likely effects to recognise the relationship and context of likely impact assessments on language for the wider family of impact assessments.

Recommendation 4

Amend the content of Section 2 to include the following:

- amend the associated diagrams (Diagrams 3,4 and 5) to reflect that. (See page 14 onwards);
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- amend the 'Issues to Consider' section to include guidance on strategies in relation to the Welsh language (see page 18);
- Include a sentence or paragraph to explain the contents of Diagrams 8 and 9 (see page 25 onwards).

Recommendation 5

Add (Table 5) which summarises the guidance and simply sets out which parts of the information is relevant or not to a different type of development.

Recommendation 6

Adopt the suggested changes to the Appendices in paragraphs 41 to 45 and in the text to the relevant appendices.

Recommendation 7

Number the pages within the SPG and include a Contents Page at the beginning of the document.

Owain Wyn, BURUM Consultancy Services
Dr. Kathryn Jones, Iaith Cyf.

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