

<b>Committee</b>	<b>Communities Scrutiny Committee</b>
<b>Date</b>	<b>4 April 2019</b>
<b>Title</b>	<b>Supplementary Planning Guidance: Maintaining and creating distinctive and sustainable communities (post public consultation draft)</b>
<b>Cabinet Member</b>	<b>Councillor Dafydd Meurig</b>
<b>Author</b>	<b>Gareth Jones – Senior Manager Planning and Public Protection Service</b>
<b>Purpose</b>	<p><b>(A) To scrutinise:</b></p> <ul style="list-style-type: none"> <li>• <b>The process of preparing the Supplementary Planning Guidance: Maintaining and creating distinctive and sustainable communities (post public consultation draft)</b></li> <li>• <b>The manner the responses received during the public consultation have been dealt with, and</b></li> </ul> <p><b>(B) To offer feedback before the Guidance is considered by the Joint Planning Policy Committee</b></p>

## **1 Background**

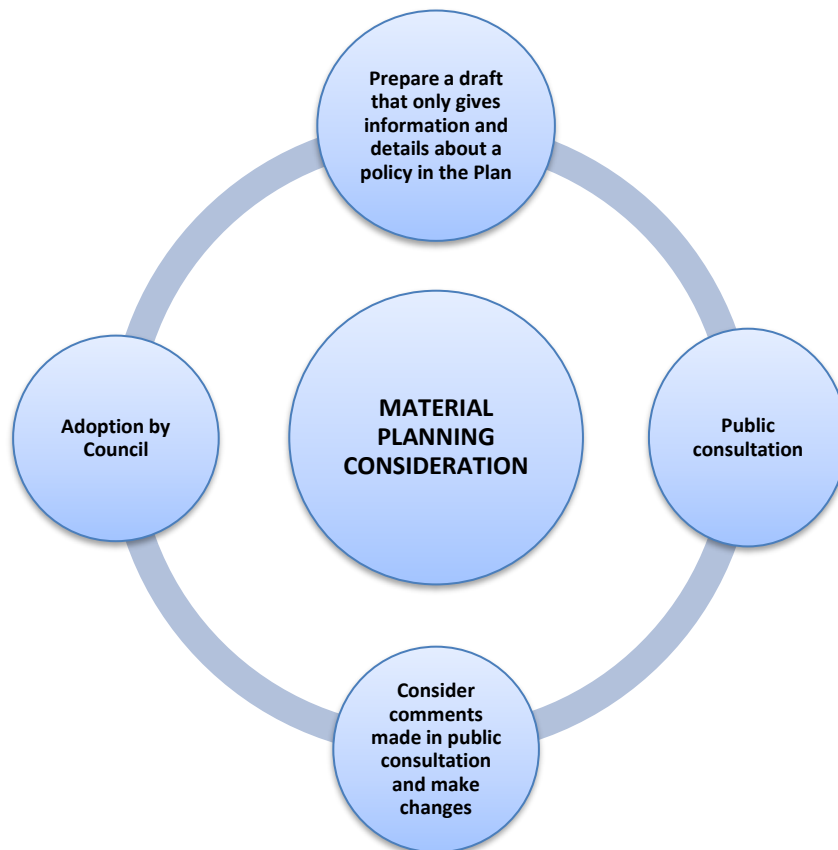
- 1.1 The purpose of this report is to raise the awareness of Scrutiny Committee Members of the development of the Supplementary Planning Guidance: Maintaining and creating distinctive and sustainable communities before the Joint Planning Policy Committee decides on its suitability for adoption at its meeting on 23 May 2019. The Partnership and Regeneration Scrutiny Committee (Isle of Anglesey County Council) will scrutinise it on 9 April 2019.
- 1.2 The Guidance has been divided into 3 sections. Section 2 (and the majority of the Appendices in the Guidance) deals specifically with how to apply Policy PS 1: The Welsh language and Welsh culture. This element of the Guidance is the subject of part A of a brief given to a Scrutiny Working Group to undertake the Planning and Welsh Language Scrutiny Investigation. For this reason, this report focuses on Section 2 of the Guidance and Appendices.
- 1.3 The Working Group established for the Scrutiny Investigation referred to in Paragraph 1.2 has presented updates and recommendations to this Scrutiny Committee at specific times during the Scrutiny Investigation. This Scrutiny Committee made a number of recommendations to the Joint Planning Policy Committee for consideration prior to the publication of the Guidance for public consultation.
- 1.4 The whole Guidance can be viewed in its preliminary post public consultation draft form in **Appendix 1**.
- 1.5 When adopted, the Guidance will replace the current planning and Welsh language guidance adopted by both Councils to support the old development plans, namely the Gwynedd Unitary Development Plan (in the case of the Gwynedd Planning Authority area). When adopted it will be a material planning consideration.

## 2 The Purpose of Supplementary Planning Guidance

- 2.1 Supplementary Planning Guidance can only provide further information or details about policies or proposals set out in the Local Development Plan.
- 2.2 The Guidance cannot change policy or proposals set out in the Local Development Plan and new policies cannot be introduced through a Supplementary Planning Guidance.

## 3 Supplementary Planning Guidance Status

- 3.1 The Guidance may be a 'material planning consideration' that should be considered alongside the policies it supports in the local development plan when specific actions have taken place. Figure 1 below gives a snapshot of the actions required to have a 'material planning consideration' status.

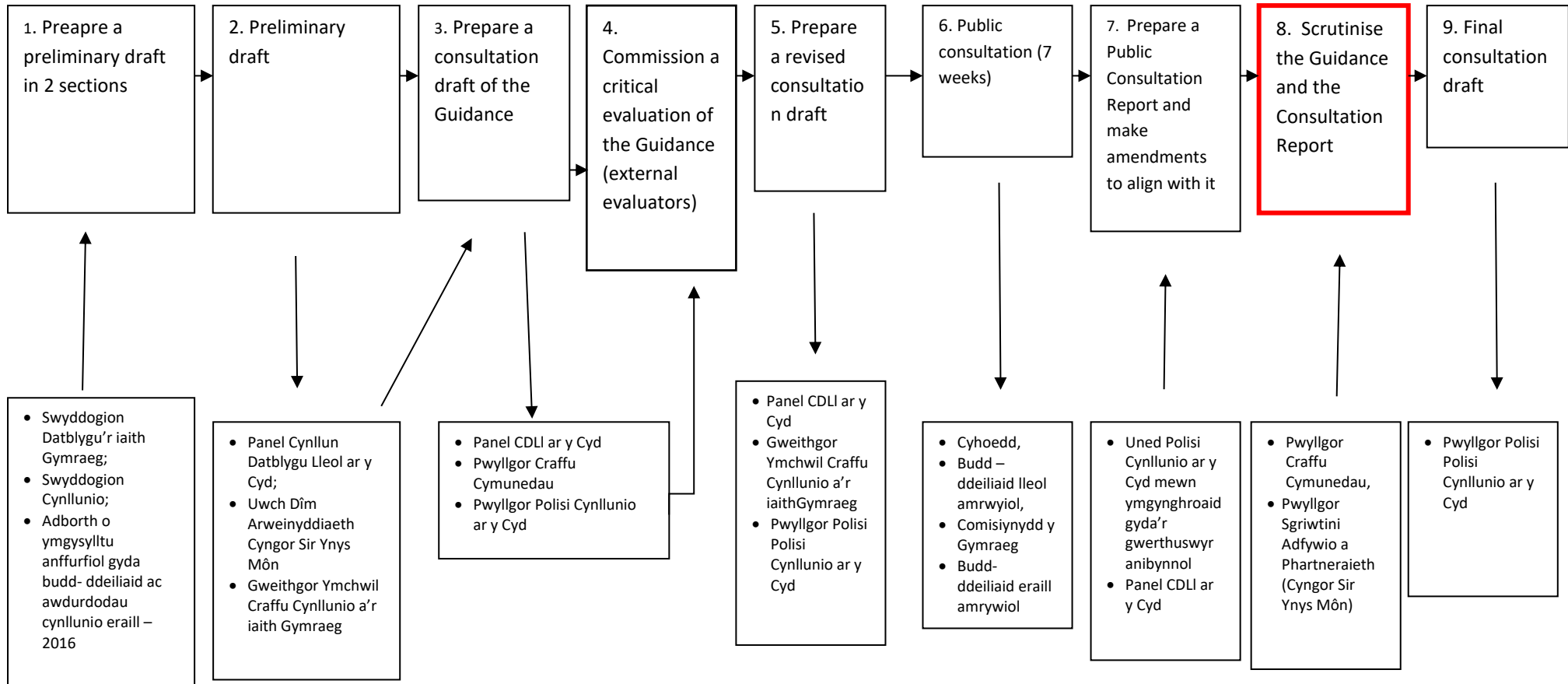


## 4 The story of preparing the Supplementary Planning Guidance: Maintaining and creating distinctive and sustainable communities

- 4.1 The flow chart on the next page provides a snapshot of the process to prepare the Guidance to date. The top row gives the timetable. The second row records the activities, while the bottom row records who has contributed to the process, including the Scrutiny Working Group and the Communities Scrutiny Committee.

September 2017 - February 2018	January & February 2018	March - April 2018	July 2018	October–November 2018	December 2018 – January 2019	Chwefor - Mawrth 2019	Ebrill 2019	Mai 2019
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**PROCESS TO PREPARE A SUPPLEMENTARY PLANNING GUIDANCE: MAINTAIN AND CREATE DISTINCTIVE AND SUSTAINABLE COMMUNITIES**



- 4.2 The Scrutiny Committee will recall that the Scrutiny Working Group presented its [initial main findings](#) on 22 February 2018, and that it had submitted a [series of recommendations](#) on 19 April 2018. The Scrutiny Committee will recall that it supported those recommendations. The findings and recommendations were considered by the Joint Planning Policy Unit, Joint Local Development Plan Panel and the Joint Planning Policy Committee (as required).
- 4.3 Table 1 and Table 2 below record the findings and recommendations made at the time and provide an outline of how the draft consultation Supplementary Planning Guidance and associated arrangements were addressed. They also provide an outline of why it was not appropriate to address some of them in accordance with the expectations of the Scrutiny Committee. The full reasons and decision of the Joint Planning Policy Committee can be viewed on the [agenda of the Joint Planning Policy Committee in April 2018](#) and the [minutes of that meeting](#).

Table 1 – Overview of the response to initial findings presented in February 2018

<b>Communities Scrutiny Committee 22 February 2018 – initial findings of the Scrutiny Working Group</b>	<b>Overview of how the initial findings were considered</b>
A clear statement is required stating that the developer needs to hold a public consultation on every development of 10 or more houses in an urban area and 5 or more in a rural/village area.	Planning (Wales) Act 2015 determines when an applicant needs to undertake a public consultation on proposed development. The Working Group’s expectations are not consistent with this Act. Therefore, the statement cannot be included in the Guidance.
It needs to be stated that a Welsh Language Effect Assessment needs to be held on every development that is referred to a public consultation.	See the above response. In addition, Policy PS 1 determines when a Welsh language Statement needs to be presented and when a Welsh Language Impact Assessment Report needs to be presented with planning applications.
Members are concerned about the phraseology and format/style of the draft consultation document. It is difficult to see how members of the public are expected to understand the document in its current form and to contribute meaningfully to the consultation	The Guidance’s primary purpose is to assist applicants and their agents to prepare development proposals. It isn’t a document for the general public. However, the content of the Guidance was amended by including more charts and diagrams in order to convey the messages in a more visual manner.
Clear details are needed on the methodology of holding a Language Effect Assessment. This is a critical part of the Assessment. Full details of the methodology need to be included in the consultation.	It is agreed that this is important. It was considered that Appendix 7 and Appendix 8 provided detailed guidance about the requirements associated with undertaking both types of assessments.
There is also ambiguity regarding the descriptions of Welsh Language Statement, and the relevance of the mitigating steps.	It was considered that Appendix 7 provided detailed guidance about the requirements associated with undertaking an assessment,

<b>Communities Scrutiny Committee 22 February 2018 – initial findings of the Scrutiny Working Group</b>	<b>Overview of how the initial findings were considered</b>
	which would be require its conclusions to be presented in a Welsh language Statement.
A clearer description is required of what is expected of the language specialist from the Council’s perspective and external individuals or organisations and their role.	Diagram 6 and Diagram 7 in the Guidance states what the role of the competent assessor appointed by the applicant would be. Appendices 7 and 8 refer to external organisations and individuals to engage/consult with them in the period before submitting a planning application. Diagram 4 refers to the pre- application statutory public consultation applicants must undertake in relation to ‘major’ development. A link is provided to a good practice document published by the Welsh Government, which explains what is the role of external organisations in the process.

Table 2 – Overview of the response to the recommendations presented in April 2018

	<b>Communities Scrutiny Committee 19 April 2018 – recommendations of the Scrutiny Working Group, which were approved by the Scrutiny Committee</b>	<b>Overview of how the recommendations were considered</b>
1A	A clear statement is required in the Guidance stating that the developer needs to hold a <i>public consultation</i> on every development of 10 or more houses in an urban area and 5 or more in a rural/village area.	<p><b>It would be illegal to include this statement in the Guidance.</b></p> <p>Planning (Wales) Act 2015 determines when an applicant needs to undertake a public consultation on proposed development. Under the Act, it will be necessary for an applicant who intends to submit an application for ‘major development’ to undertake a statutory consultation prior to making an application. The definition of ‘major development’ is set out in Article 2 of the Town and Country Planning (Development Management Procedure) (Wales) 2012 (DMPWO). In short, major development are:</p> <ul style="list-style-type: none"> <li>• Developments of 10 or more houses where the site area is 0.5 ha or more (if the number of houses is known);</li> </ul>

		<ul style="list-style-type: none"> <li>• Provision of building (s) where the floor area is greater than 1,000 square metres;</li> <li>• Winning and working of minerals or use land to store mineral- working deposits;</li> <li>• Waste development of waste; and</li> <li>• Development on a site of 1 ha or more.</li> </ul> <p>However, it is agreed that engagement and consultation with the communities and other diverse stakeholders is important when considering a proposed development in the period before submitting a planning application and after the submission of the planning application. Diagram 5, Appendix 7 and Appendix 8 set out the expectations of the authorities for engagement and consultation during the pre- application stage.</p> <p>See also 1b.</p>
1B	<p>It needs to be stated clearly in the Guidance that the Developer needs to submit a Welsh Language Assessment and a Welsh Language Impact Assessment for every development that is referred to a public consultation.</p>	<p>It would be illegal to include this statement in the Guide. Policy PS 1 in the Plan sets out when a Welsh Language Statement or a report about a Welsh Language Impact Assessment needs to be submitted with planning applications.</p> <p>When it is necessary to undertake an assessment of the impact of development on the Welsh language <u>and</u> undertake a statutory pre- application public consultation (in accordance with the requirements of the Act), the Supplementary Planning Guidance clearly states it is expected that the Welsh Language Statement and the WLIA report is published as part of the package of documents – Diagram 5, Appendix 7 and Appendix 8.</p> <p>In addition, the Joint Planning Policy Committee decided to authorise relevant senior officials on behalf of both Authorities’ Planning Services to write to the Welsh Government to inquire about right to change policy in a local development plan and the right to change the threshold that sets a requirement for a pre- application public consultation for 5 houses in villages and the countryside instead of 10 houses.</p> <p>The Welsh Government’s response confirms the Joint Planning Policy Committee’s position.</p>

2	Panel members should receive advice and guidance from independent experts in the field of <i>Linguistic Planning</i> when preparing the new Supplementary Planning Guidance and prior to consulting on the new draft Guidance.	<p>The Joint Planning Policy Committee decided to <b>to authorise relevant Senior Officers on behalf of both Authorities’ Planning Services to commission qualified external experts to undertake a critical evaluation of the Supplementary Planning Guidance: maintain and create distinctive and sustainable communities, and in particular Section 2 of the Guidance.</b></p> <p><b>Cwmni Iaith and Burum Consultancy Services were appointed to jointly undertake a critical evaluation of the first consultation draft of the Supplementary Planning Guidance (April 2018).</b> The companies’ recommendations were accepted and the consultation draft Supplementary Planning Guidance, which incorporated amendments recommended by the companies, was approved for public consultation.</p>
3	Panel members should receive advice and guidance from independent experts in the field of <i>Research and Analysis</i> when preparing the new Supplementary Planning Guidance and prior to consulting on the new draft Guidance.	<b>There was no need for advice from independent experts in the field of research and analysis to complete the preparation of the Guidance before public consultation.</b>
4	Panel members should receive advice and guidance from independent experts in the field of <i>Engagement and Consultation</i> when preparing the new Supplementary Planning Guidance and prior to consulting on the new draft Guidance.	<b>There was no need for advice from independent experts in the field of engagement and consultation to complete the preparation of the Guidance before public consultation.</b>
5	Panel Members should request an extension to the <i>Timetable</i> if needed in order to deliver work of the highest possible standard.	<b>The timetable for the preparation of the Supplementary Planning Guidance has been extended in order to undertake the critical evaluation and prepare a report about the public consultation to the Communities Scrutiny Committee during 2019.</b>

4.4 The Working Group presented an additional report to the Joint Planning Policy Committee in November 2018 after it had had the opportunity to scrutinise the revised draft Guidance, which incorporated changes recommended by Cwmni Iaith Cyf and Burum Consultancy

Services. That report can be viewed [on the Joint Planning Policy Committee](#) website. The Committee's response can be found in the [minutes](#).

- 4.5 The observations of the Scrutiny Working Group and the Scrutiny Committee have been a valuable part of the process of developing the draft consultation version of the Supplementary Planning Guidance. We have taken into account all points made by the Working Group/Committee in preparing the Guidance as reflected in the tables above. It is hoped that this is clear. The work has been very time-consuming and it is fair to say that the Joint Planning Policy Unit has learned a great deal through the process.

## **5 The public consultation on the Supplementary Planning Guidance**

- 5.1 After receiving the support of the Joint Planning Policy Committee, the Supplementary Planning Guidance for public consultation was published in accordance with the public consultation plan. 88 comments were received from 8 commentators. **Appendix 2** contains a report on the Public Consultation. There is a record of the public consultation arrangements, which included giving community, town and city councils, and specialist organisations and bodies, the opportunity to express a formal view on the contents of the Guidance. A table in the Public Consultation Report records the comments received, together with officers' response to the comments. It identifies the changes necessary to respond to relevant comments. The opinion of Cwmni Iaith Cyf and Burum Consultancy Services was received during the process of considering the comments.

- 5.2 The comments received during the public consultation period are valuable and it is hoped that this is clear in the Public Consultation Report. It is recommended that a number of changes are made to the Guidance to address the issues raised in some of the comments received.

## **6 Planning Policy Wales Edition 10 (December 2018)**

- 6.1 Since the decision to consult on the draft consultation, Edition 10 of Planning Policy Wales Guidance has been published. Compared with Edition 9, the document has been restructured according to policy themes around well-being goals, and national planning policy has been updated to reflect new Welsh Government strategies and policies. Four thematic headings are identified, and there are a variety of subject areas within them. The thematic headings are: Placemaking, Active and Social Places, Productive and Enterprising Places, Distinctive and Natural Places. It can be seen that national planning policy focuses on the place-making approach.

- 6.2 We have taken the opportunity to update the relevant parts of the Guidance, which referred to Planning Policy Wales Edition 9 to record the publication of Edition 10.

- 6.3 Parts 3.25 – 3.29 of Planning Policy Wales provide national policy guidance on the Welsh language and place-making. **Appendix 3** contains a copy of that part of PPW. Note that the text in these paragraphs continues (as shown in Edition 9) to repeat the requirements of Section 62 of the Planning and Compulsory Purchase Act 2004 (as amended by the Planning Act - Wales - 2015) and Section 70(2) of the Town and Country Planning Act 1990. Those sections of legislation are concerned with preparing local development plans and making decisions on relevant planning applications in a way that takes account of the likely effects of local development plans/ decisions on proposed developments on the use of Welsh. There has therefore been no change between the Welsh Government's position on the role of the



planning system in promoting the conditions essential to the Welsh language between Edition 9 and Edition 10.

- 6.4 The Plan has been prepared in accordance with the requirements of Sections 61 and 62 of the Planning and Compulsory Purchase Act 2004 (as amended by the Planning Act - Wales - 2015). Therefore, there is no discord between PPW Edition 10 and the Joint Local Development Plan.
- 6.5 The Plan identifies the whole Plan area as being important to the Welsh language. In accordance with Section 70 (2) of the Town and Country Planning Act 1990, Policy PS 5 and Policy PS 1 of the Plan ensure that those preparing planning applications and those making decisions on planning applications take account of the likely effects of a proposed development on the use of Welsh in the Plan area. Therefore, there is no discord between PPW Edition 10 and the Joint Local Development Plan.
- 6.6 In order to ensure that the above named Policies are implemented consistently and in a transparent manner, the SPG provides guidance on when and how to submit evidence to show that considerations relating to the use of the Welsh language have been addressed by applicants for planning permission. It follows that this enables the decision maker of a planning application to make a decision based on relevant information. Given that the SPG's only role is to provide advice on local planning policy, it follows that there is no discord between national policy and the Guidance.

## **7 Current position - draft SPG following consultation**

- 7.1 As noted in paragraph 1.4 above, **Appendix 1** contains a preliminary draft copy of the whole Guidance, including most of the changes noted in the last column of the table in **Appendix 2** in response to a number of the comments received during the public consultation period. Some additional amendments are required to deal with all the recommendations, e.g. proof read the document, cross- reference to relevant pages within the document, etc. The changes mainly involve improving the flow of the document and improving clarity, e.g., by reconciling messages about the purpose of assessments, being clearer about assessor qualifications, being clearer about the parameters of those evaluating the assessments, etc.
- 7.2 The Scrutiny Committee will see that the Guidance has been developed over a period of time and that its contents as shown in **Appendix 1** have been influenced by various officers, councillors, critical evaluation by external experts and by feedback received from various public commentators who took part in the public consultation.

## **8 Next steps and timetable**

- 8.1 The next table records the next steps and timescale for delivery:

<b>Action</b>	<b>When?</b>
Isle of Anglesey County Council Partnership and Regeneration Scrutiny Committee - scrutiny	9 April 2019
Joint Planning Policy Committee - consideration of:	23 May 2019

Action	When?
i. Observations of the Communities Scrutiny Committee and the Partnership and Regeneration Scrutiny Committee; ii. feedback received during the public consultation period; iii. a final draft copy of the Supplementary Planning Guidance to determine whether the Guidance is suitable for adoption (and therefore replace the existing SPG on this subject).	
Use the adopted Guidance as a material planning consideration	24 May 2019 onwards
Make arrangements to raise awareness of this Guidance for both Planning Committees, various officers in both Councils, and companies and individuals who advise applicants about planning permission.	Summer - October 2019

## 9 Recommendation

- 9.1 To accept the report and consider how the Supplementary Planning Guidance: Maintaining and creating distinctive and sustainable communities presented in Appendix 1 has been prepared;
- 9.2 To determine whether there are any comments to be presented to the Joint Planning Policy Committee.