

**A DISCUSSION PAPER  
ON  
LOCAL HOUSING NEED  
AND THE WELSH LANGUAGE  
IN THE PLANNING SYSTEM**

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# INTRODUCTION

As members of Plaid Cymru, many of us have long voiced concerns about the planning system and its impact on our communities and the Welsh language. For example:

- there is a feeling that the system favours developers and permits too many developments and homes where there is no local need;
- there is a feeling that communities do not have a strong enough voice about developments in their areas, and that policies are forced upon them by central government;
- there is a feeling that the system does not provide sufficiently for those people who find it difficult to access suitable housing in their local areas.

I decided to commission this paper to encourage debate amongst us about practical steps we might take to try and tackle these problems. The aim was to propose ideas regarding:

- how local housing needs might be better met;
- the safeguarding and promotion of Welsh as a community language.

The report makes recommendations under five chapter headings:

- lack of information and methodologies (chapter 1);
- weaknesses in the guidance (chapter 2);
- assistance to access housing (chapter 3);
- the system from top to bottom (chapter 4);
- other matters (chapter 5).

Some of these recommendations relate to issues that might be implemented and called for in the near future. Some proposals will require investment and the commissioning of further work. There are also longer term issues relating to more substantial revisions to the planning system, with a view to introducing a regime more in line with Plaid Cymru's vision for government.

One should emphasise that these recommendations do not represent the current official policy of Plaid Cymru; the idea is that they should encourage further dialogue amongst our members, ultimately helping us to formulate our policy

I should note in closing that the paper has been framed mainly to encourage discussion amongst those who are already familiar with the field but I appreciate that it might also be of wider interest. Therefore, there is an appendix at the end of the paper to explain some of the technical terms and to summarise some of the main elements of the planning system in Wales today.

I look forward to hearing your ideas,

Siân Gwenllïan AM

# SUMMARY OF THE RECOMMENDATIONS

## LACK OF INFORMATION AND METHODOLOGIES (CHAPTER 1)

1. Local authorities should review their processes for assessing local housing need. This work should be based on recent good practice, investing in external expertise when required (section 1.1.2)
2. Research should be commissioned to investigate the relationship between the housing market, the planning system, and the demise or growth of Welsh as a community language. One of the objectives of such research would be to establish a robust methodology and provide stronger guidance for undertaking assessments of the impact of planning strategies and decisions on the Welsh language (section 1.2.3)
3. Local authorities should be encouraged to come together to assess their methodologies for undertaking language impact assessments, sharing any good practice and new processes (section 1.2.3)
4. The good practice, the methodology and processes used by Gwynedd and Môn to create the Local Housing Market policy should be shared with a view to disseminating this policy more widely (section 1.3)

## WEAKNESSES IN THE GUIDANCE (CHAPTER 2)

5. TAN 20 should be revised without delay to make it clear that language impact assessments should be undertaken on individual applications in specific circumstances (section 2.1.2)
6. TAN 20 should make it clearer that local authorities may in any case undertake Welsh language impact assessments on individual planning applications if they so wish (section 2.1.2)
7. There is a need to press for far stronger guidance in TAN 20 regarding the definition of linguistically sensitive areas, and the factors that should be considered in their designation. In doing so, the needs of Welsh speaking heartlands should be addressed in terms of providing infrastructure and facilities (section 2.2).
8. the Welsh Government should be urged to amend TAN 20 in order to provide greater clarity regarding considerations relating to the Welsh language when monitoring and reviewing the Local Development Plan; and to provide more guidance regarding the mitigating measures and measures to promote the Welsh Language which should be included when a language impact assessment has been carried out (section 2.3)

## ASSISTANCE TO ACCESS HOUSING (CHAPTER 3)

9. The success of all existing schemes to help local people purchase or build their own homes should be critically and holistically investigated (section 3.1)

10. Welsh local authorities should be required to maintain registers of those who wish to acquire land for self-build projects (section 3.2)
11. A specific capital fund should be set up to increase the housing stock for local people in rural communities, and a plan drawn up to implement this (section 3.3)
12. There is a case for looking in more detail at the success of land trusts and local enterprises, with a view to introducing new policies to promote them in the future (section 3.4)

## THE SYSTEM FROM TOP TO BOTTOM (CHAPTER 4)

13. The Welsh Government's plans as it draws up the National Development Framework require very careful monitoring (section 4.2)
14. There is a need to ensure that the National Development Framework contains a clear statement regarding the importance and relevance of the Welsh language in planning for land use (section 4.2)
15. It should be ensured that any methodology used to undertake the assessment is as robust as possible, and reflects any findings arising from the recommendations in chapter 1 (section 4.2)
16. There is a need to carefully monitor the intentions of the Welsh Government for Strategic Development Plans, ensuring that they do not address issues that would be best dealt with at a local level (section 4.3)
17. It is important to keep a watchful eye on the way in which regional economic growth plans might eventually impact upon land use in those regions (section 4.3)
18. The current consultation on *Planning Policy Wales* is an opportunity to question whether its contents really does enough to demonstrate how the planning system might achieve a Wales of a "thriving Welsh language" (section 4.4)
19. The current consultation on *Planning Policy Wales* is an opportunity to present some of the arguments put forward in chapters 1 and 2 regarding the lack of a consistent methodology for undertaking language impact assessments, when such assessments should be undertaken and also regarding other weaknesses in TAN 20 (section 4.4)
20. Further consideration is required regarding the desirability of introducing a lower tier of development plans at a community level, within the context of Plaid Cymru's policy for the reorganisation of community councils and its wider policies for the decentralisation of power. Funding for this work and training for councillors should be considered (section 4.5)

## OTHER MATTERS (CHAPTER 5)

21. Guidance in TAN 1 needs to be revised in order to ensure that joint land availability studies do not undermine other housing allocations in the Local Development Plan, especially when the practice of land banking has impacted upon this (section 5.1)
22. The composition of the panels undertaking joint studies should be revisited, so that developers and their representatives do not wield excessive power (section 5.1)
23. The introduction of a levy scheme on land that has been awarded planning permission should be encouraged and it should also be considered whether there might be an opportunity to introduce more substantial legislative changes to prevent developers from banking land (section 5.1)
24. Plaid Cymru should proceed with its policy to set up a separate Planning Inspectorate for Wales, so that it can focus on specialising in the Welsh planning system (section 5.2)
25. The proposal to consolidate planning law in Wales should be supported, as it is a sensible step towards simplification. It might also offer an opportunity to make other necessary revisions to planning law (section 5.3)
26. When consolidating the legislation, the Law Commission's proposal that the Welsh language becomes a general consideration in all issues relating to planning should be supported (section 5.3)
27. Further steps are required to address the loss to public funds due to second homes becoming converted into holiday accommodation. This might include introducing a requirement to secure planning permission before a domestic property can be eligible for change of use to a holiday business (section 5.4)

# 1. LACK OF INFORMATION AND METHODOLOGIES

## 1.1 LACK OF INFORMATION TO IDENTIFY LOCAL HOUSING NEED

### 1.1.1 THE POPULATION PROJECTIONS

When local authorities set housing targets in their Local Development Plans, their "starting point" is the Welsh Government's population projections. This is one of the requirements of the Welsh Government's guidance (*Planning Policy Wales*).

In drawing up their Local Development Plans, all local authorities must decide how appropriate these population projections are. Should they wish to deviate from these projections, evidence must be presented and justified to the Planning Inspectorate.

Local authorities may use numerous sources to produce their own forecasts. These include "local housing market assessments" and other potential sources such as waiting lists for social housing, local income statistics, and estate agents' figures.

However, the above system can be criticised for numerous reasons:

- the assessments undertaken by authorities themselves do not always provide sufficient data to challenge the national population projections;
- the national population projections do not always provide sufficient detail to reveal the actual local housing need in specific communities;
- there is no linkage between the national projections and data that might be collected from local sources;
- the population projections are based on historical patterns which can lead to bias in the forecasts.

According to some campaigners, all the above can lead to forcing housing on communities without anyone really knowing whether there is a demand for it.

### 1.1.2 THE CREATION OF A NEW PROCESS

During the scrutiny process before the passing of the Planning Act (Wales) 2015, a group of council leaders called for "a new process which leads and supports us in assessing that local need [for housing] in a thorough way".

It is worth noting also that the Fourth Assembly's Environment and Sustainability Committee concluded that it might be practical to allow local authorities to produce their own forecasts for population and households, rather than depending on national population projections.

Therefore, this paper recommends that **local authorities should review their processes for assessing local housing need. This work should be based on recent good practice, investing in external expertise when required.** The aim will be to create a new methodology and new guidance for setting local housing targets and to consider how this guidance might be disseminated to various areas in the future.

## 1.2 THE IMPACT OF THE PLANNING SYSTEM ON THE WELSH LANGUAGE

### 1.2.1 THE NATURE OF THE RELATIONSHIP

In discussions with experts, a common theme was that there is insufficient evidence to demonstrate the relationship between the planning system, housing developments, and changes in language use within communities.

We all know from experience that building too many houses in some areas can pose a threat to the Welsh language. However, in other areas, failing to build sufficient houses can also be detrimental. In other areas, there is clear evidence that building new houses can strengthen the position of the Welsh language by allowing people to remain in their communities.

The problem is that the knowledge base available is far from sufficiently robust. From the limited research carried out, the picture is complex and it is clear that more needs to be done to capture better data and evidence in this field, especially regarding:

- the relationship between the number and type of housing available in an area and the rates of inward and outward migration;
- the reasons why people migrate and other causal factors as well as the comparative influence of the housing market in this context;
- the true impact of the planning system on the Welsh language, and the comparative influence of that system in conjunction with other factors.

### 1.2.2 LANGUAGE IMPACT ASSESSMENTS

In preparing Local Development Plans, local authorities must carry out a "Sustainability Appraisal", which is meant to assess the economic, social and environmental implications of the Plan. Since the passing of the Planning Act (Wales) 2015 a language impact assessment has to be undertaken as part of this Appraisal. Similar assessments may be carried out when determining individual applications for planning permission.

Although Technical Advice Note (TAN) 20 provides a certain amount of guidance on how such assessments should be undertaken, experts clearly believe that a far more consistent and robust methodology is required.

In a letter to the Welsh Government in March 2016, the Welsh Language Commissioner said that "one of the biggest failings in the planning process at present in Wales is the lack of guidance offered to planning authorities on a standard and consistent methodology for conducting Welsh language planning impact assessments".

Critics compare this unfavourably with the more specific guidance and the more substantial resources available for impact assessments relating to other parts of the Evaluation of Sustainability (for example, the environmental impact and the resources provided for Natural Resources Wales to undertake such an assessment).



In addition, TAN 20 emphasises that any methodology used in carrying out the language impact assessment must “be based on robust evidence”. As seen in section 1.2.1, experts clearly believe that no such robust evidence is available regarding the relationship between planning decisions and the Welsh language.

### 1.2.3 THE COMMISSIONING OF RESEARCH AND SHARING OF GOOD PRACTICE

In order to tackle the knowledge gaps mentioned above, **research should be commissioned to investigate the relationship between the housing market, the planning system, and the demise or growth of Welsh as a community language.**

**One of the objectives of such research would be to establish a robust methodology and provide stronger guidance for undertaking assessments of the impact of planning strategies and decisions on the Welsh language.**

To ensure its status, the research needs to be extensive and of a recognised academic quality. One option would be to commission the Economic and Social Research Council to oversee and administer the process.

Experts have emphasised that, having completed the initial work, analysis of this kind would need to be ongoing, due to the constantly changing nature of communities and the position of the Welsh language. One option would be to create a specialist unit in the Welsh Language Commissioner's office to this end, or give a leading role to collaborating local authorities.

In the meantime, **local authorities should be encouraged to come together to assess their methodologies for undertaking language impact assessments, sharing any good practice and new processes.** As numerous local authorities are about to review their Local Development Plans, and others have produced their plans more recently, this needs to be addressed without delay.

## 1.3 LOCAL HOUSING MARKET

Gwynedd and Môn's Joint Local Development Plan, adopted in 2017, introduces a "Local Housing Market" policy.

The Plan lists specific areas (usually where large scale developments have taken place in the past or where there is a high proportion of holiday homes), and in those areas, planning conditions are imposed on new housing in order to limit occupation to individuals who have specific local connections.

A number of practitioners believe this to be a trailblazing policy and that **the good practice, the methodology and processes used by Gwynedd and Môn should be shared with a view to disseminating this policy more widely.**

## 2. WEAKNESSES IN THE GUIDANCE

### 2.1 LANGUAGE IMPACT ASSESSMENTS ON INDIVIDUAL APPLICATIONS

#### 2.1.1 BACKGROUND

Under the Planning Act (Wales) 2015, authorities have a duty to consider any issue relating to the Welsh language when considering individual applications for planning consent, if such an issue is relevant to the application.

However, Technical Advice Note (TAN) 20 states: "Planning applications should not routinely be subject to Welsh language impact assessment, as this would duplicate the SA [Sustainability Appraisal] ... Provided that the SA has given due consideration to the Welsh Language, an impact assessment at application stage would not be based on any further information than that which has been presented during the plan preparation stage".

In other words, if a language impact assessment has been undertaken during the preparation of the Local Development Plan, the local authority will have already considered issues relevant to the Welsh language in relation to any individual application on submission of that application.

The only exception to this, according to TAN 20, is that a language impact assessment should be undertaken on planning applications when developments concerned are on windfall sites – that is, sites not designated in the Local Development Plan. Normally, only when these are large scale developments (more than 10 dwellings or in excess of 1,000 square metres) are authorities advised to undertake a Welsh language impact assessment, and only then when such a development is in an area that has been defined as being linguistically sensitive.

A number of campaigners argue that the advice in TAN 20 contradicts the 2015 Act itself. Lawyers consulted in drawing up this paper did not totally agree with this argument. Either way, there is no doubt that TAN 20 could be strengthened in a number of ways.

#### 2.1.2 RECOMMENDATIONS TO STRENGTHEN TAN 20

Most of the experts consulted accepted:

- that in principle, it is not for the Welsh Government to advise local authorities regarding the circumstances where language impact assessments should not be undertaken on individual planning applications;
- that new evidence might be available when considering individual planning applications which was not necessarily available during the preparation of the Local Development Plan. In such cases, it is essential that decisions be made on the basis of the most current information available and a new language impact assessment should be required for such applications;
- that there is justification for undertaking a new language impact assessment when the scale of the site differs from its scale in the Local Development Plan or when the conditions imposed have changed;

- that setting a limit for undertaking impact assessments on developments on windfall sites is sensible, but TAN 20 should not stipulate that such an assessment should only be undertaken in linguistically sensitive areas.

This paper therefore recommends that **TAN 20 should be revised without delay to make it clear that language impact assessments should be undertaken on individual applications in the specific circumstances listed above.** The Welsh Government should be strongly urged to take this action.

**TAN 20 should also make it clearer that local authorities may in any case undertake Welsh language impact assessments on individual planning applications if they so wish.**

## 2.2 LINGUISTICALLY SENSITIVE AREAS

TAN 20 states that one possible strategy in the Local Development Plan is to designate "areas of linguistic sensitivity or significance". In so doing, the local authority could "make it clear to communities and developers where the use of the Welsh language may be a consideration".

If it is the wish of the authority to designate such an area, it is significant that TAN 20 emphasises that "their rational and boundaries must be supported by evidence". It also states that Census data alone is insufficient, but does not expand upon this. There has also been criticism of:

- the fact that TAN 20 does not offer a clear definition of linguistically sensitive areas. This might lead to inconsistency and a failure to designate such areas, although doing so could be beneficial;
- the lack of guidance regarding factors that should be considered when deciding whether or not an area should be designated as linguistically sensitive;
- the ambiguity of TAN 20 in stating that there is no requirement to create such areas;
- the lack of guidance regarding how linguistically sensitive areas might provide a means of addressing the needs of those areas in Welsh speaking heartlands, in terms of providing infrastructure, facilities, schools etc.

This paper recommends **that there is a need to press for far stronger guidance in TAN 20 regarding the definition of linguistically sensitive areas, and the factors that should be considered in their designation. In doing so, the needs of Welsh speaking heartlands should be addressed in terms of providing infrastructure and facilities.**

## 2.3 FURTHER REVISIONS TO TAN 20

At the moment, Local Development Plans must be reviewed every four years, and are subject to an annual monitoring process. Some practitioners believe clearer guidance is required in this field, in order to recognise any changes in the position of the Welsh language in a particular area during the review or monitoring period. This guidance should then be reflected in TAN 20.

Others are concerned about the lack of guidance in TAN 20 regarding when and how "mitigating measures" and measures to promote the Welsh language should be included in the Local Development

Plan, having carried out the language impact assessment. The criticism was that TAN 20 is far too vague regarding what this means in practice.

Therefore, this paper recommends that **the Welsh Government should be urged to amend TAN 20 in order to:**

- **provide greater clarity regarding considerations relating to the Welsh language when monitoring and reviewing the Local Development Plan;**
- **provide more guidance regarding the mitigating measures and measures to promote the Welsh Language which should be included when a language impact assessment has been carried out.**

Local authorities could collaborate to lead on these areas.

Arguments regarding TAN 20 could also be submitted to the current consultation on *Planning Policy Wales* (see section 4.4).

## 3. ASSISTANCE TO ACCESS HOUSING

### 3.1 THE GOVERNMENT'S ASSISTANCE SCHEMES

Many of those who are ineligible for affordable housing cannot afford housing on the open market either. It is clear that more needs to be done to help local people trapped between these two ends.

The Welsh Government operates schemes to try and help people in this situation:

- the "Help to Buy" scheme – help to purchase a new house valued up to £300,000 on the basis of shared equity. In order to be eligible under this scheme, people must be first-time buyers and must have a 5% deposit available;
- the "Rent to Buy" scheme – which is meant to help people buy their home despite not having sufficient funds for a deposit towards a mortgage. People rent a property initially and then receive 25% of that rent and 50% of any increase the value of the house which will eventually go towards a deposit for a mortgage;
- the "Shared Ownership" scheme – which enables people to purchase 25% - 75% of a home, paying rent for the proportion they do not own.

The Welsh Government intends to spend £71 million to provide 1,000 houses under the last two of these schemes by 2021.

It should be noted that Plaid Cymru's Programme for Opposition 2016-2021 calls for the establishment of a "National Housing Company" to provide loans against rents in order to "borrow against rents to build a new generation of public rental housing in Wales".

This paper recommends that **the success of all existing schemes to help local people purchase or build their own homes should be critically and holistically investigated**. This work should explore:

- what does the term affordable housing really mean and whether or not that definition is still appropriate;
- is the range of housing available under the Welsh Government's assistance schemes appropriate, and do those schemes provide for the appropriate range of people.

### 3.2 SELF-BUILD

One means of enabling people to remain in their communities is to allow them to build or commission their own homes. However, this raises obvious difficulties:

- small building plots can prove too expensive;
- it is difficult to secure a mortgage or a loan to build a house as a first-time buyer, as lenders tend to see this as carrying a higher risk;
- it is difficult to secure a mortgage if the house is subject to a local use planning condition (as it's value would then be limited on the open market).

Steps have been taken in England to attempt to tackle this:

- since April 2016, local authorities in England are required to maintain a register of people who wish to purchase land for self-build projects;
- local authorities must then have regard to this register in creating planning strategies (such as the Local Development Plan).

Local authorities in Wales are not required to maintain a register of those wishing to access land to build their own house. Neither do they have to maintain a register of available plots. In addition, the Welsh Government has no policy documents or guidance in this field.

When these issues were raised with the Welsh Government in December 2017, its response was that it was considering how self-builders and small developers might be enabled to do more, but that it did not believe that this was the time to select one method or to state that self-building was the only way ahead.

This paper recommends that **Welsh local authorities should be required to maintain registers of those who wish to acquire land for self-build projects.**

### 3.3 RURAL HOUSING

It is widely recognised that the lack of affordable housing is a problem in rural areas, where house prices are often far higher than local incomes can afford.

Therefore, Rural Housing Enabling Officers are employed to work throughout Wales, funded by the Welsh Government. Their work is to represent rural communities with organisations such as housing associations and local authorities to identify need and take steps to increase the supply.

A review of the work carried out by these officers was undertaken in 2014, and it concluded:

- that there was a lack of capital, a limited supply of sites, planning policies do not consider financial viability, and a lack of strategic leadership restricting the housing supply in rural areas;
- although Rural Housing Enabling Officers can influence these issues, they are beyond their direct control;
- the Welsh Government should consider providing capital funding to increase the supply of rural housing.

The last of these points is important and this paper recommends that **a specific capital fund should be set up to increase the housing stock for local people in rural communities, and a plan drawn up to implement this.**

### 3.4 LAND TRUSTS AND LOCAL ENTERPRISES

As part of the One Wales agreement between Plaid Cymru and the Labour Party in 2007, a policy was created to establish and promote Community Land Trusts.

These are legal entities but not-for-profit, community-led bodies, responsible for purchasing and developing land and local assets for the benefit of the community. Their aim is to ensure community ownership, to lock in the value of land and support local housing development and enterprises. They

are a means of providing affordable housing for local people on low incomes by removing the cost of the land from the total price of the house. Enterprises such as Cymdeithas Tai Gwynedd work on a similar principle by providing social housing for rent, using the "loan-stock" funding approach.

Since the end of the One Wales coalition government the Welsh Government's policy on land trusts is unclear, and these trusts have obviously not been promoted.

This paper recommends that **there is a case for looking in more detail at the success of land trusts and local enterprises, with a view to introducing new policies to promote them in the future.**

## 4. THE SYSTEM FROM TOP TO BOTTOM

### 4.1 GENERAL PRINCIPLES

There has long been criticism that the Welsh Government has excessive influence over planning decisions, and that the voice of communities is lost in this process.

Although planning officers caution against creating a system which is too unregulated (and which might cause confusion and too much uncertainty), some call for the creation of a centralised policy that concentrates more on the establishment of principles and provides more flexibility for local administrations to interpret such principles in line with their local priorities and needs.

### 4.2 THE NATIONAL DEVELOPMENT FRAMEWORK

The provision in Planning Act (Wales) 2015 to introduce two new tiers of development plans – at a national and regional level – has intensified some of the concerns regarding the centralised nature of the regime.

The National Development Framework will be the national version of Local Development Plans. Its purpose will be to provide a framework for land use at an all-Wales level. All Local Development Plans will be required to comply with the National Framework.

The work to create the National Development Framework is ongoing. According to the most recent timeframe, the Assembly is expected to consider a draft version of the Framework in autumn 2019 before it is submitted in its final form in the spring of 2020. Its precise contents are not currently known and **this will require very careful monitoring**

As the Framework's purpose will be to deal with issues of national importance and significance, this paper also recommends that **it should contain a clear statement regarding the importance and relevance of the Welsh language in planning for land use.**

In addition, a language impact assessment will be required in creating the Framework. It should be ensured that **any methodology used to undertake the assessment is as robust as possible, and reflects any findings arising from the recommendations in chapter 1.**

### 4.3 STRATEGIC DEVELOPMENT PLANS

Strategic Development Plans are a new tier of regional development plans drawn up jointly between neighbouring local authorities. Their aim will be to deal with issues relevant to numerous local authorities but are not appropriate for inclusion in the National Development Framework. If the Strategic Development Plan is adopted, individual authorities will subsequently only need a "light" version of the Local Development Plan.

The Welsh Government has indicated that some local authorities, unless they voluntarily start to collaborate on Regional Development Plans soon, will be directed to do so.



In the Programme for Opposition 2016-2021, Plaid Cymru says it supports the creation of Strategic Development Plans, as such a move would be in line with its current policy to form combined regional authorities when reorganising local government.

In discussions with experts, the majority favoured the principle of drawing up Strategic Development Plans, as they could make sense when dealing with issues best dealt with at a regional level, such as economic development. However, there was some concern that Strategic Development Plans might undermine local accountability, especially if they were to address issues such as the number of houses in a local area.

Therefore, this paper argues that there is a need **to carefully monitor the intentions of the Welsh Government for Strategic Development Plans, ensuring that they do not address issues that would be best dealt with at a local level.**

**It is important also to keep a watchful eye on the way in which regional economic growth plans might eventually impact upon land use in those regions.** The creation of more jobs could create an increased demand for housing, and some practitioners believe this is an issue that has presently gone under the political radar.

#### 4.4 PLANNING POLICY WALES

In creating Local (or Strategic) Development Plans, authorities are required to have regard to *Planning Policy Wales*. This provides Welsh Government guidance which is the context for the drawing up of development plans.

A new version of *Planning Policy Wales* is now the subject of consultation due to close in May 2018. The aim of this consultation is to ensure that Planning Policy Wales is in line with the seven "wellbeing goals" stated in the Wellbeing of Future Generations Act (Wales) 2015. One of these wellbeing goals is to create a Wales of a "thriving Welsh language". This paper recommends that **the consultation is an opportunity to question whether the contents of *Planning Policy Wales* really does enough to demonstrate how the planning system might achieve this.**

In addition, section 1.2 of this paper refers to a lack of consistency in undertaking language impact assessments in the planning sphere. In the past, the Welsh Language Commissioner has said that this inconsistency reflects the lack of clarity in the national policy with regard to the language. Chapter 2 of this paper refers to the lack of clarity regarding the timing of such assessments, as well as to other weaknesses in the relevant guidance.

This paper therefore recommends **that the current consultation on *Planning Policy Wales* is an opportunity to present some of the arguments put forward in chapters 1 and 2 regarding the lack of a consistent methodology for undertaking language impact assessments, when such assessments should be undertaken and also regarding other weaknesses in TAN 20.**

## 4.5 COMMUNITY DEVELOPMENT PLANS

Plaid Cymru's Programme for Opposition 2016-2021 calls for the establishment of a lower tier of development plan at a community level, which would sit beneath the Local Development Plan. In England, such an arrangement already exists (under the Localism Act 2011) where communities can come together to create a Community Development Plan.

Such plans certainly offer advantages:

- they would enable bodies such as community councils to contribute more meaningfully to the planning system, but in a more structured manner;
- they would provide local people with a stronger voice in the planning system and a feeling of empowering communities.

However, the dangers also need to be recognised:

- there is a danger that a lower tier of "protectionist" plans might prevent developments despite there being a real local need for housing;
- in some areas in England, the varied nature of these lower tier plans has led to creating an incomplete patchwork of nearby communities with little in common, and which vary substantially in scale and character;
- community councillors might lack expertise and knowledge of the planning system and there might also be a lack of resources for the creation of the lower tier plans;
- as the lower tier plans would necessarily reside within the higher development plans, those higher plans would have to be comparatively flexible for the lower plans to be of any value. When one considers the current planning system in Wales, it is questionable whether this flexibility exists.

This paper recommends that **further consideration is required regarding the desirability of introducing a lower tier of development plans at a community level, within the context of Plaid Cymru's policy for the reorganisation of community councils and its wider policies for the decentralisation of power. Funding for this work and training for councillors should be considered.**

## 5. OTHER MATTERS

### 5.1 LAND BANKING AND THE FIVE-YEAR HOUSING SUPPLY

According to Planning Policy Wales, local authorities are required to ensure the availability of sufficient land in their areas to provide a five-year housing supply. These sites must be available or easily become available, and be economically viable for development.

To ensure the availability of this supply, local authorities must prepare an annual "joint housing availability study." The joint studies are based on housing need as stated in Local Development Plans and are undertaken by panels consisting of:

- builders and housing developers' representatives (in the form of the Home Builders Federation);
- infrastructure and utilities providers;
- other organisations such as housing associations.

This system can create problems, partly due to the practice of "land banking" – when developers secure planning permissions but then sit on the land without proceeding to develop it.

If large tracts of land become "banked" (despite having been allocated for development in the Local Development Plan), the calculation made in the above joint study might suggest that there is an insufficient supply of land for development. One of the implications of this is that inspectors may allow developments on non-allocated sites, as the local authority is required to provide a five-year supply of land.

The relevant guidance in this context is provided in Technical Advice Note 1, and numerous local authorities have called for these to be **revised in order to ensure that joint land availability studies do not undermine other housing allocations in the Local Development Plan, especially when the practice of land banking has impacted upon this.**

In addition, a number of practitioners believe that developers carry too much influence on panels undertaking joint land availability studies, as they are able to appeal to the Planning Inspectorate regarding the study's findings. It is therefore recommended that **the composition of the panels undertaking joint studies be revisited, so that developers and their representatives do not wield excessive power.**

It should also be noted that the Welsh Government has suggested recently that a register of undeveloped land with planning permission might be maintained. One option is to raise an annually increasing levy on the value of such land whilst it remained undeveloped. **The introduction of such a scheme should be encouraged and it should also be considered whether there might be an opportunity to introduce more substantial legislative changes to prevent developers from banking land.**

## 5.2 THE PLANNING INSPECTORATE

The Planning Inspectorate is an executive agency. It is responsible for numerous functions in the planning sphere on behalf of the Welsh and UK Governments. It plays an important role in approving the robustness of Local Development Plans and the evidence used in their preparation.

As planning legislation in Wales and England becomes increasingly divergent, this paper concurs with Plaid Cymru's longstanding policy to **set up a separate Planning Inspectorate for Wales, so that it can focus on specialising in the Welsh planning system.** The Welsh Government should be urged to take action in this context.

## 5.3 CONSOLIDATING THE LEGISLATION

Welsh planning law sits within many different pieces of legislation, which have been developed gradually and in piecemeal fashion over the years. A number of these laws are relevant to both England and Wales; some are only relevant to Wales.

The Law Commission has just held a consultation on the possibility of consolidating these pieces of legislation – that is to bring them all under one roof, in one place, to simplify matters.

This paper recommends support for **the proposal to consolidate planning law in Wales as a sensible step towards its simplification. It might also offer an opportunity to make other necessary revisions to planning law.**

Also, under the Planning Act (Wales) 2015, only in specific situations can the Welsh language be considered in the planning system – when undertaking a Sustainability Appraisal of development plans, or considering planning applications. When consolidating the law, this paper recommends that **the Law Commission's proposal that the Welsh language becomes a general consideration in all issues relating to planning should be supported.** This would then mean that such consideration would not be limited to the specific situations above. This should then be reflected in the relevant guidance.

## 5.4 SECOND HOMES

The large proportion of second homes or holiday homes is an issue in many areas of Wales.

To compensate for this, some councils decide to raise a higher rate of council tax on such homes. However, to avoid this higher rate, a number of second-home owners register their homes as holiday businesses. Under such a regime, business rates rather than council tax is payable.

As it happens, due to their comparatively small number, most of the relevant properties are eligible for rate relief from the Welsh Government. Consequently, they are not liable for any council tax or rates of any kind.

The Welsh Government introduced an order in 2016 to attempt to tighten up the rules. The law now states that a holiday business property must be available to let for a minimum of 140 days. It must also be actually let for a minimum of 70 of those days.

Some critics argue that such a system is difficult to police. As this is a new system, the Welsh Government has promised to monitor the situation and revisit the regulations if there is evidence that they are proving ineffective.

However, others believe further steps might be taken. Two options would be:

- to produce a new definition of a holiday home, introducing a condition that planning permission should be required for change of use from a residential to a business property available to let commercially for vacations;
- to exempt from Welsh Government rate relief any former domestic dwellings that have been converted into self-catering units.

The former is one of the policies of Plaid Cymru's Programme for Opposition 2016-2021. Although experts have stated that difficulties might still arise in policing such a system, this paper recommends that consideration should be given to what **further steps are required to address the loss to public funds due to second homes becoming converted into holiday accommodation. This might include introducing a requirement to secure planning permission before a domestic property can be eligible for change of use to a holiday business.**

# APPENDIX: GUIDE TO THE SYSTEM

## LEGISLATION

The planning system in Wales is based on numerous pieces of legislation passed over the years. The most important being:

- The Town and Country Planning Act 1990;
- The Planning and Compulsory Purchase Act 2004;
- The Planning Act (Wales) 2015 (passed by the Assembly rather than at Westminster as in the case of the first two).

A consultation has just been undertaken regarding the possibility of consolidating each of these pieces of legislation in one act in Wales – that is, bringing them all under the same roof in order to simplify matters.

## LOCAL DEVELOPMENT PLANS

Local authorities are mainly responsible for making planning decisions in their areas. These decisions are made on the basis of a document entitled a Local Development Plan. When planning applications are submitted by individuals or organisations, this is the document that stipulates whether or not those applications should be approved.

The Local Development Plan has to outline the number of houses required in an area over a period of 10 to 15 years. Numerous sources can be used to this end. But the starting point is the population projections published by the Welsh Government – projections that forecast how the population of each county will change in coming years.

Having determined the number of houses, the Local Development Plan must stipulate where in the area those houses should be built. The Plan must also state what type of houses these should be (e.g. affordable housing, housing on the open market, housing solely for local people).

Having produced its Local Development Plan, a local authority is required to produce Supplementary Planning Guidance - guidance to help it implement the contents of its Local Development Plan.

## THE NATIONAL POLICY DIRECTION

In addition to the local system described above, central government also plays an important role in the planning system.

## PLANNING POLICY WALES AND TECHNICAL ADVICE NOTES

In producing their Local Development Plans, local authorities are required to have regard to a document entitled *Planning Policy Wales*. This is guidance produced by the Welsh Government, and it provides the context for the preparation of Local Development Plans. A new version of *Planning Policy Wales* is now the subject of a consultation due to close in May 2018.

Under *Planning Policy Wales*, a series of Technical Advice Notes (TANs) provides advice to local authorities regarding various specific fields within the planning system. For example, one such technical advice note is TAN 20, which advises local authorities on considerations regarding the Welsh language.

## THE NATIONAL DEVELOPMENT FRAMEWORK AND STRATEGIC DEVELOPMENT PLANS

The Welsh Government is in the process of creating a version of the Local Development Plans which will sit at the national level. This is called the National Development Framework. It is currently expected to be submitted in its final form in March 2020. It will deal with planning decisions and issues which are significant for the whole of Wales.

In producing their Local Development Plans, local authorities will be required to consider the content of the National Development Framework.

Local authorities may also produce Strategic Development Plans in collaboration with neighbouring authorities. These are development plans at a regional level, which will sit above the Local Development Plan (which may, as a result, contain less detail).

## THE WIDER ROLE OF THE WELSH GOVERNMENT AND THE PLANNING INSPECTORATE

The Planning Inspectorate is an executive agency sponsored by the Welsh and UK Governments. The Inspectorate is responsible for fulfilling numerous functions in the planning field on behalf of both governments.

When local authorities produce their Local Development Plans, the Inspectorate is responsible for perusing the draft version of the Plan and its approval. The Welsh Government also has substantial powers when Local Development Plans are produced

The Inspectorate and the Welsh Government have numerous powers when people appeal against individual planning decisions, or when it becomes necessary to "call in applications" for a decision to be made at a higher level.

## LANGUAGE IMPACT ASSESSMENTS

As part of the process of producing a Local Development Plan, all local authorities are required to undertake what is called a "Sustainability Appraisal". Its purpose is to assess the social, economic and environmental impacts of the Local Development Plan.

The Planning Act (Wales) 2015 introduces a new requirement in this context, namely that the Sustainability Appraisal must include an assessment of the likely impacts of the Local Development Plan on the use of the Welsh language in the area concerned. Local authorities also have the right to undertake language impact assessments on individual planning applications.

TAN 20 provides advice to local authorities regarding how such assessments should be undertaken. If the evidence suggests that a development might impact negatively on the use of the language, the local authority may either modify its Local Development Plan or introduce "mitigation measures" in order to try and reduce that impact.