

## **Culture Committee - CC-8-01(p.3)**

**Date:** 16th May 2001  
**Time:** 9.00am - 12.30pm  
**Venue:** Committee Room 1, National Assembly Building

### NATIONAL ASSEMBLY FOR WALES CULTURE COMMITTEE

#### WELSH LANGUAGE REVIEW

#### STATEMENT BY

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## **1. Introduction**

1.1 My interests in this subject are specific to language and planning, rather than language planning. I am a chartered town planner and researcher in planning and governance issues. The Welsh language has been a material planning consideration in the formulation of development plans and in determining planning applications since 1988. The production of Circular 53/88, followed by the release of the more recent Technical Advice Note 20 in 2000, provides Wales with a unique opportunity compared to other parts of the UK.

1.2 Planning is predominantly about the use and development of land, rather than with the users and developers of land. The Welsh language is what-might-be-termed in planning terminology, a social or cultural matter rather than a land use subject. These issues are notoriously difficult to embrace within a tight legal planning system designed to regulate land on physical characteristics alone. Although Wales has benefited from the provision of a national policy on the Welsh language and its relationship to planning, it remains a relatively under-utilised policy within local authorities as there exists a great deal of uncertainty and

nervousness on the part of professional planners as to how exactly the policy should be used and in what circumstances. There is a great opportunity for this policy to be used far more effectively in the creation of sustainable communities across Wales and in safeguarding language interests in the face of the pressure for new development.

## **2. The Uncertainty of ‘Doing Something’ in Planning**

2.1 There is a clear relationship between language and geography, of course, but this tends to be analytical: the west and north of Wales are the traditional Welsh-speaking heartlands. We can gauge, for example: migration patterns; the rise or decline of Welsh language speaking communities; and the impact caused by new housing development or the escalation of second and/or holiday homes. But there also exists a relationship between language and planning, and the potential here is for policy-makers and professional planners to draft policies and make decisions that actively safeguards Welsh speaking communities, or takes account of the pressure for new housing, or promotes housing for local Welsh-speaking people. This is why the uncertainty exists within Wales: it is centred on the proactive possibilities to ‘do something’.

2.2 Planning is a potentially powerful and useful tool in the creation of sustainable communities and in taking a balanced and reasoned approach in safeguarding the Welsh language while allowing for the appropriate scale and type of development that is needed throughout Wales. The planning profession in Wales is, in my view, prepared to utilise the guidance contained within the Technical Advice Note more fully than hitherto but requires more guidance, information and best practice examples on the use of the policy for determining planning applications.

2.3 The policy as it stands could be made much more clearer, but not necessarily stronger since each development case should be determined on its merits. Government departments have always been reluctant to stipulate in explicit terms the scenarios under which policies could be utilised in practice and have rather relied on judgements in the British courts to shape the use of national policies for decision-making purposes. We may have to wait a considerable time, however, for a challenge to be made to the use of the national planning policy on the Welsh language, since this usually relies on an individual local planning authority being prepared to enter the protracted and expensive process of High Court challenge to an appeal decision of the Planning Inspectorate. The number of occasions planning inspectors have utilised the policy to determine planning appeals remains comparatively rare in anycase.

2.4 The onus therefore currently falls on both the National Assembly and local planning authorities in Wales. The NAW needs to clarify the role of the national planning policy on the Welsh language for local authority use, and this needs to occur as part of a wider statement on the relationship between culture, society (or social inclusion), settlement, community and

planning.

### **3. Improving the Context for Planning and the Welsh Language**

3.1 The national policy recognises the importance of taking the Welsh language into account in determining applications for housing developments, large scale developments, economic development proposals, and for settlement policies. Planners must ensure that sustainable communities are created and a linguistic balance created. What the policy does not do is go into detail about how local planning authorities should achieve that and, as was discussed above, this is where the problem lies.

#### **a) Possible responses for local planning authorities**

3.2 In my opinion, local planning authorities need to gather as much information as possible. This includes not only up to date surveys of the linguistic profiles of each of their communities, but also housing needs survey, migration patterns over a ten year period, the demand for local cost housing, the extent of new development - both residential and economic - in the locality over a ten year period, and an audit of the land showing where growth might be accommodated and where landscape designations exist to protect the best physical features of the land.

3.3 This evidence would need to be gathered and periodically updated prior to decisions being made and local policies drafted. It seems to me that it might be possible to designate "linguistic areas", where the language coupled with those other features highlighted above are so sensitive as to become primary considerations for decision makers and policy makers to refer to in the planning system. There would be no biased thinking in this type of designation or weighted statements to promote the interests of Welsh speakers only, or of banning non-Welsh and/or non-local people. It would simply be a designation or a context within which individual decisions could be made. I doubt at the present time whether such a designation could be made for inclusion in the development plan (that remains a statutory land use and development document) but it would be possible to designate such an area within a document which was non-statutory and which could then be cross-referenced within the plan (the Assembly would also need to issue new policy guidance to local authorities stipulating that weight should be given to such designations).

3.4 I do not think such a designation, or indeed a policy included within a development plan that sought to provide housing land for local needs only, would necessarily fall foul of the Human Rights Act 1998. Providing local planning authorities gathered the necessary background information in terms of the language profile, the housing needs profile, migration, employment patterns and travel to work areas within each locality, sufficient justification could

be demonstrated as to why a pro-active policy was being promoted to benefit certain local people. The language issue here would only be one consideration among many; this would be vital for the purposes of planning law.

3.5 Although there is a danger that the media and others might see such policies as potentially discriminatory, I actually think from a planning and legal perspective the adoption of linguistic designations and locals-only policies could be viewed as acceptable. The issue here is to promote such policies as positive devices aimed to assist local people. The objective would not be to stop certain groups of people entering the housing market or to prohibit certain groups of people migrating to the area. This would have to be handled sensitively of course, but the positive aspect would need to be stressed continuously - a positive device to help local communities and not as a device to stop non-local people buying property. It is a matter of semantics, perhaps, but in law and in planning it makes a great deal of difference.

3.6 As far as actual decisions are concerned in relation to utilising national and local policies in relation to the Welsh language, local authorities could be more proactive in this regard at the present time. It remains quite a complex issue, but it would require local planning authorities proving - in legal speak - "demonstrable harm to an interest of acknowledged importance". The Welsh language is an interest of acknowledged importance and has been awarded that status indirectly as a consequence of the existence of a national planning policy. Demonstrable harm may be created where development would effect that interest in some way. Once again, it would require the local planning authority possessing the evidence, survey and data information in order to press ahead with a particular decision. There is a presumption in favour of development, and one that accords with the provisions of the development plan, but these matters could be affected or even overturned if an interest of acknowledged importance was so materially affected.

#### b) Possible responses for the National Assembly

3.7 Firstly, in relation to the national planning policy on the Welsh language. Calls have been made for a stronger form of national planning policy in relation to the Welsh language. At the present time, I do not see the need for a more strongly worded document issued by the Assembly. The planning system operates predominantly at the local level within a framework or set of guidelines and policies issued nationally. Local planning authorities have always been in the best place to judge matters of concern to their communities and to draft policies within their plans and issue decisions in relation to new development projects. The Technical Advice Note could, however, be worded far better and more positively to encourage local planning authorities to take the initiative in relation to planning, the language and sustainable communities. For example, the policy could be reworded to suggest that local authorities may wish to carry out regular linguistic surveys, housing need surveys, migration pattern assessments, second home use in areas, in order to provide a context upon which local decisions could be made.

3.8 Secondly, in relation to the policy presumption in favour of development. The Assembly may wish to consider reversing the policy presumption in certain linguistically-sensitive areas, again where the evidence existed that interests of acknowledged importance were being materially affected. This is a potential minefield, but there are other areas within planning where a reverse presumption exists (e.g. green belts). Providing the reasoned justification was made in positive terms - to assist local communities with a defined need - this may be feasible.

3.9 Thirdly, in relation to the need for further research and good practice. The Assembly should commission research on either the feasibility of new innovative measures to address linguistic issues within planning or else a study of the relationship between language, planning and community. As part of this research, an essential step would be to assess the extent to which Circular 53/88 and TAN20 have been used in practice by local planning authorities and the Planning Inspectorate and in what scenarios.

## PROFILE

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Dr Mark Tewdwr-Jones is Reader in Spatial Planning and Governance at The Bartlett School of Planning, University College London. A native of Treorchy and a graduate of Cardiff University, Mark joined the Department of City and Regional Planning at Cardiff as a lecturer in 1992 until 1999, when he became Senior Lecturer, then Reader, at the Department of Land Economy at the University of Aberdeen. He joined UCL in January 2001. Before 1992, he was a planner in local government in the South West of England.

Mark's specialist research interests are predominantly in the fields of planning, housing, government and politics. He has published over 70 papers and book chapters, produced two books *British Planning Policy in Transition* (UCL Press, 1996) and *Rural Second Homes in Europe* (with Nick Gallent, for Ashgate, 2000) and has a further two books in print: *The European Dimension of British Planning* (with R.H. Williams, for Spon Press, 2001) and *Planning Futures* (with Philip Allmendinger, for Routledge, 2002). He has contributed to numerous conferences at home and overseas and has been a Visiting Research Fellow at universities in the United States, South Africa and the Czech Republic.

His current interests are in: urban development and urban architecture; spatial planning in Europe; devolution and decentralisation of policy-making in Wales and Scotland; and the relationship between inward investment, the planning process and regional economic development. He has advised the Welsh Office and NAW on planning policy and housing matters, including the establishment of the separate Planning Guidance Wales publications in 1996 and was the first to call for the production of a National Spatial Planning Framework for

Wales in 1998. He has written extensively on the subject of second homes and territorial planning and has spoken on many occasions to local politicians, professional planners and the media in Wales on related subjects.

He has undertaken numerous research projects for government departments, including "The Effectiveness of Planning Policy Guidance", "The Impact of the EU on UK Planning", and "Spatial Planning and Peripherality".

Mark is European Editor of the journal *International Planning Studies* and serves on the Editorial Board of *Planning Theory and Practice*, and has acted as a Planning Advisor to the Institute of Welsh Affairs. In 1998-99, he served as Chairman of the Mid and West Wales Strategic Planning Forum and acted as the Independent Inspector for the production of regional guidance at the Examination in Public. He is currently a member of the Royal Town Planning Institute Research Panel.