

Welsh Government

Technical Advice Note 15: Development, flooding and coastal erosion

CIWEM is the leading independent Chartered professional body for water and environmental professionals, promoting excellence within the sector. The Institution provides independent commentary on a wide range of issues related to water and environmental management, environmental resilience and sustainable development.

We welcome the opportunity to respond to this consultation. This response has been compiled with the assistance of our members, who are expert practitioners in the field.

Response to consultation questions

Question 1 – Evolving from a precautionary framework to a risk-based approach

Agree.

We agree with the principle of evolving Wales flood risk policy to a risk-based approach. However, we disagree with the proposed approach to implement that. Further, we do not consider that the consultation is sufficiently adequate, given that there has been no consultation information provided on the Wales Flood Map. For example, there is no confirmation of what data it contains, nor how spatial data on every source of flooding will be made available, nor any indication of changes in extent to flood zones from the current arrangement. This lack of data prevents consultees from being able to fully assess the adequacy of the proposed technical guidance document.

To enable a comprehensive consultation exercise, we would encourage the Welsh Government to conduct a policy impact assessment on its proposed approach, utilising the policy and maps applied to a range of example locations and scenarios in order to test and understand the consequences of the modifications. We also recommend further consultation with practitioners from the FCERM and planning sectors on the results of that impact assessment, such as in the form of a workshop, which CIWEM would be happy to attend if invited.

The current DAM map provides zones for areas of land benefitting, or not, from flood defence infrastructure – C1 and C2. From the description in the consultation, it appears that the Wales Flood Map and TAN15 as proposed could become more precautionary and less risk based than at present, by virtue of the maps' zones being based on modelled scenarios which exclude the presence of all existing flood defences. Given that risk is a factor of existing and future defences this is not consistent with a risk-based approach.

Without sight of the Wales Flood Map we are unable to comment on the value of the proposed probability bands. However, we note that in England flood zone 2 is relatively narrow in many places. If there will be the similar situation in Wales this will result in little difference between zones 2 and 3 in many places and a large difference between zone 1 and 2/3. Overall this will reduce the utility of zone 2 as a policy driver.

The addition of climate change to the Wales Flood Map zones is welcome, providing future-proofed transparency where development types may not be appropriate in the medium to long term. The consultation does not explain the relation between the proposed Wales Flood Map and the existing long-term flood risk maps published by NRW. Multiple maps each showing different flood risk scenarios (e.g. with and without climate change) could become confusing.

We also note that the Wales Flood Map is proposed to be updated every six months – whereas we understand the long-term flood maps are updated quarterly. If both maps diverge it risks the same situation arising as did previously between the DAM map, when hosted by the Welsh Government, and NRW's long term flood risk maps. We believe the Wales Flood Map and long-term flood risk map must align and be updated on the same schedule, ideally quarterly, to enable them to remain consistent and as up to date as possible.

Question 2 – Roles and responsibilities

Clear in all chapters

We consider that the way in which TAN sets out relevant responsibilities is clear throughout the document.

This does bring into focus the considerable responsibilities of lead local flood authorities and the resources required to deliver on their responsibility. The importance of such authorities having the capacity and technical skills base to deliver against future flood risk management requirements should be recognised. This is important in enabling local authorities to properly reflect local considerations and a plan-led approach. We are concerned that such resources are too commonly insufficient, in particular with the shift from NRW to LLFAs on the statutory consultee role for surface water and ordinary watercourse flood risk.

Question 3 – Development categories

Agree.

We welcome the revised descriptions which provide a fuller range of development types within the TAN15 document, thus providing clarity and consistency across Wales. We broadly consider that the development categories are appropriate in that the various development types are categorised correctly.

A key omission is inclusion of water treatment, supply and sewerage treatment infrastructure. This should be addressed as a priority given their need to have proximity to water and yet can result in significant social and environmental impacts when affected by flooding.

We feel that classifying equipped play areas as Less Vulnerable is over precautionary and could create widespread obstacles to achieving the Welsh Government's well-being goals,

through requiring the justification and acceptability test to be passed for such play areas being installed or existing ones refurbished/expanded in flood zone 3. The policy could result in additional pressure being placed on flood zone 2 land which should be prioritised for the other types of development which have a greater level of vulnerability to flooding.

It is worth noting that in England there are five categories set out in the Technical Guidance to the National Planning Policy Framework. To provide clarity to developers operating in both Wales and England we recommend the same classification and description of each development type is used, whilst retaining Welsh specific policy elements – such as renaming the TAN15 Highly Vulnerable category and Highly and More Vulnerable.

Question 4 – Strategic Flood Consequences Assessments

Disagree.

We agree with the principle of a plan-led, strategic approach to managing flood risk through the planning system through the use of Strategic Flood Consequences Assessments. However we do not feel sufficient weight is provided in the proposed TAN15 to make clear the mandatory requirement for Local Planning Authorities to undertake SFCAs and then demonstrate how the SFCA has informed strategic planning. Nor do we feel there is sufficient detail set out concerning the objectives of the SFCAs or their scope.

There is currently no Welsh guidance for LPAs on how to produce SFCAs. We feel this is a significant gap and risks delivery of the Welsh Government's new National FCERM Strategy objectives. By comparison, in England there has been longstanding guidance that is regularly updated including August 2019. We urge the Welsh Government to consider producing guidance in 2020 on producing and using SFCAs that assess all sources of flood risk. This would enhance effectiveness and cost efficiencies for LPAs and FCERM RMAs by enabling the production of good quality, comprehensive and consistent SFCAs. There is ongoing research into SFCA/SFRA good practice covering Wales and England, led by the Environment Agency, which could inform Wales' SFCA guidance in the same way it is informing English guidance. We would suggest that given the mandatory requirement for SuDS in Wales, Drainage Strategies should form part of the SFCA.

We are aware of the variation in scope and quality of existing Welsh SFCAs, some of which for example do not fully address local or artificial sources of flood risk, or the latest climate change allowances. Whilst strengthened guidance on SFCA requirements in TAN15 would assist production of future SFCAs we are concerned that TAN15 provides no detail on how gaps in current SFCAs should be addressed in the intervening years. We would suggest that in future SFCAs should be approved or signed off by a Chartered professional working in flood risk management as a means to introduce further quality control into SFCAs.

A "broad level assessment" (Para 7.12) may well be insufficient to satisfy the LPA (give them "confidence") that risk and consequences could be effectively managed to meet the requirements of Section 11. And, if such an assessment is detailed enough to meet this objective, would that not reduce the detail needed in a site-specific FCA? There is a need to avoid duplicate work at SFCA and site-specific FCA stages.

Question 5 – Major regeneration proposals

Strongly disagree.

We do not consider that there is sufficient guidance provided on the issue of major regeneration proposals within existing communities. There are many situations in Wales where regeneration of areas that would be classed in the revised TAN as flood zones 3 and 2 would deliver major social, economic and environmental benefits. To create sustainable communities the flood risk implications of these will undoubtedly need detailed consideration.

However, as drafted the TAN provides little clarity on how regeneration and flood risk management needs may be balanced within the national and regional level frameworks proposed. The proposed policy of excluding the presence of existing flood defences from consideration is potentially a major constraint to maintaining existing communities even where such development would facilitate net reductions in flood risk.

The barriers to regeneration within existing communities via less vulnerable development in flood zone 2 are also of concern. Whilst we recognise the need to prevent inappropriate development in flood risk areas, we do not feel the TAN currently provides the correct balance, particularly given the existing provision (which CIWEM supports) for the flood risk-related call-in of planning decisions by Welsh Ministers.

We would also suggest that there is insufficient clarity in relation to small scale infill regeneration proposals and how these are addressed. E.g. if a small part of an urban area has been cleared/buildings demolished and re-development (“infill”) would be beneficial to the community, it appears that this won’t be permissible in a zone 3 under this TAN, even if the surrounding properties are also in zone 3. Sections 7.16 and 7.17, on the other hand, seem to provide a potential route for new development in zone 3 if the regeneration proposed is large enough scale. This seems to afford a large ‘grey’ area for interpretation and needs clarification.

Question 6 – Surface water flooding

Disagree.

The current and proposed new versions on the National FCERM Strategy for Wales set clear objectives for the management of all sources of flooding and coastal erosion. However the proposed TAN15 only provides clear guidance on main river and coastal sources of flooding. Reference is made to surface water and ordinary watercourse flooding being included in the Wales Flood Map but it is not at all clear how this will be done, thus whether the Justification Test will apply to these sources. This lack of availability of the new Map makes it impossible to assess whether the proposed approach is fit for purpose or not. The map should be provided alongside the TAN15 to provide adequate consultation information.

An example of this would be if high vulnerability development is completely disallowed in Zone 3 (including SW and ordinary watercourse flooding) this could have significant impacts

on new development unless the flood extents very robust in the Wales Flood Map. Has this been sufficiently tested?

The scale of surface water flood risk in Wales is significant, particularly in light of the predicted increase in severity and frequency due to climate change. Given this CIWEM feels the TAN should be strengthened in its approach to managing surface water flood risk. We do not agree with the proposed approach of leaving it to the discretion of the 25 LPAs if they wish to incorporate surface water flood risk considerations into local planning policies, or to do so in an inconsistent manner. As a minimum, LPAs and LLFAs should be required to prepare Supplementary Planning Guidance to address this gap.

The TAN should provide greater clarity that LPAs and developers must take account of surface water flood risk, whilst recognising that the detailed methodology to do so may require flexibility to address local circumstances. Through CIWEM's liaison with the Environment Agency we are aware that their SFCA/SFRA good practice research has recently explored options for guidance providing national consistency and local flexibility on how to manage surface water flood risk and we encourage the Welsh Government to consider the emerging findings.

Other than a short statement that assessment of groundwater flood risk should form part of an SFCA, the need to understand and address this source of flooding is not mentioned in the TAN. The TAN does not mention any requirement that flood risk from reservoirs and other artificial sources should form part of the scope of an SFCA. We recommend the policy to manage both these sources of flood risk are more comprehensively addressed in the TAN.

Question 7 – Integrating coastal erosion issues into TAN 15

Strongly agree.

We are strongly supportive of the proposal to integrate TAN 14 with TAN 15 as this will bring relevant advice together into one place and make it more likely that developers will refer to all of it and become familiar with it.

We do not consider that the proposed TAN 15 provides sufficient policy or technical guidance on managing coastal development. We recommend expansion of the section beyond the current two pages to provide adequate policy direction and technical guidance, given the geographic scale of coastal flood, erosion and development issues around the Welsh coastline. The TAN's format would be improved by making the Coastal Risks section more distinct, as its current position in the middle of larger flood sections diminishes its prominence.

Section 9 of the proposed TAN provides no guidance on what map or other spatial information should be used to inform coastal development decision. This should be addressed given the existing National Coastal Erosion Risk Map (NCERM) and Shoreline Management Plans' (SMPs) maps. We believe the TAN should give the same weight in planning policy and processes to the NCERM and SMPs as it does to SFCAs.

The TAN provides no guidance on issues around the treatment and consideration of existing or proposed coastal defences when assessing development. We would suggest that greater clarification is provided on the relevance of this on the viability of locations for future

development. It should also make clear that there will be ongoing, long-term maintenance costs involved where development is enabled by defences and that this should be assessed in any case made to justify such development.

Question 8 - Justification and acceptability tests

Strongly disagree.

CIWEM considers the proposals for how the justification and acceptability tests should be applied in future is flawed. We also have reservations on a number of issues regarding the content of the tests.

Our main concern is that the proposed TAN provides no allowance for any consideration of development in flood zone 3 behind existing defences. This is a significant change from the existing TAN and potentially forms a blanket ban on any regeneration within many existing communities inland and on the coast. The consultation document and proposed TAN provide no evidence that a policy impact assessment has been undertaken and the implications shown to be in alignment with the Welsh Government's wider policies and plans such as the Infrastructure Investment Plan and National Development Framework. This risks creating regular and widespread policy conflicts at strategic and site specific levels, wasting valuable resources and losing or delaying the delivery of social, economic and environmental benefits including net reductions in flood risk. It could also have detrimental effects upon development decision making in places where development would be inappropriate due to the level of flood risk.

Many current SFCAs do not adequately assess all sources of flood risk, coastal erosion or the effects of climate change. The current timescales for Local Development Plan cycles means it could take many years before Local Development Plans are based upon appropriate SFCAs. The justification test makes no provision to address this and therefore risks being applied in planning decisions to inappropriate flood, coastal and climate change data.

Paras 10.1 and 10.2 appear to conflict to an extent and it should be made clearer to which zone(s) para 10.2 is referring. How is the "flexibility" intended to operate?

Zone 2 clause 3 implies that development of greenfield land in zone 2 will not be justified. This is a "low" risk zone, so it seems overly-restrictive that less vulnerable development will not be justified on greenfield land, regardless of the outcome of any FCA.

We strongly support inclusion of technical guidance on development design to enable development to be resilient to flood and coastal erosion risk, rather than it being placed in a separate document. The inclusion of such guidance in the current TAN and the proposed TAN is therefore welcomed. However, we have reservations on the appropriateness of some aspects of the proposed acceptability test:

Breach and blockage scenarios - the proposed TAN is unclear how the acceptability criteria should be applied to these scenarios. We note it is also unclear in the current TAN, which had led to inconsistent approaches and advice regarding development proposals. We recommend the proposed TAN be revised to provide clear, consistent guidance on this matter.

Regarding the hazard matrix – there are unlikely to be many circumstances where a development can be guaranteed for the whole of its lifetime to exclude children, older people and people with disabilities. The number of bands should therefore be simplified and the flood hazard matrix zones revised.

Question 9 – Resilient design and flood defences

Disagree.

We welcome and support the desire to raise awareness of the benefits of resilient design. However, we consider that this section could be confusing to readers because it discusses flood risk which, under the requirements of section 11, should have largely been avoided. Greater clarity is needed to explain or give examples of where such resilient design is most likely to be needed / beneficial in the context of section 11 requirements and to emphasise that it should be addressed as an integral part of design from the outset.

Question 10: We would like to know your views on the effects that revisions to TAN 15 would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

- **What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?**

We have no comments.

Question 11: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

We note that para 5.7 describes that “All reservoirs are maintained to exceptionally high standards in Wales therefore the location of homes and businesses in reservoir inundation areas should not raise alarm.” We advise that this description be moderated given the demonstrable risk from reservoirs, for example Whaley Bridge in 2019, and the extent of work undertaken in recent years by NRW on its reservoirs due to Measures to be taken in the Interests of Safety (MIOS).

Whilst an update to TAN15 is long overdue and very welcome, and many of the proposed amendments and additions will be beneficial to all, we believe that the need for even further clarity in many of the sections is required. This update is the opportunity to significantly reduce the large extent of interpretation that was possible and experienced using TAN15, and it should be firmly seized. NRW, planning authorities, developers and consultants have typically interpreted different clauses in TAN15 in different ways throughout the past fifteen years, and this has often caused delays in making and determining planning applications, protracted negotiations, increased costs and, in some cases, indirectly led to planning appeals and inquiries. In parts of the TAN where further clarity is not possible, we believe that phrases such as “where appropriate” should be avoided unless a clear definition of appropriateness can be given. The need for early consultation between a developer and the planning authority and NRW should be emphasised throughout the TAN.

We would recommend that workshops are conducted across Wales for LPAs, RMAs and developers in the roll out of the final TAN15 to help provide everyone with a clear understanding of the new requirements and provide some hypothetical case studies.