

To: Chair and Members of the Planning Committee

Date: 15 March 2023

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Dear Councillor

You are invited to attend a meeting of the **PLANNING COMMITTEE** to be held at **9.30 AM** on **WEDNESDAY, 22 MARCH 2023** in **COUNCIL CHAMBER, COUNTY HALL, RUTHIN AND BY VIDEO CONFERENCE.**

Yours sincerely

G Williams
Monitoring Officer

AGENDA

1 APOLOGIES (Pages 3 - 4)

2 DECLARATIONS OF INTEREST (Pages 5 - 6)

Members to declare any personal or prejudicial interests in any business identified to be considered at this meeting.

3 URGENT MATTERS AS AGREED BY THE CHAIR

Notice of items which, in the opinion of the Chair, should be considered at the meeting as a matter of urgency pursuant to Section 100B(4) of the Local Government Act, 1972.

4 MINUTES (Pages 7 - 12)

To confirm the accuracy of the minutes of the Planning Committee meeting held on the 15 February 2023 (copy attached).

APPLICATIONS FOR PERMISSION FOR DEVELOPMENT (ITEMS 5) -

5 APPLICATION NO. 43/2022/0537/ PF - STATION HOUSE, 1 BRIDGE ROAD, PRESTATYN (Pages 13 - 32)

To consider an application for the change of use of former museum and tea rooms to form one dwelling at Station House, 1 Bridge Road, Prestatyn, LL19 7ER (copy attached).

ADDITIONAL INFORMATION

6 RESPONSE TO WELSH GOVERNMENT ON THE REVISED, JANUARY 2023 VERSION, OF THE TECHNICAL ADVICE NOTE 15: DEVELOPMENT FLOODING AND COASTAL EROSION. (Pages 33 - 62)

To consider a report on the proposed revisions to Technical Advice Note (TAN) 15: Development, flooding and coastal erosion (copy attached).

MEMBERSHIP

Councillors

Councillor Mark Young (Chair)

Councillor Peter Scott (Vice-Chair)

Ellie Chard
Karen Edwards
Gwyneth Ellis
James Elson
Chris Evans
Jon Harland
Huw Hilditch-Roberts
Alan James
Delyth Jones
Julie Matthews

Terry Mendies
Raj Metri
Win Mullen-James
Merfyn Parry
Pete Prendergast
Gareth Sandilands
Andrea Tomlin
Cheryl Williams
Elfed Williams

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WELCOME TO DENBIGHSHIRE COUNTY COUNCIL'S PLANNING COMMITTEE

HOW THE MEETING WILL BE CONDUCTED

Unless the Chair of the Committee advises to the contrary, the order in which the main items will be taken will follow the agenda set out at the front of this report.

General introduction

The Chair will open the meeting at 9.30am and welcome everyone to the Planning Committee.

The Chair will ask if there are any apologies for absence and declarations of interest.

The Chair will invite Officers to make a brief introduction to matters relevant to the meeting.

Officers will outline as appropriate items where we have received requests for deferral, withdrawals, special reports, and any Part 2 items where the press and public may be excluded. Reference will be made to additional information prior to the start of the meeting, including the late representations/amendments summary sheets ('Late Sheets') and any supplementary or revised plans relating to items for consideration.

The Late Sheets' contain important information, including a summary of material received in relation to items on the agenda between the completion of the main reports and the day before the meeting. The sheets also set out the proposed running order on planning applications.

In relation to the running order of items, any Members seeking to bring forward consideration of an item will be expected to make such a request immediately following the Officer's introduction. Any such request must be made as a formal proposal and will be subject to a vote.

The Planning Committee currently consists of 21 elected Members. In accordance with protocol, 11 Members must be present at the start of a debate on an item to constitute a quorum and to allow a vote to be taken.

County Council Members who are not elected onto the Planning Committee may attend the meeting and speak on an item, but are not able to make a proposal to grant or refuse, or to vote.

CONSIDERING PLANNING APPLICATIONS

The sequence to be followed

The Chair will announce the item which is to be dealt with next. In relation to planning applications, reference will be made to the application number, the location and basis of the proposal, the relevant local Members for the area, and the Officer recommendation.

If any Member is minded to propose deferral of an item, including to allow for the site to be visited by a Site Inspection Panel, the request should be made, with the planning reason for deferral, before any public speaking or debate on that item.

Where relevant, the Chair will offer the opportunity for Members to read any late information on an item on the 'Late Sheets' before proceeding.

Prior to any debate, the Chair may invite Officers to provide a brief introduction to an item where this is considered to be worthwhile in view of the nature of the application.

The Chair will announce that the item is open for debate and offer Members opportunity to speak and to make propositions on the item.

If any application has been subject to a Site Inspection Panel prior to the Committee, the Chair will normally invite those Members who attended, including the Local Member, to speak first.

On all other applications, the Chair will permit the Local Member(s) to speak first, should he/she/they wish to do so.

Members are normally limited to a maximum of five minutes speaking time, and the Chair will conduct the debate in accordance with Standing Orders.

Once a Member has spoken, **he/she should not speak again** unless seeking clarification of points arising in debate, and then only once all other Members have had the opportunity to speak, and with the agreement of the Chair.

At the conclusion of Members debate, the Chair will ask Officers to respond as appropriate to questions and points raised, including advice on any resolution in conflict with the recommendation.

Prior to proceeding to the vote, the Chair will invite or seek clarification of propositions and seconders for propositions for or against the Officer recommendation, or any other resolutions including amendments to propositions. Where a proposition is made contrary to the Officer recommendation, the Chair will seek clarification of the planning reason(s) for that proposition, in order that this may be recorded in the Minutes of the meeting. The Chair may request comment from the Legal and Planning Officers on the validity of the stated reason(s).

The Chair will announce when the debate is closed, and that voting is to follow.

The voting procedure

Before requesting Members to vote, the Chair will announce what motions have been made, and how the vote is to proceed. If necessary, further clarification may be sought of amendments, new or additional conditions and reasons for refusal, so there is no ambiguity over what the Committee is voting for or against.

Members attending via Zoom

The voting will proceed with the Chair going around all the Planning Committee members eligible to vote to ask for their verbal "For", "Against" or "Abstain" vote. The votes will be marked down.

Members attending in person in the Chamber

The Members will use the electronic voting system and the result will be read out by the Chair.

Final Result

The Chair will add up the votes and will announce whether the application has been approved or refused.

LOCAL GOVERNMENT ACT 2000

Code of Conduct for Members

DISCLOSURE AND REGISTRATION OF INTERESTS

I, (<i>name</i>)	<input type="text"/>
a *member/co-opted member of <i>(*please delete as appropriate)</i>	Denbighshire County Council
CONFIRM that I have declared a *personal / personal and prejudicial interest not previously declared in accordance with the provisions of Part III of the Council's Code of Conduct for Members, in respect of the following:- <i>(*please delete as appropriate)</i>	
Date of Disclosure:	<input type="text"/>
Committee (<i>please specify</i>):	<input type="text"/>
Agenda Item No.	<input type="text"/>
Subject Matter:	<input type="text"/>
Nature of Interest: <i>(See the note below)*</i>	<input type="text"/>
Signed	<input type="text"/>
Date	<input type="text"/>

*Note: Please provide sufficient detail e.g. 'I am the owner of land adjacent to the application for planning permission made by Mr Jones', or 'My husband / wife is an employee of the company which has made an application for financial assistance'.

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PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee held in Council Chamber, County Hall, Ruthin and by video conference on Wednesday, 15 February 2023 at 9.30 am.

PRESENT

Councillors Karen Edwards, Gwyneth Ellis, James Elson, Alan James, Delyth Jones, Terry Mendies, Merfyn Parry, Peter Scott (Vice-Chair), Andrea Tomlin and Mark Young (Chair)

Local Members - Councillors Hugh Evans, Paul Keddie and Huw Williams

ALSO PRESENT

Legal Officer (CL), Development Control Manager (PM); Principal Planning Officer (PG); Planning Officer - Career Grade (LM); Zoom Host (KJ); Committee Administrator (RTJ).

Public Speakers -
Ian Hemming
Matthew Davies
Tanya Reaich

1 APOLOGIES

Apologies were received by Councillors Gwyneth Ellis and Chris Evans.

2 DECLARATIONS OF INTEREST

Councillor Karen Edwards (Agenda item 5) raised a personal interest as her partner was related to the owner of the shop.

Councillor Huw Williams (non-committee member) (Agenda item 7) raised a personal interest as he has signage for his business on the sawmill site which was owned by the applicants family.

3 URGENT MATTERS AS AGREED BY THE CHAIR

There were no urgent matters.

4 MINUTES

The minutes of the Planning Committee held on 11 January 2023 were submitted.

There were no matters arising or accuracy raised.

RESOLVED that subject to the above, the minutes of the meeting held on 11 January 2023 be approved as a correct record.

5 APPLICATION NO. 21/2022/0980 - THE PADDOCK, LLANFERRES

An application was submitted for the change of use of land and part of the building to form a donkey trekking business and associated works (partly retrospective) at The Paddock, Llanferres, Mold (previously circulated)

Public Speakers –

Ian Hemming (**Against**)– The public speaker was a resident who lived adjacent to the donkey trekking site and spoke on behalf of the others living locally. There were many concerns, including additional lighting, ~~and~~ increased traffic and loss of amenity through noise and disturbance. The loss of privacy was highlighted as some who went trekking could see into their gardens; this concern was further exacerbated as the site would be open until 9:00 pm. There had been some suggestions from Planners and the applicant to alleviate some concerns. However, the public speaker wanted these to be confirmed before approval. In closing, the public speaker highlighted that the Council had a duty of care for all the residents.

Matthew Davies (**For**) –the application was aimed to get people to walk with six miniature rescue donkeys within the AONB, all within the boundary of the applicant's land. The focus was the well-being benefits of being in the countryside and bonding with an animal. There had been a trial with the trekking carried out at the site under permitted development in June, July and August of 2022.

The applicant was overwhelmed by the response to the trial; it attracted people from outside the county, leading them to go into surrounding towns and villages. The site has been highly praised at award shows and by the Welsh Parliament. The message was that ventures such as this should be celebrated due to its benefits to the rural economy; many bodies had contacted the applicant to share the benefits. The applicants were partners with the North Wales Wildlife Trust and, in spring, started the conservation of the area with the planting of trees and the sowing of wildflower meadows. Denbighshire County Council's strategy aimed to promote and grow diversity within the tourism sector; the farm has had a history of diversification.

In closing, the applicant quoted the Clwydian Range AONB website – Communities should make the area a personable, welcoming location full of life adventure and personality and thriving communities and successful businesses need the freedom to develop; the applicant felt that the application strongly abided by this.

General Debate –

Councillor Huw Williams (**Local Member**) – supported the officer's recommendation to grant the application. He stated that the officers and the applicant had discussed the finer detail regarding the application. He felt that mitigation had been carried out with the conditions aimed to ease concerns which have been raised. He stated the application benefited the area, as it was a business diversification and would retain further generations of the family to remain in the area.

The committee sought clarity on the opening times with the business if the application was granted. In response, officers highlighted condition four within the report, which stated

“The site shall not be open for visitors to the donkey trekking business outside the hours:

- Mondays to Fridays - 5 pm to 8 pm.
- Saturdays - 10 am to 3 pm & 5 pm to 8 pm.
- Sundays & Bank Holidays - 10 am to 5 pm.

The site shall only operate between the 1st of April to 31st of December.”

It was also clarified that the business could not operate in the dark and reassured the committee if the applicant wanted to add lighting to the area, the matter would need to come back to planning to be agreed upon.

Councillor Terry Mendies commented that he felt the applicant was missing an opportunity by not having toilets at the site.

Councillor Huw Williams (**Local Member**) – thanked the committee for the discussion; he stated that it would be suitable for the applicant to co-work with education. In closing, Councillor Williams stated those who had raised objections had not been ignored if they had any concerns, they could contact their local councillors to assist with any issues.

Proposal – Councillor Merfyn Parry proposed the application be **GRANTED** in accordance with officer recommendations within the report, seconded by Councillor Alan James.

VOTE:

FOR – **17**

AGAINST – **0**

ABSTAIN – **0**

RESOLVED that permission be **GRANTED** in accordance with officer recommendations as detailed within their report.

6 APPLICATION NO. 20/2022/0983 - GRAIG COTTAGE, GRAIGADWYWYNT, RUTHIN

An application was submitted for the Erection of 1 affordable dwelling, installation of a new septic tank and associated works at Land at Graig Cottage, Graigadwywynt, Ruthin (previously circulated)

Public Speaker –

Tanya Reaich (For) – thanked the committee for the opportunity to speak. The speaker highlighted the proposed house would remain in affordable housing status for perpetuity and would provide a lifetime home for another family in the future.

General Debate –

The chair asked councillors who attended the site visit whether they had any comments before the debate began.

Councillor Peter Scott, who attended the site visit, said his concerns with surface water and drainage were alleviated, and he felt that the application would be a good build.

Councillor Hugh Evans (local member) thanked the public speaker for her speech and the officers for the work carried out. However, Councillor Evans highlighted concern with the materials used in the build and whether they would be in keeping with the area.

Officers responded, suggesting that although the materials used would be different to existing properties, they would not cause any harm to visual amenities in the area.

The committee queried whether a condition could be put in place that a sample of materials be looked at before being incorporated into the build; officers responded that the matter could be conditioned into the application.

Proposal – Councillor Peter Scott proposed the application be **GRANTED** with an additional condition that the material colouring could be assessed before any work being carried out on the site, seconded by Councillor Alan James.

VOTE:

FOR – 17

AGAINST – 0

ABSTAIN – 0

RESOLVED that permission be **GRANTED** in accordance with officer recommendations as detailed within their report.

7 APPLICATION NO. 03/2022/0862 42 MARKET STREET, LLANGOLLEN

An application was submitted for the Change of use from a shop (Use Class A1) to shop (Use Class A1) with an ancillary coffee shop (Use Class A3) at 42 Market Street, Llangollen (previously circulated)

General Debate –

The chair called upon those who had attended the site visit to share their views on the application; Councillor Peter Scott, who participated in the site visit, highlighted how the site was small; however, the plan was only to have two tables for the coffee shop. Therefore from a planning standpoint, Councillor Scott had no concerns.

Councillor Paul Keddie (**Local Member**) did not raise any concern with the planning application as detailed within the report.

Councillor Karen Edwards (**Local Member**) raised concerns with the use of the building as, to her knowledge, permission had not been granted for the building to be used for retail use. She sought clarity on the use of the building. Concerns were also outlined for the lack of information pertaining to the potential customer numbers to the site if granted and the impact it could have on parking; in closing, it was also stated that the town council objected to the application.

Officers responded that in their view the site had been a retail unit in the past, and the previous change of use was permitted and lawful. This application was for a modest ancillary A3 use; the scale proposed meant the impact on residents would be low, and the area was a mixed site with residential and business. There were conditions proposed for the controls with hours on the site, which would lessen the impact on residents.

Members queried whether there had been any fire risk assessments carried out for the site. Officers clarified that the building regulations controlled fire assessments if needed.

Proposal – Councillor Peter Scott proposed the application be **GRANTED** in accordance with officer recommendations and conditions detailed within the report, seconded by Councillor Andrea Tomlin.

VOTE:

FOR – **16**

AGAINST – **0**

ABSTAIN – **0**

RESOLVED that permission be **GRANTED** in accordance with officer recommendations as detailed within their report.

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Agenda Item 5

WARD : Prestatyn North

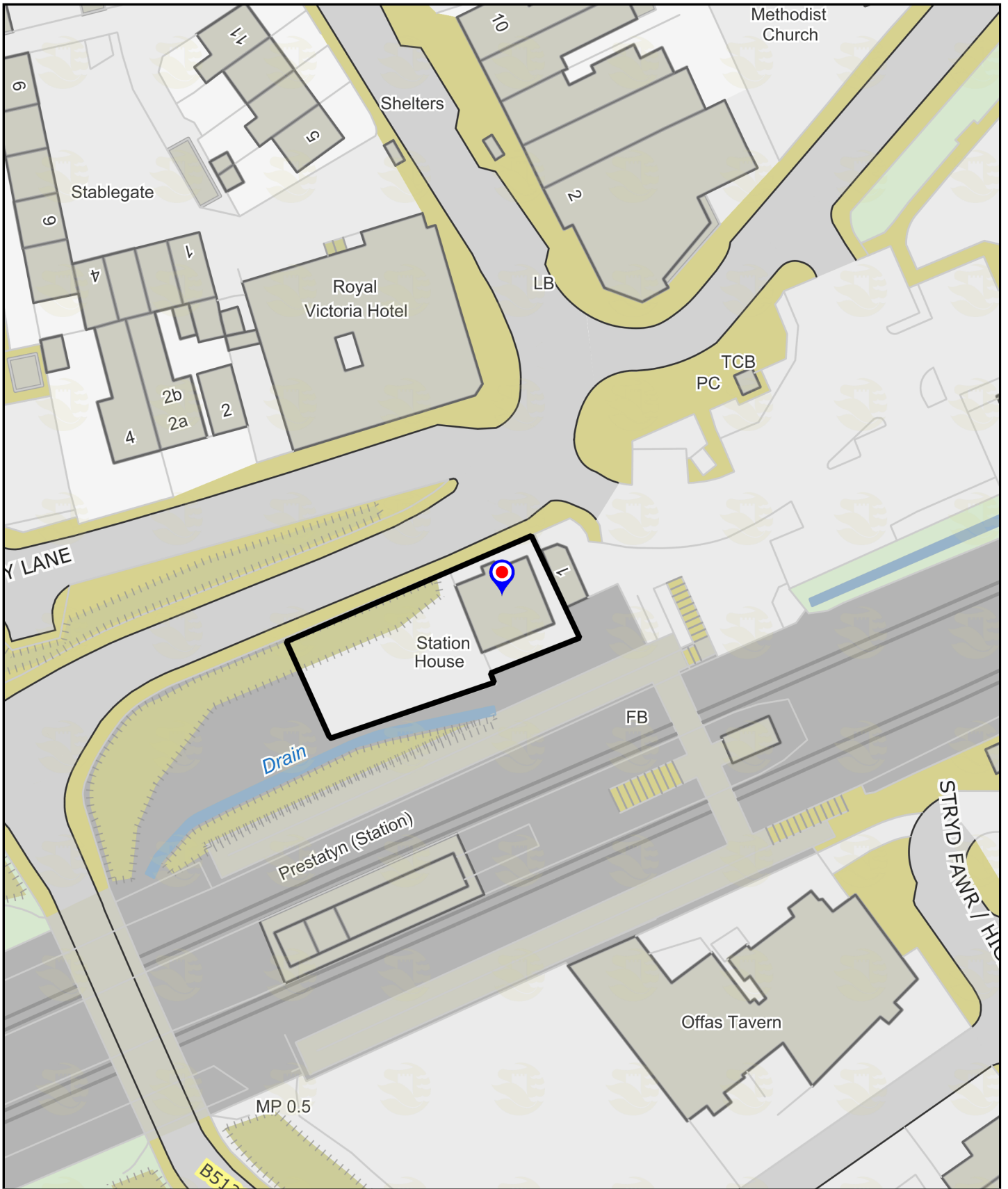
WARD MEMBER(S): Cllr Kelly Clewett
Cllr Gill German
Cllr Jason Mclellan

APPLICATION NO: 43/2022/0537/ PF

PROPOSAL: Change of use of former museum and tea rooms to form one dwelling

LOCATION: Station House, 1 Bridge Road, Prestatyn, LL19 7ER

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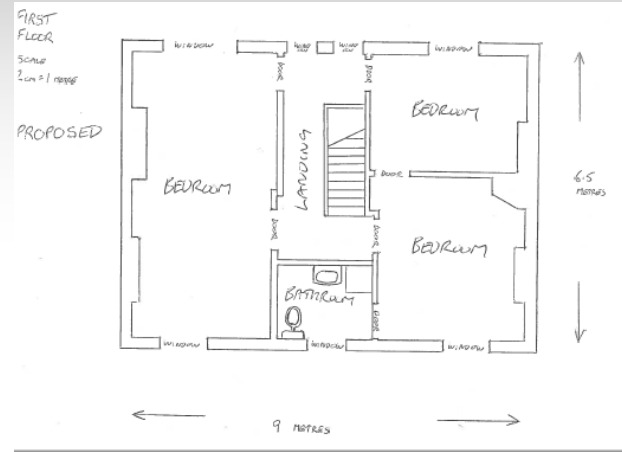
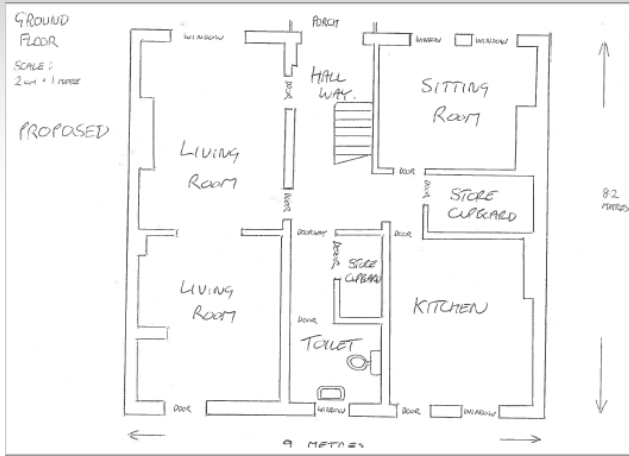
43/2022/0537



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Floor Plans



View from Bridge Road



View of site from Bridge Road (West Side)



View of site from Bridge Road (East Side)

WARD : Prestatyn North

WARD MEMBER(S): Cllr Kelly Clewett
Cllr Gill German
Cllr Jason Mclellan

APPLICATION NO: 43/2022/0537/ PF

PROPOSAL: Change of use of former museum and tea rooms to form one dwelling

LOCATION: Station House, 1 Bridge Road, Prestatyn, LL19 7ER

APPLICANT: Ms Denise Hannon & Mr Mark Thompson

CONSTRAINTS: C1 Flood Zone
Conservation Area

PUBLICITY UNDERTAKEN: Site Notice - No
Press Notice - No
Neighbour letters - Yes

REASON(S) APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2

- Member request for referral to Committee

CONSULTATION RESPONSES:

PRESTATYN TOWN COUNCIL
"No observations".

NATURAL RESOURCES WALES

Objects to the proposed development as submitted and considers that the Flood Consequence Assessment (FCA) submitted has failed to demonstrate that the consequences of flooding can be acceptably managed over the development lifetime. Further detail of NRW's assessment and conclusion is contained in section 4.2.4 of the report.

NRW advise that if the Council is minded to grant planning permission, NRW should be informed of all matters that influence this decision prior to granting permission.

RESPONSE TO PUBLICITY: None

EXPIRY DATE OF APPLICATION: 23/08/2022

EXTENSION OF TIME AGREE: 22/03/2023

REASONS FOR DELAY IN DECISION (where applicable):

- awaiting consideration by Committee

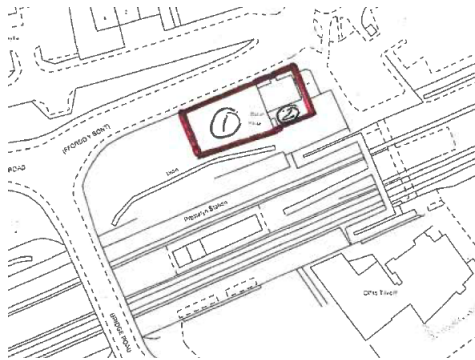
PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application proposes the "Change of use of former museum and tea rooms to form one dwelling" at Station House, 1 Bridge Road, Prestatyn.

- 1.1.2 Plans submitted in support of the application show no external alterations proposed. Nor would the internal layout be physically altered. The use of rooms would simply change to residential in the form of; living room, kitchen and wc on the ground floor and 3 bedrooms with bathroom above.
- 1.1.3 Plans show a rear/side garden (1), yard (2) with outhouse as existing, and retained for the proposed occupiers of the dwelling. See plans snip* Not to Scale and photo.



1.2 Other relevant information/supporting documents in the application

- 1.2.1 The application was supported initially by the applicants interpretation of a Flood Consequences Assessment.

1.3 Description of site and surroundings

- 1.3.1 Station House is located on the south side of Bridge Road, north of the town centre in Prestatyn. It is a distinctive two-storey brick building with slate roof presumably originally associated with the rail line which lies the south of the site.
- 1.3.2 To the east of the building is a single storey building which operates independently as a barbers shop.
- 1.3.3 The site is abutted by a drain to the south, and the railway land/ and station beyond, a car park for the railway station to the east, and Bridge Road to the north and west. In the surrounding area is a mixture of residential and commercial premises.

1.4 Relevant planning constraints/considerations

- 1.4.1 The site is located within the development boundary of Prestatyn and within the Conservation area.
- 1.4.2 It is also within a C1 floodzone as defined by the DAM maps pf TAN 15 Development and Flood Risk.

1.5 Relevant planning history

- 1.5.1 Planning permission was granted in 2008 for the change of use from single dwelling to mixed use including Class A3 tea room, Class D1 museum and Class A1 gift shop. The Applicant advised that permission was only implemented in 2011, and operated until November 2021.
- 1.5.2 The property was originally a dwelling and historic records refer to two flats at the site in the 1980's.

1.6 Developments/changes since the original submission

- 1.6.1 Additional information was requested after the original consultation to address Flood Risk issues raised by NRW. A FCA by Oakshire Environmental was submitted in October 2022 to support the application and later updated in December by the same Authors.

1.7 Other relevant background information

1.7.1 The Application is being considered by Planning Committee on the request of Cllrs Jon Harland and Hugh Irving.

2. DETAILS OF PLANNING HISTORY:

2.1 43/2008/0450/ PF Change of use from single dwelling to mixed use including Class A3 tea room, Class D1 museum and Class A1 gift shop. Granted 02/07/2008

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

Local Policy/Guidance

Denbighshire Local Development Plan (adopted 4th June 2013)

Policy RD1 – Sustainable development and good standard design

Policy BSC1 – Growth Strategy for Denbighshire

Policy VOE1 - Key areas of importance

Supplementary Planning Guidance

Supplementary Planning Guidance Note: Residential Development

Supplementary Planning Guidance Note: Residential Development Design Guide

Supplementary Planning Guidance Note: Residential Space Standards

Government Policy / Guidance

Planning Policy Wales (Edition 11) February 2021

Development Control Manual November 2016

Future Wales – The National Plan 2040

Technical Advice Notes

TAN 15 Development and Flood Risk (2004)

4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Section 9.1.2 of the Development Management Manual (DMM) confirms the requirement that planning applications 'must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise'. It advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned.

The DMM further states that material considerations can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Section 9.4).

The DMM has to be considered in conjunction with Planning Policy Wales, Edition 11 (February 2021) and other relevant legislation.

Denbighshire County Council declared a climate change and ecological emergency in July 2019. In October 2020 the Council approved an amendment of its Constitution so that all decisions of the Council now have regard to tackling climate and ecological change as well as having regard to the sustainable development principles and the well-being of future generations.

The Council aims to become a Net Carbon Zero Council and an Ecologically Positive Council by 31 March 2030. Its goal and priorities are set out in its Climate and Ecological Change Strategy 2021/22 to 2029/30. The actions, projects and priorities in the Strategy directly relate to council owned and controlled assets and services. One priority of the Strategy is to promote the existing policies within the Local Development Plan (LDP) 2006 to 2021 and Supplementary Planning Guidance (SPG) which contribute to environmentally responsible development. In preparing these reports to determine planning applications we therefore highlight the LDP 2006 to 2021 and appropriate SPG. Applications that are determined in accordance with the LDP 2006 to 2021 are

environmentally responsible developments.

Planning applications are assessed in accordance with statutory requirements including The Environment (Wales) Act 2016, national policy (Future Wales, PPW 11) and local policy (LDP 2006 to 2021) and therefore they are assessed with regard to tackling climate and ecological change which is a material consideration.

The following paragraphs in Section 4 of the report therefore refer to all statutory requirements, policies and material planning considerations which are considered to be of relevance to the proposal.

4.1 The main land use planning issues in relation to the application are considered to be:

- 4.1.1 Principle
- 4.1.2 Visual amenity
- 4.1.3 Residential amenity
- 4.1.4 Drainage (including flooding)
- 4.1.5 Highways (including access and parking)

4.2 In relation to the main planning considerations:

4.2.1 Principle

The main Local Development Plan Policy relevant to the principle of the development is Policy BSC 1. This policy seeks to make provision for new housing in a range of locations, concentrating development within development boundaries of towns and villages. It encourages provision of a range of house sizes, types and tenure to reflect local need and demand and the Local Housing market assessment.

The site is located within the development boundary of Prestatyn which is defined as a lower growth town in the LDP.

The principle of change of use to residential is considered acceptable in this location. Officers suggest the acceptability of the proposal therefore has to rest on assessment of the local impacts and constraints which are reviewed within the following sections of the report.

4.2.2 Visual amenity

Local Development Plan Policy RD 1 test (i) requires due regard to issues of siting, layout, form, character, design, materials, aspect, microclimate and intensity of use of land / buildings and spaces between buildings, which are matters relevant to the visual impact of development; test (vi) requires that development does not unacceptably affect prominent public views into, out of, or across any settlement or area of open countryside; test (vi) requires the incorporation of existing landscape or other features, takes account of site contours, and changes in levels and prominent skylines; and test (xiii) requires the incorporation of suitable landscaping measures to protect and enhance development in its local context.

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The visual amenity and landscape impacts of development should therefore be regarded as a potential material consideration.

Local Development Plan Policy VOE1 seeks to protect sites of built heritage from development which would adversely affect them, and requires that development

proposals should maintain and wherever possible enhance them for their characteristics, local distinctiveness and value to local communities.

Planning Policy Wales (PPW 11) Chapter 6 'Distinctive and Natural Places' states there should be a general presumption in favour of the preservation or enhancement of the character or appearance of a conservation area or its setting.

The application proposes no external alterations to the building or site. It would remain as existing in appearance (as it has been closed since 2021 with signage and outdoor seating removed).

The proposal is therefore considered acceptable in relation to the visual amenity policies and guidance listed above.

4.2.3 Residential amenity

Local Development Plan Policy RD 1 test (i) requires due regard to issues of siting, layout, form, character, design, materials, aspect, microclimate and intensity of use of land / buildings and spaces between buildings, which touch on the potential for impact on residential amenity; test (vi) sets the requirement to assess the impact of development on the amenities of local residents, other land and property users, or characteristics of the locality, in terms of increased activity, disturbance, noise, dust, fumes, litter, drainage, light pollution, etc..

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The residential amenity impacts of development should therefore be regarded as a potential material consideration.

The proposed dwelling would be a three bed property. It would meet current floor space standards in terms of internal arrangements and external space. There are no immediate neighbours. Whilst the proximity to the railway line is noted, given the history of the residential use here it is considered acceptable in this instance.

The proposal is therefore considered acceptable in relation to the residential amenity policies and guidance listed above.

4.2.4 Drainage (including flooding)

Local Development Plan Policy RD 1 test (xi) requires that development satisfies physical or natural environmental considerations relating to drainage and liability to flooding.

Planning Policy Wales confirms that factors to be taken into account in making planning decisions (material considerations) must be planning matters; that is, they must be relevant to the regulation of the development and use of land in the public interest, towards the goal of sustainability. The drainage / flooding impacts of a development proposal are a material consideration.

Planning Policy Wales (PPW 11) Section 6.6.22 to 6.6.29 identifies flood risk as a material consideration in planning and along with TAN 15 – Development and Flood Risk, which provides a detailed framework within which risks arising from different sources of flooding should be assessed.

TAN 15 advises that in areas which are defined as being of high flood hazard, development proposals should only be considered where:

- new development can be justified in that location, even though it is likely to be at risk from flooding; and
- the development proposal would not result in the intensification of existing development which may itself be at risk; and
- new development would not increase the potential adverse impacts of a flood event

The general approach adopted in TAN 15 is to advise caution in respect of new development in areas of high risk of flooding, and it sets out a 'precautionary' framework to guide planning decisions, seeking to direct new development away from areas at risk. It details specific tests for local planning authorities to apply to development proposals, requiring an authority to be satisfied a proposal is first *justified* (criteria set out in Section 6) and then that the *consequences of flooding* (set out in Section 7) are acceptable. It advises that where the risks and consequences of flooding cannot be managed to an acceptable level for the nature and type of development, development should be avoided irrespective of the justification. TAN 15 stresses the need for suitable Flood Consequences Assessments to be submitted with applications, to establish the source / mechanism of flooding, the consequences of flooding, and as appropriate, details of mitigation measures to show if risk can be managed to an acceptable level for the type of development.

The site is located within Zone C1 of the Development Advice Map (DAM) as referred to by the Technical Advice Note (TAN) 15: Development and Flood Risk. The site is also shown to lie within the Flood Zone 3 (Sea) and TAN15 Defended Zone according to the new Flood Map for Planning.

The site is situated less than 1 km south east of the Irish Sea and the Prestatyn Gutter is situated 190 metres north of the site. There are also multiple land drains in close proximity to the site, including bordering the site to the south. The site is situated within Flood Zone 3 (Sea) of the Flood risk map for planning, which the FCA acknowledges means that the land has a high probability of sea flooding (>0.5% annual probability of flooding from the sea, including the effects of climate change).

The development proposal is for the change of use from a museum and tea rooms to residential dwelling, the existing lawful planning use would be classed as 'less vulnerable', given the sites most recent use as a museum and tea rooms. As such the proposal would increase the land use vulnerability of the site, from less vulnerable to highly vulnerable land use.

NRW's detailed comments on the application are as follows:

"We have reviewed the new Flood Consequences Assessment (FCA) prepared by Oakshire Environmental (September 2022). Our advice to you is that the FCA fails to demonstrate that the risks and consequences of flooding can be managed to an acceptable level for the reasons explained below.

The FCA has assessed flood risk from a range of sources, including tidal flood risk. As outlined in our previous response, in order to demonstrate compliance with Section A1.14 of Technical Advice Note (TAN) 15, the FCA needs to demonstrate that the site can be designed to be flood free in the 0.5% Annual Exceedance Probability (AEP) breach event with an allowance for climate change.

The FCA refers to breach outputs from the Point of Ayr to Pensarn (2018) modelling study and states 'the majority of the site would be impacted by breaches at all the modelled locations by the year 2117'. No additional information is presented in respect to expected flood levels and depths at the site. In respect to flood risk mitigation, temporary flood resistance measures are proposed.

The mitigation measures outlined in the FCA are not considered to be sufficient, as flooding of the site would still be expected in the 0.5% AEP breach event with an allowance for climate change, and the proposal therefore still fails to comply with the

requirements of Section A1.14 of TAN15. There is repeated reference to 'residual risk' in the FCA, but as outlined above, and in the previous response, a breach should be considered as the design event.

The FCA needs to be updated to fully assess the risk of flooding for the 0.5% AEP breach event with an allowance for climate change (including expected flood levels and depths) and to show that the dwelling can be designed to be flood free in this event.

However, due to the nature of the proposal and likely flood depths at the site, we advise that it is unlikely that any updated FCA will be able to demonstrate compliance with the requirements of TAN15.

Amendments were made to the FCA and NRW re-consulted, they responded *"the FCA includes assessment of the 0.5%AEP breach events with an allowance for climate change, are acknowledged. However, the site is still subject to flood to depths up to 0.6m during the worst breach event. The 0.5%AEP breach event with climate change is the relevant 'design event' for the site and should not be considered a 'residual risk' as referred to in the FCA.*

Mitigation measures remain unchanged from the previous FCA which would not be adequate to mitigate the risks from the flood levels anticipated onsite, and therefore the application fails to demonstrate compliance with A1.14 of TAN15.

They go on to add, *"As previously advised, due to the nature of the proposal and likely flood depths at the site, we advise that it is unlikely that any updated FCA will be able to demonstrate compliance with the requirements of TAN15. We therefore object to the application."*

It is clear from the above that the flooding issues require careful assessment in relation to the general advice in PPW and the detailed contents of TAN15, all in the context of the information provided by the applicants and response from NRW.

Firstly in relation to applying the TAN 15 tests "Justification test"

Section 6.2 states that development will only be justified if it can be demonstrated that:

- i) Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; or,
 - ii) Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region;
- and,
- iii) It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and,
 - iv) The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable.

Having regard to the justification criteria in paragraph 6.2 of TAN15, Officers' view is that:-

- i) The proposal would comply with test i) in that the provision of a dwelling would assist the Growth Strategy for the County in Local Development Plan Policy BSC1, which is to provide housing to meet the needs of local communities and population changes, and it would contribute to expanding the range of accommodation in the town. The site is an existing building located within the development boundary of the adopted Local Development Plan. Housing development in existing settlements concurs with the aims of Planning Policy Wales.

iii) As an existing building it is a brownfield site which meets the definition of 'previously developed land' in PPW, hence the proposals comply with test iii).

iv) In respect of criterion iv) it is not considered that the potential consequences of a flooding event for the particular type of development have been found to be acceptable.

NRW have reviewed the FCA and as the expert consultee have advised that they do not consider the FCA to demonstrate that the risk and mitigation in relation to flood risks can be managed. On this basis they recommend refusal of the application. On the advice of NRW which clearly states that the proposal fails to meet policy tests Officers have no option but to accept this advice recommend refusal of the application.

4.2.5 Highways (including access and parking)

Local Development Plan Policy RD 1 supports development proposals subject to meeting tests (vii) and (viii) which oblige provision of safe and convenient access for a range of users, together with adequate parking, services and manoeuvring space; and require consideration of the impact of development on the local highway network.

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The highway impacts of development should therefore be regarded as a potential material consideration.

The existing property has a permitted commercial use with no on site parking. It is located adjacent to a public carpark with on street parking in the wider area. The proposed dwelling would have 3 bedrooms. Whilst parking standards advise that 3 spaces would be required for an equivalent size dwelling the existing use/situation, proximity to the town centre and alternative means of transport (rail, bus and cycle network) are noted.

Having regard to the nature of the proposed development and existing arrangements, it is considered that the proposals would not have an unacceptable impact on highway safety. It would therefore be in general compliance with the tests of the policies referred to.

Other matters

Well – being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act 2015 imposes a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. The Act sets a requirement to demonstrate in relation to each application determined, how the development complies with the Act.

The report on this application has taken into account the requirements of Section 3 'Well-being duties on public bodies' and Section 5 'The Sustainable Development Principles' of the Well-being of Future Generations (Wales) Act 2015. The recommendation is made in accordance with the Act's sustainable development principle through its contribution towards Welsh Governments well-being objective of supporting safe, cohesive and resilient communities. It is therefore considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed recommendation.

5. SUMMARY AND CONCLUSIONS:

Whilst the principle and other planning considerations on this proposal may be acceptable, NRW have made a clear objection to the application on the basis of flood risk. Officers note the history of the site, however in flood risk terms a less vulnerable use has been operating at the site for over 10 years, and the planning assessment must take the last use into account. On the advice of NRW which clearly states that the proposal fails to meet policy tests Officers have no option but to recommend refusal of the application on the grounds of flood risk.

RECOMMENDATION: REFUSE - for the following reasons:-

It is the opinion of the Local Planning Authority that the proposal is not acceptable in relation to flood risk. The FCA acknowledges that the site would be subject to flooding (to depths up to 0.6m) during the worst breach event, and mitigation measures proposed would not be adequate to mitigate the risks from the flood levels anticipated onsite. Therefore the application fails to demonstrate compliance with A1.14 of TAN15 and would be contrary to Local Development Plan Policy RD 1 test (xi) which requires that development satisfies physical or natural environmental considerations relating to drainage and liability to flooding, and advice contained in Planning Policy Wales Section 6.6.22 to 6.6.29.

Report to	Planning Committee
Date of meeting	22 March 2023
Lead Member / Officer	Cyng/Cllr Win Mullen-James – Lead Member for Local Development and Planning
Head of Service	Emlyn Gwynedd Jones – Head of Planning and Public Protection Services
Report author	Bethan Morris – Planning Officer
Title	Response to Welsh Government on the revised, January 2023 version, of the Technical Advice Note (TAN) 15: Development flooding and coastal erosion.

1. What is the report about?

1.1. This report provides information on the proposed revisions to Technical Advice Note (TAN) 15: Development, flooding and coastal erosion. It details Denbighshire County Council's consultation response to Welsh Government's proposals.

2. What is the reason for making this report?

2.1. Approval is required of the draft response to Welsh Government on the proposed revised TAN 15.

3. What are the Recommendations?

3.1. That Planning Committee approve the letter responding to the TAN 15 consultation at Appendix 1 for its submission to Welsh Government.

4. Report details

- 4.1. Technical Advice Notes (TANs) are national requirements that guide the location and assessment of new development. TAN 15 guides development in terms of flood risk.
- 4.2. The new TAN 15 was first published by Welsh Government for consultation in October 2019. Denbighshire County Council responded to the consultation on 19.02.2020 raising its concern in not being able to view the Flood Map for Planning (FMfP). On 28.09.2021 TAN 15 was published, with the FMfP and a start date of 01.12.2021. It's coming into force was delayed until June 2023 given significant concerns over its lack of flexibility particularly in large coastal urban settlements. A recent version was published on 23.01.2023 and is currently out for consultation until 17.04.2023. It is to this latest consultation that the letter at Appendix 1 responds.
- 4.3. The revised TAN 15 aims to minimise the risk of flooding and enable resilient development in areas of lesser flood risk. Coastal erosion is now included within TAN 15, whilst previously it was dealt with separately under TAN 14. Its inclusion should assist in highlighting the risks associated with coastal erosion. Climate change predictions are incorporated into the risk of flooding and the guidance has been expanded particularly on development types, categories and flood consequences assessments.
- 4.4. A critical change is that four flood risk zones (Zones 1, 2, 3 and TAN 15 defended zones) are proposed which replace the previous categorisation of flood risk (A, B, C1 and C2).
- 4.5. Flood risk A, very low risk, is being replaced by Zone 1 however there is no direct comparison to other Zones. The previous categorisations are shown on a Development Advice Map. The new Zones are provided on an all Wales Flood Map which takes into allowance predictions for climate change and displays the risks of surface water flooding that must also be considered. The Wales Flood Map for Planning and its flood zones are designed to function as a trigger for the justification and acceptability tests.
- 4.6. There are several new pieces of guidance and requirements in the January 2023 TAN 15 version. Four types of development have been defined,

development vulnerability categories have been clarified, community adaptation and resilience plans may now be required, and types of development are permitted differently in the flood zones. A full briefing note of the new TAN 15 is provided at Appendix 2.

5. How does the decision contribute to the Corporate Plan 2022 to 2027: The Denbighshire We Want?

- 5.1. Once Welsh Government publishes TAN 15 it will guide the location of new development away from flood risk areas considering climate change implications. It will change national guidance which will impact on the determination of planning applications and the creation of Local Development Plans (LDPs).
- 5.2. There is no immediate impact on the Corporate Priorities for submitting the response to Welsh Government. TAN 15 will however impact the direction of future development in Wales and therefore the delivery of future Corporate Priorities and Council Strategies such as the Housing & Homelessness Strategy and future LDPs.
- 5.3. The response to Welsh Government on TAN 15 itself will have a neutral effect on the Council becoming Net Carbon Zero and Ecologically Positive by 2030. TAN 15 in directing the policies and land allocations of the Replacement LDP 2018 to 2033 will make a positive contribution to the Council becoming Net Carbon Zero and Ecologically Positive by 2030.

6. What will it cost and how will it affect other services?

- 6.1. Approval of the consultation response to Welsh Government will not incur any additional costs or impact on other services.

7. What are the main conclusions of the Well-being Impact Assessment?

- 7.1. A Well-being Impact Assessment has not been carried out because the report does not seek a decision on a Council policy, strategy or programme.

8. What consultations have been carried out with Scrutiny and others?

8.1. The revised January 2023 TAN 15 consultation has been raised at the Strategic Planning Group on 23/02/2023 and the briefing note at Appendix 2 will be circulated to all members.

9. Chief Finance Officer Statement

9.1. There are no budget implications arising from agreeing the consultation response to the Welsh Government on the proposed revised TAN 15. However, if any arise then these will need to be contained from within existing service revenue budgets.

10. What risks are there and is there anything we can do to reduce them?

10.1. Engaging in consultation provides an opportunity to voice support or raise objections. In not responding to the consultation Denbighshire County Council would not have their voice heard on national planning policy.

11. Power to make the decision.

11.1. Local Government Act 2000

11.2. Planning and Compulsory Purchase Act 2004

11.3. Planning (Wales) Act 2015 and associated regulations and guidance

Appendix 1: Response to Welsh Government in respect of January 2023 version of TAN 15.

Appendix 2: Members briefing note on new TAN 15

Eich cyf/Your ref: TAN15 Consultation
 Ein cyf/Our ref: BM/TAN15
 Dyddiad/Date: 14.03.2023
 Rhif Uniongyrchol/Direct dial: 01824 706916

APPENDIX 1

TAN 15 Consultation
 Planning Policy Branch
 Welsh Government
 Cathays Park
 Cardiff CF10 3NQ
 Planconsultations-j@gov.wales

Dear Sir/Madam

Re: Technical Advice Note 15: Development, flooding and coastal erosion – further amendments

Thank you for consulting on the above document, January 2023 version.

Denbighshire County Council is mostly supportive of the January 2023 version of TAN 15. The additional flexibility within the TAN is welcomed.

The Welsh Government Consultation Response Form has been completed and is attached to this letter. Denbighshire County Council's comments are made, in this letter, as follow:

1. Paragraph 3.9, page 6

Paragraph 3.9 advises planning authorities or developers to seek the view of insurers when considering development in areas at risk of flooding and that insurers may wish to be engaged in developing Strategic Flood Consequences Assessments and Development Plans.

Response

- a. There is no clarity on how this consultation should take place or what level of weight should be reasonable given to any information provided by the insurance industry, particularly when the justification and acceptability tests of TAN 15 are met. The decision is one for the planning authority. Paragraph 3.9 could undermine investment decisions and causes confusion.
- b. It is recommended that the wording is changed from “are advised to seek” to “may choose to seek”.

2. Paragraph 3.10, page 6

Paragraph 3.10 reads as a statement of intent in saying that it is inappropriate to allow new homes to be constructed where the availability of home insurance covering coastal erosion is extremely limited. A wording change is recommended.

Response

- a. It is recommended that the sentence “It is therefore inappropriate to allow any more new homes to be constructed in such areas.” Is changed to “Planning authorities should recognise this risk and the inappropriateness of constructing new homes that may be subject to prohibitive insurance premiums or uninsurable”.

3. Paragraph 4.2, page 7

Paragraph 4.2 defines “New Development” as development on any greenfield land, development of vacant or disused brownfield sites.

Response

- a. It is agreed that “New Development” should be development on any greenfield land, but brownfield development should be defined as “Redevelopment”.
- b. This would reduce confusion, such as when considering car parks or redevelopment schemes that can take a long time to come to fruition and as part of the process the site and buildings need to be cleared prior to the planning application being submitted.
- c. It is also contradictory to paragraph 4.5 on page 8 which reads “Where a development already exists and the use of the land or building is established, further development can present an opportunity to increase the resilience of the building.”
- d. It is recommended that “development of vacant or disused brownfield sites” form part of the definition of “Redevelopment”.
- e. The definition is repeated in paragraph 10.3, page 35.

4. Paragraph 4.4, page 8

Paragraph 4.4, the last bullet point “Only permit water compatible development, essential infrastructure and less vulnerable developments by exception in areas of higher risk – areas in Zone 3”

Response

- a. Is inconsistent with paragraph 10.10 Zone 3 (Rivers and Sea) on page 37.
- b. It is believed the word “new” is missing and it should read “Only permit water compatible new development”.

5. Paragraph 5.7, page 12

Paragraph 5.7 reads “TAN 15 Defended Zones are served by defences that provide protection from at least one of the main sources of flooding – sea or river, or both in some instances.....it will be important to assess all sources of risks. It will also be important to demonstrate that any new development in the TAN 15 Defended Zones incorporates resilience and resistance measures so that it remains flood-free and safe as per the tolerable conditions set out in section 11.”

Response

- a. This paragraph is interpreted as meaning that where a new development is in a TAN 15 Defended Zone, which defends against the sea, the new development can occur even if there is also a Zone 3 flood risk from the river. The new development can be permitted as long as the new development has taken the Zone 3 river flood risk into account and incorporated resilience and resistance measures into the new development including through design principles.
- b. If Denbighshire County Council’s understanding of Paragraph 5.7 is not correct, please re-word it.

6. Paragraph 5.11, page 13

Response

- a. Denbighshire County Council supports and is grateful that paragraph 5.11 clarifies that once a challenge to the Flood Map for Planning has been accepted by NRW it will become a material consideration for decision makers, effective from when NRW accept it.

7. Paragraphs 7.14, page 21

The criteria set out in paragraph 7.14, page 21 places a higher duty and responsibility on local authority planning officers when allocating greenfield land for a Development Plan than on those planning officers determining planning applications under Section 10.10, page 36.

Response

- a. Is this correct and the intention of the drafting, particularly as it relates to TAN 15 Defended Zones?
- b. Please clarify your expectations. What are you expecting to be demonstrated to show that it is essential to future vitality? Is it sufficient to state that it is within a town centre that has been allocated as a regional growth area in Future Wales? It is sufficient to evidence the housing need for the settlement?

8. Paragraph 10.10 Heading Zone 2 (Rivers and Sea), page 37

It states that all development will be justified if it is supported in a Development Plan for regeneration AND is previously developed land.

Response

- a. It is believed that there should be an 'OR' as well so that where there is a need for greenfield land as part of regeneration in an economic strategy that it can be developed.
- b. Please redraft the sentence so that it reads "1. It will assist, or be part of, a strategy supported by the Development plan to regenerate an existing settlement or achieve key economic or environmental objectives; **AND / OR** 2. Its location meets the definition of previously developed land; **AND** 3. The potential consequences of a flooding event for the particular type of development have been considered and found to be acceptable in accordance with the criteria contained in section 11."

9. Community Adaptation and Resilience Plans

Response

- a. Denbighshire County Council reserves it right to comment on the appropriateness of utilising Community Adaptation and Resilience Plans once their requirements are made known.
- b. Denbighshire County Council trusts that there will be an opportunity to comment on the Community Adaptation and Resilience Plans.

Yours sincerely

Councillor Win Mullen-James

Lead member for Local Development and Planning



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Number: WG46419

Welsh Government
Consultation Response Form

Technical Advice Note (TAN) 15: Development, flooding and coastal erosion - further amendments

Date of issue: 23 January 2023

Action required: Responses by 17 April 2023

CONSULTATION RESPONSE FORM

Technical Advice Note 15 – Technical Advice Note (TAN) 15: Development, flooding and coastal erosion - further amendments

Name	Denbighshire County Council	
Organisation	Local Authority	
Preferred contact details (Email address, phone number or address)	C/O Bethan Morris, Planning Policy Officer planningpolicy@denbighshire.gov.uk 01824 706916	
Type <i>(please select one from the following)</i>	Business	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Local Authority Councillor responding in a personal capacity	<input type="checkbox"/>
	Government Agency / Other Public Sector	<input type="checkbox"/>
	Professional Body / Interest Group	<input type="checkbox"/>
	Voluntary sector (community councils, community groups, volunteers, self-help groups, co-operatives, enterprises, religious, not for profit organisations)	<input type="checkbox"/>
	Other groups not listed above	<input type="checkbox"/>
	Responding in a private capacity	<input type="checkbox"/>

Responses to the consultation are likely to be made public, either on the internet or in a report. If you would prefer your response to remain anonymous, please tick here.

CONSULTATION QUESTIONS

Q1	Do you agree that the amended version of TAN 15 makes it sufficiently clear when appropriate redevelopment and regeneration activities can be acceptable?	X
	Agree	X
	Neither Agree nor Disagree	
	Disagree	
Comments		

Q2	The amended TAN seeks to ensure that climate change and flood risk are factored into planning decisions, and that decisions are taken in the knowledge of the associated risks. Do you agree that the TAN does this?	X
	Agree	X
	Neither Agree nor Disagree	
	Disagree	
Comments		

Q3	In seeking to allow for strategic regeneration the TAN requires local authorities to prepare Community Adaptation and Resilience Plans outlining how they intend to ensure that adequate flood defences are built and how other resilience measures will be incorporated. Do you agree with the need for such a requirement?	X
Agree		
Neither Agree nor Disagree		X
Disagree		
Comments		
<p>Denbighshire County Council reserves it right to comment on the appropriateness of utilising Community Adaptation and Resilience Plans once their requirements are made known.</p>		

Q4	Some infrastructure is essential for economic, social or environmental wellbeing. A new section on essential infrastructure has been included in the revised TAN. Do you agree that this is necessary and that it is clear?	X
Agree		X
Neither Agree nor Disagree		
Disagree		
Comments		

Q5

We would like to know your views on the effects that the revised TAN 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?
- Please also explain how you believe the proposed amendments to the TAN could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and
- no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Comments

No view to express.

Q6

We have asked a number of specific questions. Are there any other related issues which we have not specifically addressed?

Comments

Please see the attached letter which accompanies this response form for Denbighshire County Council's comments.



MEMBERS BRIEFING on

Technical Advice Note (TAN)15: Development flooding and coastal erosion

- 1.1 This is a summary of the TAN 15 January 2023 document. The full Welsh Government document can be found at:
<https://www.gov.wales/sites/default/files/consultations/2023-01/tan-15-development-flooding-and-coastal-erosion-jan-2023.pdf>

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1. TAN 15 Timeline

- i. 28/09/2021 – New TAN 15 published with intended implementation date of 1 December 2021
- ii. 15/12/2021 – WG paused the new TAN 15 until June 2023
- iii. 31/01/2022 – Deadline for when all Local Authorities had to advise WG whether they were updating or undertaking a new Strategic Flood Consequences Assessment (SFCA)
- iv. 30/11/2022 – Deadline for submitting completed SFCA to WG
- v. 23/01/2023 – WG published revised version of TAN 15 (Jan 2023 version)
- vi. 01/2023 to 17/04/2023 – WG consultation on Jan 2023 TAN 15
- vii. 30/06/2023 – Minister wants new TAN 15 to be finalised for approval
- viii. Autumn 2023 – intended implementation of new TAN 15

2. TAN 15 Overview

- i. New TAN 15 Development, flooding and coastal erosion, January 2023 version is currently out for consultation until 17 April 2023 and it is anticipated it will come into force Autumn 2023.
- ii. New TAN 15 will replace and cancel:
 - a. The existing TAN 15: development and flood risk (2004)
 - b. TAN 14: coastal planning
 - c. Development Advice Map

- iii. The objective of the new TAN 15 and Flood Map for Planning is to ensure the planning system recognises the threat of, and takes action to adapt to, the likely effects of climate change on flood risk and coastal erosion.
- iv. Minimise new development in areas at risk of flooding or coastal erosion.
- v. Insurers have had input.
- vi. The risks associated with climate change will be built into planning policies and decisions by using the new Flood Map for Planning. This new map, published by Natural Resources Wales, includes flood risk zones showing future risk under a central climate change scenario. It will be updated every six months by NRW.
- vii. TAN 15 provides advice for local planning authorities, developers and stakeholders about assessing the risk of developing in areas where different types of flooding may occur, including from rivers, the sea and surface water flooding. The advice varies according to the severity of the flood risk and the flood zone in which the development is proposed, and according to the vulnerability of the type of development proposed to flooding.
- viii. Flood risk identified as a percentage per year.
- ix. Flood risk zones are defined.
- x. Requires surface water and small watercourse consideration.
- xi. Requires new developments to be designed so that they are resilient to flood risks.
- xii. Categorises development.
- xiii. Sets justification, acceptability and assessment criteria.
- xiv. There are three categories of risk of flooding with Zone 1 being the lowest risk and Zone 3 being the highest. These zones apply to the risk of flooding from rivers, sea and surface water. There is an additional category of TAN 15 Defended Zones for rivers and sea where there is a minimum standard of protection from flooding by way of infrastructure.

3. Flood Zones for Rivers, Sea, Surface Water and Small Watercourses

3.1 Zone 1:

1 in 1000 (0.1%) (plus climate change) chance of flooding from rivers, the sea, surface water and small water courses in a given year.

3.2 Zone 2:

Risk of flooding is greater than in Zone 1. The chance of flooding from the sea is less than 1 in 200 (0.5%) and from rivers, surface water and small watercourses it is less than 1 in 100 (1%), including climate change.

3.3 Zone 3:

In a given year the chance of flooding, including climate change, from the sea is greater than 1 in 200 (0.5%) and from rivers, surface water and small watercourses it is greater than 1 in 100 (1%).

3.4 TAN 15 Defended Zone:

Areas where flood risk management infrastructure provides a minimum standard of protection. The risk of flooding from rivers is protected at a minimum standard of 1 in 100 (1%) and from the sea it is a minimum of 1 in 200 (0.5%).

4. Flood Map for Planning

- i. Flood Map for Planning is a material consideration in assessing planning applications.
- ii. It is the most up to date evidence on flood risk and includes climate change projections.
- iii. It is regularly updated with the next update being May 2023.
- iv. It accompanies the new TAN 15.
- v. It will fully replace the Development Advice Map when the new TAN 15 comes into force, anticipated Autumn 2023.

5. Categories for Development

Examples of different categories for development are listed below.

5.1 Water compatible development:

- i. Boatyards, marinas
- ii. Flood defence and management infrastructure
- iii. Hydro renewable energy generation

- iv. Open space excluding equipped play areas.

5.1.1 Acceptable, from a flooding perspective, in all flood zones.

5.1.2 Any occupied built elements of water compatible development are still subject to the acceptability test set out in TAN 15 Section 11 (See Section 12 below) and should be assessed against the criteria for less vulnerable development. This includes office spaces in boatyards, and changing rooms associated with open spaces.

5.2 Highly Vulnerable Development (HVD):

- i. All residential development, emergency services and shelters
- ii. Schools, hospitals, GP surgeries
- iii. Especially vulnerable industrial development (e.g. power stations & waste disposal sites).

5.3 Less Vulnerable Development (LVD):

- i. Transport & utilities infrastructure,
- ii. General industrial, employment, commercial & retail development
- iii. Car parks, cemeteries & equipped play areas
- iv. Public buildings including libraries, community centres and leisure centres (excluding those identified as emergency shelters)
- v. Mineral extraction sites
- vi. Renewable energy (excluding hydro).

5.4 Mixed Uses

5.4.1 Different vulnerability categories may be designated in larger mixed use schemes. This will allow flexibility and it can be considered how to best use the site that is partially in Zone 1 and partially in flood risk areas.

5.4.2 All small developments, including single dwellings, should be considered under a single vulnerability category. It is important that gardens, access paths and driveways of a residential dwelling should remain flood-free, therefore the whole area of development should be considered as highly vulnerable development.

6. Development Types referred to in TAN 15

6.1 New Development:

- i. Schemes to develop greenfield sites.
- ii. Proposals to develop vacant or unused sites. (Questions of Welsh Government are being raised as to whether these terms should be moved to the definition for redevelopment.)
- iii. Increase exposure of people, property and infrastructure to flood risk.
- iv. Are likely to adversely impact on flood storage capacity in areas at risk of flooding.
- v. Proposals for new development on undefended land should only be consented in exceptional circumstances and meet the TAN 15 Section 10.10 justifying criteria (see Section 7 below).

6.2 Redevelopment, change of use and conversions:

- i. Where buildings in flood risk areas are currently in use, there may be circumstances where redevelopment, changes of use or conversion proposals can bring clear benefits to the area and the building.
- ii. The benefits should be balanced and weighed against the flood risk considerations.
- iii. A flood consequences assessment is required in any flood risk area.
- iv. The scheme must be justifiable under TAN 15 Section 10.10 (see Section 7 below) and acceptable under TAN 15 Section 11 (see Section 12 below).

6.3 Redevelopments

- i. Redevelopments propose to replace a building with an existing use (in full or in part) with a new building.
- ii. Redevelopment schemes should be of similar scale to the existing use to avoid increasing exposure to flood risk.
- iii. Consideration of the buildings footprint, height and capacity is appropriate.
- iv. Any redevelopment must exhibit flood resilient design.
- v. Proposals for redevelopment which include residential use must ensure that such uses do not occur at ground flood level.

6.4 Change of Use or Conversions

- i. Change of use or conversion proposals seek to change how a building is used without significantly changing its appearance or footprint.
- ii. Change of use proposals that would introduce highly vulnerable development into a flood risk area, Zone 3 (Rivers and Sea) in particular, require detailed and careful scrutiny and must be resilient to flooding.

6.5 Extensions

- i. Add capacity to an existing building by extending its floorspace.

7. Flood Zones (Rivers and Seas) Justification Criteria – TAN 15 Section 10.10

7.a Any development of greenfield land in Zones other than Zone 1 have to be fully justified with an explanation on why other locations are not suitable and why previously developed land cannot be developed.

7.b The inclusion of greenfield land schemes in an adopted development plan or in a community adaptation resilience plan will strengthen their justification.

7.1 Zone 1:

- i. All types of development are acceptable in principle.
- ii. Local specific planning policies may apply.

7.2 TAN 15 Defended Zones:

- i. **All development** will be justified if it meets the acceptability criteria under TAN 15 Section 11 (see Section 12 below).
- ii. **All development** will be justified if there is an agreed Community Adaptation and Resilience Plan in place that support developments that form part of a strategic regeneration scheme.

7.3 Zone 2 (Rivers and Sea):

All development will be justified in Zone 2 if:

- i. It is part of a strategy supported in a Development Plan to regenerate an existing settlement or achieve key economic or environmental objectives; **AND**
(It is believed that there should be an 'OR' here and this is raised in the response to Welsh Government.)
- ii. It is on previously developed land; **AND**
- iii. It meets the acceptability criteria in TAN 15 Section 11 (see Section 12 below).

7.4 Zone 3 (Rivers and Sea)

7.4.1 New developments in the highly vulnerable category (e.g. homes) are not acceptable in Zone 3 except where the development:

- i. Clearly and specifically addresses the causes of climate change and cannot be located on less vulnerable land and has been designed to the highest standards of resilience.
- ii. Is for essential infrastructure which cannot be accommodated on less vulnerable land and has been designed to the highest standards of resilience.

7.4.2 New developments in the less vulnerable category (e.g. employment use) will be justified if:

- i. There are exceptional circumstances, such as in the interests of energy security or to mitigate the impacts of climate change; **AND**
- ii. It is on previously development land; **AND**
- iii. It meets the acceptability criteria in TAN 15 Section 11 (see Section 12 below).

7.4.3 Redevelopments, changes of use and conversions will be justified if:

- i. It meets the acceptability criteria in TAN 15 Section 11 (see Section 12 below); **AND**
- ii. Is designed so that the site and building are both resilient to flooding.

8. Notification Direction

8.1 If a planning authority intends to approve new highly vulnerable development in Zone 3 (Rivers and Sea) then Welsh Government have to be notified.

8.2 Welsh Ministers will have the option of calling-in the application to determine it themselves.

9. Sites in two of more flood Zones – TAN 15 Section 14

9.1 Where a site falls into two or more flood zones the planning authority must make an assessment of the proposal, taking into account each of its proposed land uses, against each of the flood zones to which it applies, in accordance with the criteria in TAN 15 Section 10 (see Section 7 above).

9.2 An assessment of flooding consequences for the proposal in accordance with TAN 15 Sections 11 and 12 will also be required (see Section 12 and 13 below).

9.3 Advice from Natural Resources Wales and the Lead Local Flood Authority should be taken into account when deciding whether the consequences of flooding are acceptable, in terms of the risks to people and property.

10. Essential Infrastructure

10.1 Local planning authorities will determine whether proposals constitute essential infrastructure, but reasons could include:

- i. Essential low carbon transport infrastructure which has to cross a high risk area.
- ii. Essential utility infrastructure which has to be located in a flood risk area for operational reasons, including infrastructure for electricity supply including generation, storage and distribution systems; including electricity generating power stations, grid and primary substations storage; and water treatment works that need to remain operations in times of flood.
- iii. Renewable energy generating facilities which have an appropriate locational need.

11. Community Adaptation and Resilience Plans

11.1 A Community Adaptation and Resilience Plan (CARP) must be adopted where local authorities wish to promote strategic regeneration of large areas of coastal towns and cities. It should be linked to the Development Plan.

11.2 A CARP will need to clearly set out how and when they intend to defend these places from flooding and must make provision for the ongoing maintenance of any new flood defences.

11.3 CARP should include the construction of flood defences that would move any land from Zones 2 and 3 into a defended zone together with details and priorities for phasing the new measures and the appropriate regeneration activities that would be permissible under such circumstances.

11.4 CARP should also identify resilience measures that would increase flood resilience as part of regeneration schemes.

11.5 CARPs must be compatible with and support Future Wales and the Local Development Plan.

12. Acceptability Criteria – TAN 15 Section 11

12.1 To assess whether a development is acceptable a Flood Consequences Assessment will be required with sufficient information to consider flooding implications and balance them against other considerations.

12.2 A development can only proceed where the consequences of flooding can be safely managed, and the following conditions are met:

- i. There is no increase in flooding elsewhere.
- ii. Occupiers are aware of the flood risk.
- iii. There are safe escape or evacuation routes in place.
- iv. Flood emergency plans and procedures have been agreed and are in place.
- v. The development has been designed to be flood resistant and resilient (i.e. Section 13 below and TAN 15 Section 13).
- vi. The consequences for the type of use of the development are acceptable.

12.3 The design of the site and the development itself are safe and there is:

- i. Minimal risk to life.
- ii. Minimal disruption to people living and working in the area.
- iii. Minimal potential damage to property.
- iv. Minimal impact of the proposed development on flood risk generally; and
- v. Minimal disruption to the sustainable management of natural resources.

12.4 Deep water and water which moves quickly is particularly dangerous to people and must be assessed. Welsh Government have provided a flood hazard matrix to provide guidance to assess the acceptability of risk as well as technical thresholds to ensure that development area flood free.

12.5 Developments must be flood free including an allowance for climate change over the lifetime of the development in the following events:

- i. Emergency services (command centres and hubs) must be flood free during 0.1% (1 in 1000 chance of occurring in any year) of a flood from a river or the sea.
- ii. Highly vulnerable developments (homes, schools) and less vulnerable developments (employment sites) must be flood free during 1% (1 in 100 chance of occurring in any year) of a flood from a river.
- iii. Highly vulnerable developments (homes, schools) and less vulnerable developments (employment sites) must be flood free during 0.5% (1 in 200 chance of occurring in any year) of a flood from the sea.

12.6 In the most extreme flood events, it may not be possible to keep all development flood free but there should not be a risk to life and so the development must meet tolerable conditions in a 0.1% extreme flood event. The requirements are that:

- i. Highly vulnerable developments (homes, schools), less vulnerable developments (employment sites) and built elements of water compatible development must not flood deeper than 600 mm in an extreme flood event.
- ii. Highly vulnerable developments (homes, schools) must not have water moving more quickly than 0.15 metres per second in an extreme flood event.

- iii. Less vulnerable developments (employment sites) and built elements of water compatible development must be not have water moving more quickly than 0.3 metres per second in an extreme flood event.

13. Resilient Design – TAN 15 Section 13

13.1 Design considerations will be a key factor when determining whether development is acceptable in flood risk areas.

13.2 The most effective solutions will combine both site-level and property-level resilience measures.

13.3 Strategic Flood Consequences Assessment (SFCAs) and Flood Consequence Assessments (FCAs) should provide advice on which measures offer the best and most appropriate protection from flooding.

13.4 Any development in Zones 2, 3 and TAN 15 Defended Zones must have resilience to flood built-in at site and property level.

- i. Minimise the amount of water that can enter a property.
- ii. Limit the damage caused if water does enter so that the building can be recovered quickly.
- iii. Reduce the amount of water that can enter the site.
- iv. Manage any water that does reach the site so that it does not impact on households and other occupiers/users.

14. Surface Water & Small Watercourses – TAN 15 Section 8

- i. Use Flood Map for Planning as a Guide
- ii. Risks should be considered in Strategic Flood Consequences Assessments (SFCA) for Development Plans and in undertaking detailed Flood Consequences Assessments (FCA) for planning applications.
- iii. FCA is required for development fully or partially in Zone 2 or 3 and where development outside these zones has the potential to affect the course of surface water and/or excess water from ordinary watercourses.
- iv. Consideration needs to be given to the impact of drainage. Built developments increase the surface area of impermeable ground and increase rapid surface run off

which result in precipitation entering the watercourse more quickly which can cause flooding at other locations. Sustainable drainage systems have an important role in managing run-off from a site and must be implemented in most new developments.

15. Sustainable Drainage Systems (SuDs) & Drainage

Statement – TAN 15 Section 8

- i. Planning and SuDs Approving Body (SAB) permission should be applied for at the same time.
- ii. Where planning permission is applied for before SAB approval a Drainage Statement is required for the planning application.
- iii. Specific requirements for Drainage Statement including how water is to be managed & discharged. Discharge methods are listed in priority and reasons have to be provided as to why a higher priority method cannot be utilised.
- iv. Planning authority and SAB have to be happy.
- v. Inadequate Drainage Statements and flawed drainage arrangements are reasons for the planning application to be refused.

16. Coastal risks – erosion and flooding – TAN 15 Section 9

16.1 Development Plans should indicate which parts of the coast can be developed, should be maintained in their current form or should be left to nature.

16.2 SFCA should include an assessment of the role and integrity of coastal defences and provide detailed understanding of the risks from flooding and coastal erosion in the plan area.

16.3 In making decisions on development proposals within coastal areas, planning authorities should fully consider whether there are risks to the development arising from coastal erosion or flooding. The Flood Map for Planning incorporates areas shown on the National Coastal Erosion Risk Map to be at risk of erosion. Development should not be permitted in these areas.

17. Flood Consequences Assessment (FCA) – TAN 15 Section 12

17.1 Objective of a Flood Consequences Assessment is to develop a full appreciation of:

- i. The risk and consequences of flooding on the development; and
- ii. The risk and consequences (i.e. the overall impacts) of the development on flood risk elsewhere.

17.2 They can also be used to establish whether appropriate avoidance or mitigation measures could be incorporated within the design of the development to ensure that over its lifetime, development minimises risk to life, damage to property and disruption to people living and working on the site and does not increase flood risk.

17.3 The assessment must allow for a range of potential flood scenarios up to and including that flood having a probability of 0.1% in any year. An allowance for climate change must be made in line with Welsh Government guidance.

17.4 There are specific components and data that should be included in an FCA.

18. Applications for extension and householder development

18.1 Applications for extensions or alterations in flood risk areas should not raise significant issues unless they:

- i. Are likely to have a direct and adverse effect on a watercourse or its flood defences;
- ii. Would impede access to flood defence and management facilities; or
- iii. Could have a cumulative impact on flood storage capacity or flood flows.

18.2 In such circumstances a Flood Consequences Assessment should be provided.

19. Public open space, recreation and agriculture

19.1 The use of land at risk of flooding for agriculture, recreation and as public open space is likely to be acceptable in most cases. However, ancillary buildings or structures required for these uses, which in some circumstances are subject to prior approval, may not be acceptable. TAN 15 Section 11 applies (See Section 12 above).

20. Caravan and camping sites

20.1 Caravan, camping and other temporary occupancy sites including any changes of use, extensions to seasonal occupancy and extensions to existing sites must not be permitted in Zone 3. They should only be considered in Zone 2 if the development satisfies the tests in TAN 15 Sections 10 and 11 (see Sections 7 and 12 above).

20.2 Where planning authorities are minded to grant permission for caravan / camping sites or other temporary holiday accommodation in Zone 2 or the TAN 15 Defended Zones, planning conditions are required. A planning condition should secure the preparation of effective warning and evacuation plans. The condition should also secure the provision and ongoing maintenance of suitable warning notices to inform people entering the site. The location of the notices must be approved, and the condition must include the requirement to keep the notices up to date with the latest warning and evacuation plan.

21. Planning Condition may be required when considering lifetime of a development

21.1 The Flood Map for Planning contains 100-year climate change scenarios but where new developments have shorter lifetimes it is reasonable for the flood consequences assessment to focus on potential risks during the development's expected lifetime. If on this basis planning permission is granted, a planning condition should be imposed to prevent use after the expected lifetime of the building.