



**COFNOD O BENDERFYNIAD WEDI'I DDIRPRWYO GAN SWYDDOG
RECORD OF DELEGATED OFFICER DECISION**

Penderfyniad Allweddol | Key Decision ✓

PWNC | SUBJECT:

WELSH GOVERNMENT CONSULTATION ON FURTHER PROPOSED AMENDMENTS TO THEIR REPLACEMENT TECHNICAL ADVICE NOTE (TAN) 15; DEVELOPMENT, FLOODING AND COASTAL EROSION

DIBEN YR ADRODDIAD | PURPOSE OF THE REPORT:


In accordance with the Council's Scheme of Delegation, this report has been prepared to accompany the intended officer decision of the Director of Prosperity and Development, as below.

The purpose of this report is to set out the background to the replacement TAN 15 consultation. It will then set out our intended responses to the consultation questions, and the reasoning behind them. These responses will then be submitted to Welsh Government if approved.

PENDERFYNIAD WEDI'I DDIRPRWYO | DELEGATED DECISION:

It is AGREED that:

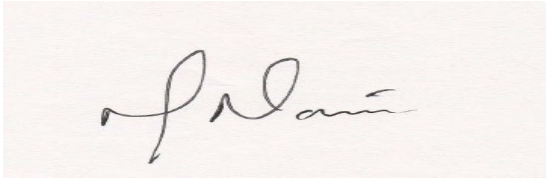
The responses to the Welsh Government TAN 15 consultation, (as set out in section 5 of the accompanying report), are approved as an appropriate response and are suitable to be formally submitted.

 Llofnod y Prif Swyddog Chief Officer Signature	<i>Simon Gale</i> Enw (priflythrennau) Name (Print Name)	<i>12th April 2023</i> Dyddiad Date
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Mae'r penderfyniad yn cael ei wneud yn unol ag Adran 15 o Ddeddf Llywodraeth Leol 2000 (Swyddogaethau'r Corff Gweithredol) ac yn y cylch gorchwyl sy wedi'i nodi yn Adran 5 o Ran 3 o Gyfansoddiad y Cyngor.

The decision is taken in accordance with Section 15 of the Local Government Act, 2000 (Executive Functions) and in the terms set out in Section 5 of Part 3 of the Council's Constitution.

YMGYNGHORI | CONSULTATION



11.04.23

LLOFNOD YR AELOD YMGYNGHOROL O'R CABINET
CONSULTEE CABINET MEMBER SIGNATURE

DYDDIAD | DATE



11/04/2023

LLOFNOD SWYDDOG YMGYNGHOROL
CONSULTEE OFFICER SIGNATURE

DYDDIAD | DATE

RHEOLAU'R WEITHDREFN GALW-I-MEWN | CALL IN PROCEDURE RULES.

A YW'R PENDERFYNIAD YN UN BRYD A HEB FOD YN DESTUN PROSES GALW-I-MEWN GAN Y PWYLLGOR TROSOLWG A CHRAFFU?:

IS THE DECISION DEEMED URGENT AND NOT SUBJECT TO CALL-IN BY THE OVERVIEW AND SCRUTINY COMMITTEE:

NAC YDY | NO

Rheswm dros fod yn fater brys | Reason for Urgency:

Os yw'n cael ei ystyried yn fater brys - llofnod y Llywydd, y Dirprwy Lywydd neu Bennaeth y Gwasanaeth Cyflogedig yn cadarnhau cytundeb fod y penderfyniad arfaethedig yn rhesymol yn yr holl amgylchiadau iddo gael ei drin fel mater brys, yn unol â rheol gweithdrefn trosolwg a chraffu 17.2:

If deemed urgent - signature of Presiding Member or Deputy Presiding Member or Head of Paid Service confirming agreement that the proposed decision is reasonable in all the circumstances for it being treated as a matter of urgency, in accordance with the overview and scrutiny procedure rule 17.2:

.....
(Llywydd | Presiding Member) (Dyddiad | Date)

DS - Os yw hwn yn benderfyniad sy'n cael ei ail-ystyried yna does dim modd galw'r penderfyniad i mewn a bydd y penderfyniad yn dod i rym o'r dyddiad mae'r penderfyniad wedi'i lofnodi.

NB - If this is a reconsidered decision then the decision Cannot be Called In and the decision will take effect from the date the decision is signed.

AT DDEFNYDD Y SWYDDFA YN UNIG | FOR OFFICE USE ONLY

DYDDIADAU CYHOEDDI A GWEITHREDU | PUBLICATION & IMPLEMENTATION DATES

CYHOEDDI | PUBLICATION

Cyhoeddi ar Wefan y Cyngor | Publication on the Councils Website:- _____ 12.04.23 _____

DYDDIAD | DATE

GWEITHREDU'R PENDERFYNIAD | IMPLEMENTATION OF THE DECISION

Nodwch: Fydd y penderfyniad hwn ddim yn dod i rym nac yn cael ei weithredu'n llawn nes cyn pen 3 diwrnod gwaith ar ôl ei gyhoeddi. Nod hyn yw ei alluogi i gael ei "Alw i Mewn" yn unol â Rheol 17.1, Rheolau Gweithdrefn Trosolwg a Chraffu.

Note: This decision will not come into force and may not be implemented until the expiry of 3 clear working days after its publication to enable it to be the subject to the Call-In Procedure in Rule 17.1 of the Overview and Scrutiny Procedure Rules.

Yn amodol ar y drefn "Galw i Mewn", caiff y penderfyniad ei roi ar waith ar / Subject to Call In the implementation date will be

_____ 18.04.23 _____
DYDDIAD / DATE

WEDI'I GYMERADWYO I'W GYHOEDDI: ✓ | APPROVED FOR PUBLICATION :✓

Rhagor o wybodaeth | Further Information:

Cyfadran Directorate:	Prosperity and Development
Enw'r Person Cyswllt Contact Name:	Simon Gale
Swydd Designation:	Director of Prosperity and Development
Rhif Ffôn Telephone Number:	01443 281114

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

KEY DELEGATED DECISION

**A REPORT TO ACCOMPANY A DECISION OF THE DIRECTOR OF
PROSPERITY AND DEVELOPMENT**

APRIL 2023

**WELSH GOVERNMENT CONSULTATION ON FURTHER PROPOSED
AMENDMENTS TO THEIR REPLACEMENT TECHNICAL ADVICE NOTE
(TAN) 15; DEVELOPMENT, FLOODING AND COASTAL EROSION**

**AUTHOR: OWEN JONES, DEVELOPMENT SERVICES MANAGER FOR
PLANNING POLICY**

1.0 PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to set out the background to the replacement TAN 15 consultation. It will then set out our intended responses to the consultation questions, and the reasoning behind them. These responses will then be submitted to Welsh Government if approved.

2.0 RECOMMENDATIONS

It is recommended that:

- 2.1 The responses to the Welsh Government TAN 15 consultation, (as set out in section 5 below), are approved as an appropriate response and are suitable to be formally submitted.

3.0 REASONS FOR RECOMMENDATIONS

- 3.1 It is considered that these are the most appropriate responses that RCT should make to the TAN 15 consultation, to clarify our views on the TAN, and its proposed changes. The proposed response is in line with the wider response being submitted by WLGA on behalf of all Councils in Wales following a number of engagement sessions between Welsh Council Officers, WLGA and Welsh Government Officials.

4.0 BACKGROUND

- 4.1 Technical Advice Notes (TANs) are land-use planning guidance documents issued by the Welsh Government to provide practical advice and guidance on areas of policy set out in **Planning Policy Wales**. TAN 15 is focused on development and flood risk. The existing version was issued in 2004 and a review of its effectiveness was carried out in 2017. As a result of the review, the Welsh Government prepared an updated document which was the subject of public consultation in October 2019. A proposed new TAN 15 was issued in December 2021 – although did not come into force then, as a result of issues raised in response to the consultation. Since WG agreed to put on hold the introduction of the new TAN, there have been ongoing discussions between Council Planning Officers and Flood Officers across Wales, WLGA and relevant officers in Welsh Government and as a result some further specific changes to the revised TAN have now been proposed by WG. These changes are shown in the TAN 15 January 2023 Consultation Version.
- 4.2 The main concerns raised in respect of the December 2021 version was the lack of flexibility the TAN gave to allow much needed regeneration development to take place in the large number of towns and cities affected by flooding. Welsh Government are now seeking to introduce an increased element of flexibility in the TAN to allow for appropriate regeneration and redevelopment. A careful balance needs to be struck between the need to regenerate towns (and cities) whilst recognising the threat posed by climate change. It is made clear that this consultation is not on the fundamental principles of the TAN issued in 2021, which sought to ensure that there should be no unacceptable risk to life resulting from new development. Climate change projections must form part of our thinking in the future, and this is not a subject of this consultation either.
- 4.3 More detailed consideration is provided on the issues relating to the plan led system and the justification for development. The TAN has been restructured in places but the principal changes which have been made are to be found in sections 7 and 10 of the document.
- 4.4 Welsh Government consider that the proposed changes included in the current consultation version of TAN 15, extend to cover the following statements:
- A clearer recognition that appropriate redevelopment and regeneration activities are not incompatible with the overarching principles of the TAN which seeks to avoid placing highly vulnerable development in the highest risk areas;
 - The introduction of more flexibility regarding less vulnerable development to facilitate the provision of necessary infrastructure;

- A recognition that redevelopment of existing sites in flood risk areas can take place if carefully planned and include appropriate mitigation measures;
- The requirement to produce Community Adaptation and Resilience Plans (CARPs) for any strategic regeneration scheme (seemingly only applicable in coastal areas). CARPs would consider and identify appropriate flood defence measures to protect the area covered by the regeneration scheme as well as necessary mitigation measures;
- A revised section on the justification of development in flood risk areas which steers new development away from greenfield sites in flood risk areas; and
- Clarification that redevelopment resulting in highly vulnerable development can proceed with caution but will need to demonstrate clear flood risk resilience.

4.5 WG are consulting on the amended draft TAN 15, and whether these statements correctly and clearly reflect its content, as is intended.

5.0 PROPOSED CONSULTATION RESPONSES

5.1 The WG consultation process requires that we formulate our response against 5 specific questions they raise. Our proposed responses to these have been set out below.

5.2 **Question1:** *Do you agree that the amended version of TAN 15 makes it sufficiently clear that appropriate redevelopment and regeneration activities can be acceptable?*

5.3 **Our Response;** It should be firstly noted that in general, the TAN has been changed to allow for further consideration for high and less vulnerable use redevelopment, conversion and change of use of land and property in the most at-risk flood zones. However, it is considered that some clarity is needed in certain places, there are queries over some potential inconsistencies throughout the document, and we have identified certain sections that we feel need some amendment.

5.4 Section 2 of the TAN positively sets out early-on that appropriate regeneration of our towns (and cities) should be able to take place but should give due consideration to floodrisk in any development and regeneration initiative. It also helpfully indicates that *the Welsh Government will continue to support appropriate regeneration and maintains a town centre first policy for public sector investment, which is set out in Future Wales and PPW.*

5.5 Section 4.2 sets out a new categorisation of types of development – instead of just ‘development’ it designates 4 specific types. From here on, the first ‘New Development’ category is considered separately (in many places) to the subsequent three of Redevelopment, Changes of Use/Conversions and Extensions. In general, it is welcomed that greater allowances are given to these latter 3 within more high-risk flooding areas.

5.6 However, there is a concern over some of the definitions within these new categories. E.g.

1. *New development - Development on any greenfield land; development of vacant or disused brownfield sites*
2. *Redevelopment - Replacing an existing in-use building(s) (fully or partly) with a new building(s).*

Although section 4.3 then states that *Planning authorities should make a judgement on which description is applicable*, there is significant concern that the defined subcategory of ‘New development’, specifically; ‘*development of vacant or disused brownfield sites*’ is not appropriate.

5.7 Although the Local Authority may have an allowance to make the judgment – this could generate objection in the future. For example, if there is a delay in the redevelopment of a site with the replacement of a building that has been demolished; would a given period of time mean that it may become classed as a vacant or disused brownfield site? This may be particularly so if separate planning applications for demolition and redevelopment were made with a period of time between them.

5.8 Indeed, there may be several sites that have been necessarily demolished in recent years that could accommodate very suitable redevelopment and regeneration opportunities (but may now sit in this ‘New Development’ category)? It is noted that sections 10.4 and 10.5 create further uncertainty i.e.

*10.4 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...*

*10.5 Redevelopment schemes, for the purposes of this guidance, propose **to replace a building with an existing use with a new building (or buildings).***

5.9 It is therefore proposed that this subcategory (‘*development of vacant or disused brownfield sites*’) should be removed from the ‘New Development’ definition and instead sit within the ‘Redevelopment’ category.

- 5.10 Although 'Extensions' are defined as the fourth category of development in section 4, for potential allowance in Zone 3 risk areas, this category has been left out further in the TAN – particularly in the key section 10.10 – it needs to be clarified whether this was the intention?
- 5.11 Section 4.4 and 4.5 then sets out briefly the general allowances in each of the areas. However, it is considered that 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*) is too limited in terms of what it says is suitable in Zone 3 and is contradicted in a number of other places in the TAN which give significantly more flexibility, such as 4.5 which says:
- Proposals for redevelopment, changes of use, conversions and extensions may be considered differently to new development. 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. If buildings cannot be made more resilient then the expectation is that planning permission will not be granted.*
- 5.12 It is proposed that the final bullet point in section 4.4 is defined more clearly if it indeed means 'New Development' whilst there should then be a clearer connection to paragraph 4.5; also making clear what that is allowing in the same context.
- 5.13 **Question 2:** *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?*
- 5.14 **Our Response;** The TAN sets out that appropriate consideration of floodrisk is fundamental in the planning system. Multiple levels or categorisation of floodrisk have been identified based on the most up to date evidence. This is mapped alongside the further consideration of risk associated with climate change; as far as the certainty associated with the analysis allows. There are then the various levels of categorisation associated with appropriate land uses/developments and their allowances within these various zones.
- 5.15 Section 10 gives a summary of what is allowed where and as highlighted above there are some queries on those and this section needs amendment to ensure it can continue to provide a robust framework for decision making purposes that accounts for climate change impacts and ensures appropriate safeguards can be implemented to protect future occupiers/users.

- 5.16 The TAN then sets out in section 11, the requirements for more detailed site and project specific assessments. This should enable decision makers to consider all potential consequences to determine the suitability and safety of the proposals in that location and any potential mitigation measures to allow this.
- 5.17 Clarification is required in relation to ‘frequency thresholds’ and ‘tolerable conditions’. Section 11.7 through to 11.9 and Figure 5 consider these thresholds, with section 11.9 indicating that... *the thresholds may be applied with more flexibility for redevelopment, changes of use, conversions and extensions, where the ability to substantially redesign a development is limited.*
- 5.18 The next part from 11.10 and Figure 6 considers Tolerable conditions: managing consequences in an extreme flood event in terms of depths and velocity. Section 11.13 states that *the above figures (in figure 6) are tolerances below which new development may be acceptable.* Although it doesn’t indicate it to the same degree as section 11.9; it is not clear that by highlighting ‘new development’, means that there is greater allowances and flexibility in respect of redevelopment, changes of use/conversions, and extensions?
- 5.19 If this is the case, it is again welcomed, as the actual tolerance of 600 mm seems overly restrictive in the example of town centres in RCT. More flexibility would allow for the consideration of more resilient building redevelopments and re-use.
- 5.20 Duration of the extreme event is touched upon earlier in the chapter, although not in figure 6. Again, if this is for ‘New development’, then not an issues to raise. However, redevelopment proposals should have consideration allowances for appropriate durations of the event – if it can be proven that buildings are resilient and safe for the occupants of the highly vulnerable use elements of the buildings particularly where it can be shown that the duration of extreme flood events is relatively short.
- 5.21 **Question 3:** *In seeking to allow for continued 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?*
- 5.22 **Our Response;** The foremost point we would like to raise in respect of the proposed CARP’s is the uncertainty over when they are required and what they are. Section 7.2 sets out the following; *Where local authorities wish to promote strategic regeneration of large areas of*

coastal towns and cities, they must develop and adopt a Community Adaptation and Resilience Plan (CARP) which clearly sets out how and when they intend to defend these places from flooding. Clarification is needed as to whether the requirement for a CARP is only intended for areas under threat of coastal flooding.

5.23 On the basis that CARPs will not apply to RCT it is not proposed to comment on them further, however it is recommended that we support the response of the WLGA on CARPs who set out some concerns around the role and content of CARPs and the lack of any guidance at this stage on their operation. WLGA recommend further engagement with practitioners on CARPs prior to their introduction.

5.24 **Question 4:** *Some infrastructure will be 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 sufficiently clear?*

5.25 **Our Response;** The references to essential infrastructure lack consistency and clarity throughout the TAN. The TAN needs to be clear on what is considered to be essential infrastructure and a single definition and terminology used throughout. For example, Section 10.10 mentions 'essential national infrastructure' - this is the only time in the document national infrastructure is mentioned, otherwise it's referred to as essential infrastructure. For consistency it is asked that this is amended.

5.26 Section 7.25 on 'Essential Infrastructure' needs more clarity - is it the infrastructure that is deemed essential OR it's proposed location in Zone 3 OR both? Whether infrastructure is essential is down to the determination of the LPA - therefore is there any point in including section 7.25 at all?

5.27 **Question 5:** *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.*

5.28 **Our Response;** We are not aware of a specific circumstance in RCT where the changes to the TAN would have an effect on the Welsh Language.

6.0 EQUALITY AND DIVERSITY IMPLICATIONS / SOCIO-ECONOMIC DUTY

- 6.1 There is no requirement for a Equality Impact Assessment or Socio-Economic Analysis with this report.

7.0 WELSH LANGUAGE IMPLICATIONS

- 7.1 There is no requirement for a Welsh Language Impact Assessment with this report.

8.0 CONSULTATION / INVOLVEMENT

- 11.1 Relevant service areas within the Council have been consulted, in particular, the Flood Team. In addition detailed discussions have taken place with senior officers in Councils across Wales, WLGA and WG officials through engagement events and workshops.

9.0 FINANCIAL IMPLICATION(S)

- 9.1 There are no financial implications directly related to this report.

10.0 LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED

- 10.1 There are no legal or legislative implications attributed to this report.

11.0 LINKS TO THE COUNCIL'S CORPORATE PLAN/OTHER CORPORATE PRIORITIES/WELLBEING OF FUTURE GENERATIONS ACT.

- 11.1 Full consideration of flooding and coastal erosion must underpin the future planning for sustainable places. The risks associated with flood events must be factored into decisions taken today. The TAN when implemented does not seek to prevent appropriate regeneration of towns and cities, but rather highlights that such activities must take flood risk into account and requires local authorities to clearly identify adaptation initiatives, and above all not knowingly expose communities to unacceptable risk.
- 11.2 The principles of the TAN and our proposed response seeks to ensure the delivery of sustainable places in line with the overall ambition of the planning system in Wales. To achieve this aim, placemaking must be embraced both in Development Plan-making and in Development Management decisions. PPW identifies five key principles of placemaking, to help shape how planning is undertaken:

- Maximising environmental protection and limiting environmental impact
- Facilitating accessible and healthy environments
- Making best use of resources
- Growing our economy in a sustainable manner
- Creating and sustaining communities

11.3 Adopting these principles will assist RCT in contributing to the delivery of all three of the Council's Corporate Plan priorities of economy, people and place. It will also assist RCT to contribute to the seven wellbeing goals, that 'The Well Being of Future Generations (Wales) Act 2015' puts in place as follows:

1. A More Equal Wales
2. A Healthier Wales
3. A Prosperous Wales
4. A Resilient Wales
5. A Wales of Cohesive Communities
6. A Globally Responsible Wales
7. A Wales of Vibrant Culture and Thriving Welsh Language

15.0 CONCLUSION

15.1 The fundamental principles of the TAN are accepted in that they seek to ensure that there should be no unacceptable risk to life resulting from new development. It is also accepted that climate change projections must form part of our thinking in the future. The fact that Welsh Government has sought to provide more flexibility in the latest version of the TAN to allow for the regeneration of our towns and cities is welcomed, however, there needs to be more clarity in some areas (as highlighted in this response) so that the planning system can continue to operate effectively and efficiently.

Other Information:-

Relevant Scrutiny Committee

Finance and Performance Scrutiny Committee

Contact Officer

Simon Gale