

Annex B

Summary report of responses and written evidence presented to the Committee

Summary of written responses

Purpose

1. The Committee is asked to note the paper.

Summary/Recommendations

2. This paper summarises the responses received to a written consultation letter sent to local planning authorities on the implementation and operation of Technical Advice Note 15: Development and Flood Risk (TAN 15).
3. The key issues identified are:
 - ◆ Concerns over how Environment Agency Wales has been responding to planning consultations, following the publication of TAN 15.
 - ◆ Concerns over the accuracy and use of the Development Advice Maps issued with TAN 15.
 - ◆ The inflexible use and interpretation of TAN 15 regarding land that is classified as zone C. It is noted that this is causing particular problems for development in existing built-up areas and is hampering regeneration schemes.
 - ◆ The expertise and resources needed to prepare Flood Consequences Assessments (FCA), both for planning applicants and for local planning authorities. This is particularly an issue where applications are for small-scale residential development.
 - ◆ The different approach to flood thresholds in Wales compared with England.

Background

4. A consultation letter was sent by the Committee Clerk to the local planning authorities on 15 September, asking each authority to provide written evidence for the Committee's review of the implementation and operation of TAN 15.
5. A total of 12 responses were received to the consultation letter. This includes one response from a National Park Authority and one from a local authority transport consortium (see Annex).
6. Most authorities endorse the overall policy approach of TAN 15, but all express concerns about how it is being implemented in practice.

Environment Agency Wales

7. A key concern expressed is over how Environment Agency Wales (EAW) has been responding to planning consultations, following the publication of TAN 15. One authority describes the Agency's approach as "negative and pedantic". A particular complaint is about lengthy delays in responding to consultations and the problems,

including additional costs that this is creating for developers. One response refers to the use of 'standard paragraphs' in consultation responses, suggesting that each case is not being considered on its own merits. Another authority suggests that EAW has provided inconsistent advice on major development proposals over time and this has caused delays and additional costs. Other authorities acknowledge that the Agency has made some improvements in its approach over recent months.

Maps

8. There are also a number of concerns over the accuracy and use of the Development Advice Maps (DAM's) issued with TAN 15. Several authorities cite examples of where the maps are inaccurate or where local knowledge shows them to include areas that are highly unlikely to flood. Updating the maps once every three years is considered to be too infrequent. Another issue raised is the potential conflict and confusion between the static DAM's and the Agency's own Indicative Floodplain Maps (IFM's). Several authorities suggest that local knowledge or local flood risk assessments should be used instead of the DAM's. Another authority suggests that weaknesses in the EAW data are being addressed at the costs of developers.

Zone C

9. Another concern is about the inflexible use and interpretation of TAN 15 regarding land that is classified as zone C. One authority states that this situation arises because all proposed vulnerable development on C2 land is being treated as contrary to national policy, regardless of any possible mitigation measures that may be proposed. Another issue is the requirement for escape/evacuation routes to be operational in all conditions. This is being interpreted as meaning flood-free and is preventing the development of otherwise viable sites. It is claimed that the inflexible interpretation of TAN 15 is causing particular problems for development in existing built-up areas and is hampering mixed development regeneration schemes.

Flood Consequences Assessments

10. The expertise and resources needed to prepare Flood Consequences Assessments (FCAs) are also causes for concern, both for planning applicants and for local planning authorities. This is particularly an issue where the proposals are for small-scale residential development, where the cost of carrying out FCAs is deterring applicants. Two authorities state that they have noticed a reduction in this type of application on in-fill sites, which will have implications for housing allocations on greenfield sites.

Extreme flood events

11. Several authorities question the use of the 1 in 1,000 year extreme flood event as a threshold for TAN 15. One authority draws attention to the draft Planning Policy Statement 25: Development and Flood Risk, the English equivalent of TAN 15, which uses different thresholds and definitions.

Definitions

12. One authority seeks clarification of the category of development that waste processing and transfer facilities falls under in TAN 15.

Action for Subject Committee

The Committee is invited to note the summary of written responses.

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Members' Research and Committee Service

Annex: List of respondents

Brecon Beacons National Park Authority

Blaenau Gwent County Borough Council

Bridgend County Borough Council

Caerphilly County Borough Council

Conwy County Borough Council

Gwynedd Council

Neath Port Talbot County Borough Council

Newport City Council

Rhondda Cynon Taf County Borough Council

Swansea City Council

SWWITCH Transport Consortium

Wrexham County Borough Council

Evidence taken by the Environment, Planning and Countryside Committee on 15 November 2006

Environment Agency Wales submission

1. How do we manage the risk of flooding?

Environment Agency Wales, together with local authorities, the emergency services and Drainage Boards are the operating authorities who manage the risk of flooding in Wales. Section 6(4) of the Environment Act 1995 requires the Environment Agency to “exercise a general supervision over all matters relating to flood defence”.

170, 000 properties are in the flood plain in Wales and at risk of flooding. Some are protected by existing Flood Defences, which reduce the frequency of flooding, but do not (and could not) eliminate all risk. Others are not protected by defences.

Our strategy for managing Flood Risk has three main elements:

- Minimising the creation of new risks by stopping inappropriate development within the flood plain.
- Reducing existing risk by maintaining existing defences and building new flood defences to protect more properties as resources allow.
- Managing the remaining risk by a range of measures, including :
 - providing a flood forecasting and warning service
 - raising public awareness of how to deal with flooding,
 - working closely with local authorities, other regulators and emergency services to ensure that appropriate plans are in place to deal with the consequences of flooding.

2. Why is tan 15 important?

TAN 15 is Welsh Assembly Government policy. It aims to avoid the creation of new risk through inappropriate development in the flood plain.

There are three main reasons why we believe this is important :

- Public Safety and Health
- Economics
- Emergency response

Public Safety, Health and Social impacts.

More than 300 people died when sea defences in East Anglia were overwhelmed in 1953. In Boscastle nearly 100 people had to be rescued from flooded buildings by helicopter. A remarkably similar event, at

Lynmouth caused the deaths of 31 people in a summer storm in 1952. More recently, in the October Floods of 1998 5 people were killed and 2 elderly ladies died in the Carlisle floods.

Floods also create significant health impacts, particularly for those in vulnerable groups such as the very young and the elderly. Social impacts may also be considerable. Typically people may be out of their houses for more than 6 months – sometimes as long as a year following flooding. This places considerable stress on individuals, family relationships, and communities. A study of adults flooded in Lewes during the widespread 2000 floods showed that they were four times as likely to suffer psychological disorders than those who were not flooded.

Economics

Government research, in the Foresight project has estimated that the average annual damage from flooding in Wales is £70m. Climate change effects are expected to rise to between £121m and £1235m per year. By 2080. The upper end of these estimates is more likely if we do not adapt.

When floods occur, such as the Cardiff flood of 1979, or the Tywyn flood of 1990 there is inevitably pressure to spend substantial amounts of public money to build defences, often running to many millions of pounds. Whenever we develop in the flood plain we create the likelihood of new costs for the public purse in the future.

The cost of providing new defences, maintaining structures, providing planning input, prediction and flood warning services falls largely on the Welsh Assembly Government. Currently we spend around £35M per year on flood risk management in Wales. This is likely to increase as Climate Change impacts bite.

There may also be significant pressures on individual householders. Developers should be aware of flood risk to their sites. However it is not likely that they will emphasise flood risk when they market property, and secondary sellers and purchasers are often completely unaware of flood risk. Insurance costs may be very substantial, and some locations may become virtually uninsurable after major flooding. These problems are likely to become more extensive as insurers respond to Climate Change.

Emergency response

Emergency response facilities and key infrastructure must remain operational during flood events. However emergency infrastructure, such as police and fire stations, power supply facilities and telephone exchanges is often built in the flood plain. Recent floods in Carlisle have graphically shown what happens when flooding knocks these out. As new development occurs we need to plan new facilities in places which are safe, and take opportunities to move existing infrastructure out of the flood plain.

3. Who does what?

The various organisations involved undertake different roles in the planning process.

The **Welsh Assembly Government:**

- Sets land-use planning policy for Wales (including TAN15)
- May call in individual applications.

The **Local Planning Authority:**

- Prepares their development plan
- advise the applicant on the requirements set out in TAN15;
- Makes decisions on individual planning applications. (This includes determining that the proposed development is justified under section 6 of TAN15, and that the consequences of flooding can be managed to an acceptable level in accordance with Section 7.

Environment Agency Wales:

- provides advice to the planning authority, including expert advice on flood consequence assessments, and the acceptability of the likely risks and the consequences of flooding;
- make data and expertise available to assist developers in the preparation of their flood consequence assessment where reasonable and practicable;
- advise where appropriate on the acceptability of any measures proposed to manage the risk to an acceptable level.

4. How it works

In most cases, where development is proposed within the flood plain, a flood consequence assessment is required from the developer. The purpose of this is to determine whether the flood consequences of the proposal can be acceptably managed.

TAN 15 sets out both the detail of what should be provided in a Flood consequence assessment, and the standards against which 'acceptable management' should be judged.

The main Environment Agency role in process is to technically assess the developers proposals against the standards provided in TAN15, and provide **advice** to Local Authorities as to the adequacy of the assessment and whether or not flooding can be acceptably managed in accordance with the criteria in TAN 15. We are also required to object where the Flood Consequence Assessment does not demonstrate that flooding can be acceptably managed.

The planning **decision** is then made by the **Local Authority** (or the Minister if the decision is called in).

5. The main issues

A range of concerns have been expressed to us about the application of TAN 15. Some of these issues, and our response, are summarised below.

Development advice maps are not accurate

The Development Advice Maps are not Environment Agency maps, though part of the information in them was initially provided by us on a best endeavours basis. They were produced by the Welsh Assembly Government as hardcopy maps at the time the TAN was published, and do not reflect the most up to date information, as shown within our extreme flood outline.

The accuracy of the maps in some localities is questionable. This arises largely because of the mapping scale and the vertical accuracy available at the time that they were produced.

We are continually improving the quality of our flood risk maps. We have invested in detailed LIDAR topographic surveys and will have surveyed all Wales main river flood plains by the end of 2006. We will use this new data to model those rivers and improve the accuracy of the flood maps significantly over the next few years. Our maps of some areas are already much better than those used in the development advice maps.

The DAM maps are only intended to provide an indication of whether or not there is a flood risk which needs to be considered. When we give advice to local authorities we use the latest information we have. Where developers (or others) can show us better information we use the best available information in our advice.

Transitional arrangements

A number of existing sites allocated within local authority development plans or sites historically purchased by developers are now recognised as inappropriate for development under TAN15. TAN 15 clearly states that it overrides pre-existing guidance.

This is a contentious issue. However as the policy matures it should be resolved in future provided local authorities take full account of TAN15 in spatial planning and in developing their Local Development Plans. Where an allocation is proposed within the flood plain, we believe it should be subject to a strategic flood consequence assessment to determine whether it is viable.

Who makes the decision?

Some have suggested to us that it is really the Agency that makes the decision on these applications, not the local planning authorities. This is wrong. The facts speak for themselves.

In 2005/6, 12,703 planning applications were referred to the Environment Agency. We **initially** objected to less than 10% (1,115) on flood risk grounds. From these objections we received 795 decision notices.

Of the 795 decision notices Environment Agency Wales received from local planning authorities. 350 of these applications were resolved by design amendment, the provision of further information or withdrawn by the applicant. We sustained our objection in only 445 of these cases. In almost 30% (133) of the cases where we sustained an objection the Local Planning Authority decision went against our objection.

In a small minority (11) of these cases, Environment Agency Wales has requested that the application be 'called-in'. This has resulted in 4 applications being called in since 2004. 2 other applications were refused or withdrawn.

In some other cases the National Assembly for Wales have chosen to call a matter in themselves.

EA advice is inconsistent

With the large numbers of planning applications considered across Wales each year, we cannot rule out the possibility that examples of inconsistent application of TAN 15 may have occurred – as they will have been between Local Authorities. However, Environment Agency Wales planning responses (including flood plain development) were managed by a single team until March of this year, and we would not have expected inconsistency. In many instances where concerns have been raised and we have looked, apparent inconsistencies reflect real differences in the circumstances of the application.

We want to be more locally responsive, while remaining consistent in our approach. Since April we have managed our planning response on an Area basis (three teams), and we have recently produced internal guidance to ensure consistency of response is maintained across our Areas.

We have also used this opportunity to review our overall approach in the light of feedback and have made some adjustments to our approach – particularly the circumstances in which we maintain a statutory objection.

This guidance is focussed on a risk-based approach and is attached in full for the Committees information as Annex 1.

Technical Advice Note (TAN)15: Development and Flood Risk

Environment Agency Guidance For Staff

Purpose: This document will help and inform Development Control and Planning Liaison staff when they deal with development proposals involving flood risk in Wales.

Scope: This document should be used in conjunction with the Welsh Assembly Government's Planning Policy Wales (PPW) and Technical Advice Note 15 (TAN15).

1. Introduction

Flooding can cause substantial damage to people and communities, including deaths in some circumstances. Flooding may also have considerable economic impact. We therefore welcome the Assembly's aim of reducing current and future risk and impacts by restricting or discouraging further development in areas liable to flooding.

Technical Advice Note 15 (TAN15) gives effect to the Assembly's aim by providing technical guidance to supplement the policy set out in Planning Policy Wales (PPW) 2002 in relation to development and flooding. It advises on development and flood risk. It provides a framework within which risk arising from river and coastal flooding, and/or from additional run-off from development in any location can be considered appropriately when assessing planning applications.

1.1 Environment Agency Wales's Role

Environment Agency Wales's main role is to advise applicants and planning authorities on the assessment of the flooding consequence in terms of risks to people and property in accordance with Section 7 and Appendix 1 of TAN15. We will where reasonable and practicable make data available to assist developers in undertaking assessments and where appropriate advise on any mitigation measures proposed by the developers.

1.2 Purpose of Document

This document provides internal guidance to Environment Agency staff who are responding to consultation on development applications from local planning authorities. It is intended to clarify and offer consistent interpretation of a number of difficult queries that have arisen since the introduction of TAN15. The aim is to ensure a proportionate "common sense" interpretation of the TAN15 guidance.

TAN15 is the primary document and is Assembly Government planning policy. This note must therefore be read in conjunction with the full text of TAN15. It does not stand alone from TAN15.

Situations will occur which will not be covered. In this case Technical Specialists should refer to SUW planning staff for their advice to ensure consistency of our responses. We will then update this guidance as appropriate to take account of new examples and circumstances.

1.3 Policy Principles

This document is based on the Environment Agency's "modern regulation" principles, particularly the risk-based approach. Our interpretation of TAN15 is therefore intended to focus our input on the issues that pose the greatest risk to people, communities and the economy. This is consistent with the aims and spirit of the Welsh Assembly Government's guidance.

1.4 The Development Advice Map

TAN15 contains a development advice map (DAM). This is the Assembly Government's map, based on Environment Agency and British Geological Survey mapping as of 2003/04.

The DAM shows three development advice zones, A, B, C. Zones A and B are areas of generally low risk (i.e. outside the main river flood plain). Zone C represents the extreme flood outline, and is further subdivided into two zones. These are:

- C1:** described as "*Areas of the floodplain which are developed and served by significant infrastructure, including flood defences.*" and
- C2:** described as "*Areas of the floodplain without significant flood defence infrastructure.*"

Our mapping is continually being updated and it is therefore inevitable over time that the extent of our extreme flood outline will differ from the published DAM. Our response should be based upon the latest, most robust data. **In practice, therefore, if our data, or additional evidence based information provided by a developer, demonstrate that a site shown within zone C lies outside of the extreme flood outline, we will treat it in the same way as we treat zone A (see below).**

1.5 Nature of Development or Land Use (Sections 5 & 9 of TAN15)

TAN15 categorises most developments in the following way:

- emergency services
- highly vulnerable development
- less vulnerable development

- other¹

Section 9 of TAN15 summarises how these development categories are combined with the risk zone to determine planning requirements (see Annex 1, which is a table taken directly from TAN15).

1.6 De minimis Exceptions

There are exceptions to the requirements detailed in TAN15 based on a 'de minimis' approach, for example, minor development such as householder extensions and small scale 'like for like' replacement. We should as far as possible, provide standing advice on flood resilience for inclusion in such applications. However we would not normally object or comment further.

2. OUR APPROACH

2.1 Zones A and B (Figure 1 - TAN15)

There is little or no risk of fluvial or tidal / coastal flooding in these zones. When consulted on applications for development, we will not normally object or provide bespoke advice.

There are two exceptions:

- Where we are aware that there is a material flood risk (based on evidence such as a recorded history of flooding, or improved flood risk information). This might be caused, for example, by an un-mapped ordinary watercourse or improved flood risk modelling.
- Where there are reasonable grounds to believe that the development could exacerbate flooding elsewhere. This needs to be determined on a case by case basis, but routinely we will only review large developments i.e. those greater than 1.0 hectare.

In either of these exceptional cases, we will request an appropriate Flood Consequence Assessment that is proportionate to the risk and the nature and scale of the development (Paragraph 11.1 TAN15).

Where we are unaware of a material flood risk, but an ordinary watercourse is located within or adjacent to the site, we should advise the local planning authority to consult the local drainage authority for comment in relation to

¹ The 'other' category comprises uses that should be considered to be exceptions to the general rule, because they are required in fluvial, tidal or coastal locations by virtue of their nature. These include, for example, boatyards, marinas, essential works at mooring basins and development associated with canals. These developments are not be subject to the first part of the justification test in Section 6 but are subject to the acceptability of consequences part of the test.

surface water disposal and whether there may be flooding from an un-mapped floodplain.

2.2 Zone C (Figure 1- TAN15)

This zone is based upon the outline of a flood with 0.1% chance of happening in any year (sometimes called a 1:1000 year or 0.1% annual probability event).

2.2.1 Justifying the Location of Development (Section 6, TAN15)

Justifying the location of development is entirely a matter for the local planning authority. If a local planning authority holds the view that there are over-riding reasons to consider planning applications contrary to Welsh Assembly Government planning policy, we will not normally challenge the application on the grounds of principle alone.

2.3 Assessing Flooding Consequences (Section 7 and Appendix 1 TAN15)

The most important part of our role, identified in the TAN, is to evaluate the Flood Consequence Assessment and advise local planning authorities and developers / applicants on the assessment of flooding consequences, based on Welsh Assembly Government advice, as defined in Section 7 and Appendix 1 of TAN15.

Our view will be derived from the best information available, irrespective of the DAM zone.

In accordance with the requirements of TAN15, we will expect an appropriate Flood Consequence Assessment to accompany planning applications in zone C, except those categorised as de-minimis, where standard/standing advice will be provided. Where there is reason to believe that proposed developments in zones A or B would be prone to flooding, or that such developments could impact on other people or their property, we may also require a Flood Consequence Assessment (see Section 2.1 above for more detail).

In assessing development proposals, we will apply the following approach:

- The information that is required from developers / applicants in a Flood Consequence Assessment is set out in Section 7 and Appendix 1, TAN15, with a minimum requirement identified in paragraph A1.17. The Flood Consequences Assessment should be proportionate to the scale and nature of the development. We will adopt a pragmatic approach to the information requirements, particularly when the site is known and records are available that show that a less onerous Flood Consequence Assessment is appropriate.
- Developers / applicants will be encouraged to discuss the scope and content of Flood Consequence Assessments with us before starting work on their Flood Consequence Assessment. As well as specifying what should be covered commensurate with scale and nature of the proposal where we have information that could assist we will share this with applicants.
- Where a Flood Consequence Assessment is necessary and an application is received without one, we will advise the local planning authority and developers / applicants that one is required in accordance with TAN15.
- Where a Flood Consequence Assessment is necessary, the developer / applicant must demonstrate that the consequences of flooding can be managed to an acceptable level. We will, without prejudice to our subsequent advice to local planning authorities, work with the developer / applicant to establish the consequences of a flood event and offer advice on the mitigation measures proposed by the developers.
- Developers / applicants must also demonstrate that the development, including any proposed flood mitigation / alleviation measures, will not have significant flood risk implications on or off site.
- Assessment of proposals will be based on guidance in Appendix 1 of TAN15 (supplemented by Table 2 in Annex 1 of this document), and will be necessary for a range of flood events up to and including the 0.1% event (see sections A1.2, A1.5, A1.9 TAN15).
- Guidance on estimating the 0.1% event is now available as a technical note (1000yr flow technical note) and will be issued to applicants upon request.
- If the Flood Consequence Assessment has insufficient detail to enable a proper assessment of the consequences, we will ask the local planning authority and developer / applicant for the additional information, specifying what additional work is required.
- If our review of the Flood Consequences Assessment suggests that the Flood Consequence Assessment would be acceptable with modifications to the design or other changes, we may advise the necessary changes to both the local planning authority and the developer / applicant.

- Where the Flood Consequence Assessment shows that the consequences of flooding can be acceptably managed, but that management requires the inclusion of conditions within the planning consent, we will advise the local planning authority of the necessary conditions.
- The provision, construction and long term maintenance or replacement of any mitigation measures (on or off site) will need to form part of a planning condition and / or Section 106 agreement (paragraph 11.10, TAN15).
- It may be appropriate to consider going upstairs as an acceptable escape route. However, this will depend on the specific circumstances of the development and its intended use.
- **TAN15 states that the Environment Agency will provide advice to Local Planning Authorities on Flood Consequence Assessments. We will normally provide that advice, in accordance with the guidance in TAN15, whether or not we wish to sustain an objection.**

2.3.1 Surface Water (Section 8 and Appendix 4, TAN15)

Surface water drainage from developments can, if not properly controlled, significantly increase the frequency and size of floods in the watercourses that receive the surface water drainage. Development must not materially increase flood risk for other people or property - irrespective of the zone.

TAN15 (paragraph 8.4) promotes the use of sustainable drainage systems (SuDS). It states that if sustainable drainage systems cannot be implemented, a conventional drainage system will need to improve on the status quo.

The provision of attenuation measures or sustainable drainage systems within a scheme should be subject to a planning condition and / or a Section 106 agreement that addresses the financial responsibility for long-term maintenance.

Where surface water disposal would materially increase flood risk for other people or property and this cannot be satisfactorily managed through planning conditions, we will normally object to the proposed development (see section 3 below).

3. OBJECTIONS

This section specifically describes our response in respect of TAN15 and flooding. It does not affect our position in respect to objection on the grounds of our other statutory duties (e.g. on grounds of inadequacies in arrangements for waste disposal, sewerage, water supply infrastructure or other matters).

In circumstances where consideration is being given to highly vulnerable / emergency services development in zone C2, we will not normally object on

those grounds alone. We will draw this to the attention of the local planning authority when, for example, submitting comments in respect of a Flood Consequence Assessment.

Although we would always wish to see full compliance with Appendix 1 of TAN15, in considering the requirements of table A1.15, some flexibility will be considered for certain development types. Table 2 in Annex 1 of this document provides examples of circumstances where it may be appropriate to adopt such an approach. It is important to note that where numeric compliance with table A1.15 is not achieved, the emergency plans for evacuating the development during flood events must be agreed by the local planning authority, in consultation with their Emergency Planners and where appropriate, the Emergency Services.

3.1 Change of Use (see paragraph 11.20 TAN 15)

Small-scale change of use or proposals that reduce vulnerability will normally be treated as de-minimis (see section 1.6 above). Change of use proposals, which result in increased risk, such as the conversion of warehouses to residential properties, will be treated as new development (see 3.2 below).

3.2 New developments

For new developments, circumstances where we will normally object include:

- The local planning authority intends to approve an application in the absence of a Flood Consequence Assessment where one is necessary.
- The local planning authority intends to approve an application when the Flood Consequence Assessment is inadequate or incomplete (Section A1.17 TAN15) and despite specifying what further work is required it is not forthcoming.
- The local planning authority intends to approve an application where flood risks cannot be acceptably managed in terms of the risk to people and property. The main basis for this judgement is laid out in Section 7 and Appendix 1 of TAN15. Table 2 in this document provides risk-based supplementary criteria to ensure a pragmatic and consistent approach.
- Where development is proposed on previously undeveloped areas of the 1% fluvial or 0.5% tidal floodplain that need to be retained to accommodate floodwater / flood flows.
- The local planning authority intends to approve an application that has an unacceptable impact on third parties (people and property).

- Where mitigation works and subsequent maintenance costs are necessary and the local planning authority have not addressed this in a condition or Section 106 agreement.

These are general principles that will normally apply. However, there may occasionally be specific local situations where these criteria do not result in a common sense outcome. In these circumstances case by case decisions should be referred to Area Managers who will consult with the Regional Planning Team (SUW Manager) prior to coming to a decision.

3.3 Reconstruction / Regeneration

We recognise that for practical reasons it may be necessary to consider development proposals on previously developed sites, which can include former residential, commercial or industrial sites within the floodplain. For these situations we will normally advise the local planning authority on the flood consequence assessment as we would with new development, and follow the principles in 3.2 above.

However, there may be some cases where the numeric standards and acceptability criteria in TAN15 cannot be fully met, but the proposals would result in a substantial reduction in pre-existing flood risk.

Consideration of such cases will be very dependent on the facts - for example the viability of alternatives which fully meet TAN15 requirements; the level of improvement compared to any new risk; the consequences of flood events should they occur – including risk to life – and specific design issues.

These case by case decisions should be referred, via the Area Planning and Corporate Services Manager, to Area Managers who will consult with the Regional Planning Team (SUW Manager) prior to coming to a decision.

3.4 Application for Reserved Matters

Where planning permission (outline) already exists for the development, an application for reserved matters cannot disturb the principle established by the outline permission. The TAN says it is reasonable that the consequences of flooding should be considered but in the strict legal sense a reserved matters application covers those matters previously reserved at the outline stage for further consideration. Where flood risk has subsequently been identified as a material consideration we should ask that an appropriate Flood Consequence Assessment (paragraph 11.3 TAN15) accompany such applications.

Based on the outcome of the Flood Consequence Assessment, developers / applicants will need to acknowledge the risk and demonstrate how they will manage the consequences of flooding to an acceptable level. In extreme circumstances, where this cannot be achieved, for example where risk to life cannot be acceptably managed, we may consider recommending that the local planning authority revoke the original outline permission. Prior

consultation with the relevant Area Manager and the Regional Planning team (SUW Manager) is required.

4. WELSH ASSEMBLY GOVERNMENT ‘CALL-IN’

Welsh Assembly Government may themselves call-in applications for determination. In certain situations Environment Agency Wales may request call-in. However this should be regarded as the last resort and would only be considered on a case by case basis when we have significant concerns.

For example, we may request call-in:

- Where a Flood Consequences Assessment is required, but has not been provided, or is in our view seriously deficient or
- Where the Flood Consequences Assessment demonstrates that consequences cannot be managed and the application is for a high-risk situation in accordance with risk based principles.

All requests for call-in must be discussed with the Regional Planning Team and agreed with Director Wales

5. DEVELOPMENT PLANS (Section 10, TAN15)

Planning Policy Wales, March 2002, (Paragraph 13.2.4) states that “*Local planning authorities should take a strategic approach to flood risk and consider the catchment as a whole. They should ensure that new development is not exposed unnecessarily to flooding, therefore, by considering flood risk in terms of the cumulative impact of the proposed development in the locality, on a catchment wide basis (river catchment and coastal cell), and, where necessary, across administrative boundaries. Development proposals should seek to reduce, and certainly not increase, flood risk arising from river and/or coastal flooding or from additional run-off from development in any location*”.

TAN15 and Development Advice Maps give substance to Planning Policy Wales by identifying zones where certain types of development are discouraged. TAN15 requires Local Planning Authorities to take account of the Development Advice Maps when developing strategy and determining land allocations in a Local Development Plan.

Getting this ‘right’ is important to avoid future conflict. We will therefore encourage local planning authorities to develop strategic flood consequence assessments, including assessments of key flood risk areas to underpin their plans – both to support allocations within zone C and to evaluate the wider impacts of major developments in zones A and B. It must be recognised that allocations should not be considered within the floodplain unless the site meets the definition of previously developed land set out in Planning Policy

Wales. Subject to resources, we will provide data and assist with scoping and technical advice in as far as it is practicable to support the work.

A guidance note detailing the benefits, principal objectives and deliverables of strategic flood consequence assessments is currently being prepared.

ANNEX 1

Table 1 Summary of Policy Requirements (from Section 9.0 of TAN15) (This is copied from TAN15)

DAM	Development Type [Section 5]	Planning Requirements [Section 4]	Acceptability Criteria [Section 7 & Appendix 1]	Development Advice [Section 5,6,7 & Appendix 1]
A	Emergency services Highly vulnerable development Less vulnerable development Other	<ul style="list-style-type: none"> ▪ Justification test not applicable ▪ Refer to surface water requirements 	<ul style="list-style-type: none"> ▪ No increase in flooding elsewhere 	No constraints relating to river or coastal flooding, other than to avoid increasing risk elsewhere
B	Emergency services	<ul style="list-style-type: none"> ▪ If site levels are greater than the flood levels used to define adjacent extreme flood outline there is no need to consider flood risk further ▪ Refer to surface water requirements 	<ul style="list-style-type: none"> ▪ Acceptable consequences for nature of use ▪ Occupiers aware of flood risk ▪ Escape/evacuation routes present ▪ Effective flood warning provided ▪ Flood emergency plans and procedures ▪ Flood resistance design ▪ No increase in flooding elsewhere 	Generally suitable for most forms of development. Assessments, where required, are unlikely to identify consequences that cannot be overcome or managed to an acceptable level. It is unlikely, therefore, that these would result in a refusal of planning consent on the grounds of flooding
	Highly vulnerable development		<ul style="list-style-type: none"> ▪ Acceptable consequences for nature of use ▪ Occupiers aware of flood risk ▪ Escape/evacuation routes present ▪ Effective flood warning provided ▪ Flood emergency plans and procedures ▪ No increase in flooding elsewhere 	
	Less vulnerable development	<ul style="list-style-type: none"> ▪ Occupiers aware of flood risk ▪ No increase in flooding elsewhere 		
	Other	<ul style="list-style-type: none"> ▪ Refer to surface water requirements 	<ul style="list-style-type: none"> ▪ No increase in flooding elsewhere 	

DAM	Development Type [Section 5]	Planning Requirements [Section 4]	Acceptability Criteria [Section 7 & Appendix 1]	Development Advice [Section 5,6,7 & Appendix 1]
C1	Emergency services Highly vulnerable development Less vulnerable development	<ul style="list-style-type: none"> ▪ Application of justification test [section 6], including acceptability of consequences [section 7 and appendix 1] ▪ Refer to surface water requirements 	<ul style="list-style-type: none"> ▪ Acceptable consequences for nature of use ▪ Flood defences adequate ▪ Agreement for construction and maintenance costs secured ▪ Occupiers aware of flood risk ▪ Escape/evacuation routes present ▪ Effective flood warning provided ▪ Flood emergency plans and procedures ▪ Flood resistant design ▪ No increase in flooding elsewhere 	Plan allocations and applications for all development can only proceed subject to justification in accordance with section 6 and acceptability of consequences in accordance with section 7 and appendix 1
	Other	<ul style="list-style-type: none"> ▪ Application of acceptability of consequences [section 7 and appendix 1] ▪ Refer to surface water requirements 	<ul style="list-style-type: none"> ▪ Acceptable consequences for nature of use ▪ Occupiers aware of flood risk ▪ Desirable if effective flood warning and evacuation routes/procedure provided depending on nature of proposal ▪ No increase in flooding elsewhere 	Plan allocations and applications for development should only be made if considered acceptable in accordance with section 7 and appendix 1

DAM	Development Type [Section 5]	Planning Requirements [Section 4]	Acceptability Criteria [Section 7 & Appendix 1]	Development Advice [Section 5,6,7 & Appendix 1]
C2	Emergency services Highly vulnerable development	The flooding consequences associated with Emergency Services and highly vulnerable development are not considered to be acceptable. Plan allocations should not be made for such development and planning applications not proposed		
	Less vulnerable development	<ul style="list-style-type: none"> ▪ Application of justification test [section 6], including acceptability of consequences [section 7 and appendix 1] ▪ Refer to surface water requirements 	<ul style="list-style-type: none"> ▪ Acceptable consequences for nature of use ▪ Flood defences adequate ▪ Agreement for construction and maintenance costs secured ▪ Occupiers aware of flood risk ▪ Escape/evacuation routes present ▪ Effective flood warning provided ▪ Flood emergency plans and procedures 	Plan allocations or applications for less vulnerable development can only proceed subject to justification in accordance with section 6 and acceptability of consequences in accordance with section 7 and appendix 1
	Other	<ul style="list-style-type: none"> ▪ Application of acceptability of consequences [section 7 and appendix 1] ▪ Refer to surface water requirements 	<ul style="list-style-type: none"> ▪ Flood resistant design ▪ No increase in flooding elsewhere ▪ Acceptable consequences for nature of use ▪ Occupiers aware of flood risk ▪ Effective flood warning provided ▪ No increase in flooding elsewhere 	Plan allocations and applications for development should only be made if considered acceptable in accordance with section 7 and appendix

Table 2 - Supplementary Guidance (which must be read in conjunction with the main text of this document)

Although we would always wish to see full compliance with TAN15, some flexibility in applying the requirements of table A1.15, Appendix 1 of TAN15 will be considered. Table 2 below provides examples of circumstances where it may be appropriate to adopt such an approach. Exceptions to the use of this table are identified within the text of this document, for example the replacement of existing structures.

Where the development has a significant flood risk and consequence, then apply criteria for C1 for that category of development, regardless of actual DAM zone.

Development Type	TAN15 Category	Numeric compliance with A1.14? (Y/N)	Numeric compliance with A1.15? (Y/N)	Acceptability criteria above those identified for zone C1 in Section 9 of TAN15
Emergency services, including civil emergency infrastructure	Emergency Services	Y	Y	No additional requirements
Residential development	Highly Vulnerable	Y	Y	No additional requirements
Schools, Nurseries, Colleges, Nursing Homes, Hotels, Doctors surgery	Highly Vulnerable	Y	Y	No additional requirements
Power stations / Switch gear / Strategic telecommunications / Water infrastructure / Chemical plants	Highly Vulnerable	Y	Y	No additional requirements
Caravan parks	Highly Vulnerable	Y	Y	Local planning authority should be advised to consult with their Emergency Planners and where appropriate, the Emergency Services.

Development Type	TAN15 Category	Numeric compliance with A1.14? (Y/N)	Numeric compliance with A1.15? (Y/N)	Acceptability criteria above those identified for zone C1 in Section 9 of TAN15
Library, Museum, Leisure centres, Law courts	Highly Vulnerable	Y	N	Where numeric compliance with A1 15 is not achieved then the emergency plans for evacuating the development during flood events must be agreed by the local planning authority, in consultation with their Emergency Planners and where appropriate, the Emergency Services. We will normally object if we do not receive confirmation that satisfactory evacuation plans will be implemented.
General Industrial, Employment (offices), Commercial and retail	Less Vulnerable	Y	N	Where numeric compliance with A1 15 is not achieved then the emergency plans for evacuating the development during flood events must be agreed by the local planning authority, in consultation with their Emergency Planners and where appropriate, the Emergency Services. We will normally object if we do not receive confirmation that satisfactory evacuation plans will be implemented.
Car parks	Less Vulnerable	Y	N	Where numeric compliance with A1.15 is not achieved then the emergency plans for evacuating the development during flood events must be agreed by the local planning authority, in consultation with their Emergency Planners and where appropriate, the Emergency Services.
Mineral extraction sites	Less Vulnerable	Y	N	Where numeric compliance with A1 15 is not achieved then the emergency plans for evacuating the development during flood events must be agreed by the local planning authority, in consultation with their Emergency Planners and where appropriate, the Emergency Services. We will normally object if we do not receive confirmation that satisfactory evacuation plans will be implemented.

Emergency services:

Described as facilities that need to be operational and accessible at all times.

Highly vulnerable:

Describes development where the ability of occupants to decide on whether they wish to accept the risks to life and property associated with flooding, or be able to manage the consequences of such a risk, is limited. It also includes those industrial uses where there would be an attendant risk to the public and the water environment should the site be inundated.

Less vulnerable

Describes development where the ability of occupants to decide on whether they wish to accept such risks is greater than that in the highly vulnerable category.

Evidence taken by the Environment, Planning and Countryside Committee on 15 November 2006

WLGA Submission

Introduction

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities, the three fire and rescue authorities, and four police authorities are associate members.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.

General Comments

3. The development of TAN 15 was a significant step forward in dealing with the issue of flooding in Wales. It is clear that flooding and future flood risk are of enormous significance and will continue to grow as a problem with the emerging acceptance of climate change as a scientific fact. It is imperative that the land use planning system reflects this as part of the material issues it must address in determining land use and function.
4. The potential impact of not dealing effectively with flooding and flood risk would be catastrophic in terms of people's lives, health and general well-being but also to economic development. The evolution of policy to address flooding at a national and local level is therefore important.
5. However, flooding remains just one of a number of material concerns which must be assessed by Local Planning Authorities (LPAs). A too rigid approach to this issue potentially undermines a balanced approach to social, economic and environmental well-being. There may be a need to be flexible and creative, especially where the end use envisaged is non-domestic or industrial. It may be necessary to mitigate the effects of potential flooding through innovative techniques and processes.

Principle and Implementation

6. It is clear that it is not the principle of the policy which has proved problematic, it is the implementation and some of the consequences of that implementation that have raised issues. It is apparent that any substantially new policy framework will always have initial difficulties, implementation issues and unforeseen consequences. What is critical is that an effective review and evaluation mechanism is in place to deal with those issues and allow effective resolution. This review is an essential element of that process and the WLGA welcomes the committee's decision to re-examine the TAN.
7. It is clear that there will always be situations where the flood risk will prevent necessary regeneration activity. Indeed a number of LPA's have submitted evidence to this committee highlighting specific problems. Planning provides a clear mechanism to allow the full consideration of these conflicting priorities and an attempt to resolve,

whether by careful consideration of the potential uses or by the development of mitigation measures.

8. Whilst the body of this submission will highlight some of the issues which have arisen across Wales in terms of the implementation there appears to be a real desire amongst the key agencies to address these issues. However it is essential that the committee understands the issues that have arisen and in some cases the examples where resolution is difficult.

Key Principle

9. TAN 15 is predicated upon a key principle, section 6 of that document states;

“Further development in such areas (flood risk areas), whilst possibly benefiting from some protection, will not be free from risk and could in some cases exacerbate the consequences of a flooding event for existing development and therefore a balanced judgement is required.”

10. The danger is that this sound key principle has in reality become a somewhat inflexible tool which may act as a block to regeneration. There is emerging evidence from LPA's to suggest that this has been recognised by the Environment Agency Wales (EAW). This is a difficult duty to discharge but one where a degree of 'balanced judgement' is essential if it is not act as that significant block to the economic and social well-being of communities across Wales. However, there will remain areas where the desire for development is significant and the flood risk is substantive. It is extremely difficult to reconcile these positions.

Issues with the Development Advice Maps

11. Some LPA's have reported discrepancies regarding the extent of the 1 in 1000 year flood risk area shown on the Development Advice Maps (DAM). For example, the Committee will be aware, from evidence submitted, of a DAM showing flood risk to significantly elevated parts of the M4.
12. There also appears to be some confusion between the static DAM's produced as part of the TAN 15 and the EAW's indicative floodplain maps (IFM) as the boundaries are not always the same. The IFM's are updated on a regular basis and provide a greater level of information therefore it has been proposed that the TAN should refer to these maps but contain no static maps of its own. This would seem a sensible way forward but require discussion with the Planning Inspectorate to clarify appeal processes and the weight given to each in that process.
13. There are a number of further points in relation to the maps and the data which sits behind it.
14. Given the dynamic nature of the issue maps by their very existence will always present problems. This is especially true in relation to contested situations where more up to date scientific evidence on particular site may contradict its definition within the maps. The weight currently given to the maps make it difficult to resolve this easily. It is essential that there is the capacity to look at these on a case by case basis.

15. Where small scale residential development is proposed within a C2 area it is not reasonable to require a full FCA process thus this inhibits development. An example submitted by RCT illustrates this point. Discussions with EAW indicate that they recognise this issue and the need to be proportionate about the extent of FCA required. Therefore it may be necessary to look at the issue of Strategic Flood Consequence Assessment and the need to allocate some resources to it.
16. Therefore the accuracy of the maps is critical, clarification of their status and the ability to resolve disputed evidence is fundamental to the effective delivery of the planning system and the development required to drive the Welsh economy.

Capacity

17. There have been a number of capacity issues around implementation. It seems apparent that at the introduction of TAN 15 there were insufficient specialist private sector engineers who were fully conversant with flooding issues and a lack of capacity within EAW to deal with the volume of Flood Consequence Assessments (FCA). This structural issue resulted in considerable delays to major employment schemes which tend, by their very nature, to require large flat sites. Especially in South Wales this tends towards the coastal plains or river valleys. LPA's report that these delays have led to frustrations with developers and the danger that development which tends to be highly mobile moving elsewhere.
18. LPA's report however that there has been an improvement in capacity issues in the last six months with a more pragmatic view taken on the level of detail required within FCA's and a speedier response from the EAW which is welcome.

Consistency of Advice

19. Linked to the last point some LPA's experience of how the TAN has been previously interpreted by EAW is that a blanket approach has been adopted with heavy reliance on standard paragraphs in response letters. There was little recognition as to the type of application or that each site should be considered on its own merits. It is recognised that EAW has gone through a period of restructuring back to three area teams, and hopefully this opportunity will now allow for more constructive responses that are flexible and relevant to the issue at hand and do not rely on standard paragraphs.
20. The heavy reliance on standard paragraphs and blanket holding objections, whilst being a useful mechanism for saying that a response has been made in 21 days (High Level Target 12), does not benefit the overall process and just results in additional correspondence and delays in determining applications. It would be more beneficial if EAW could state in the initial response what specific information they hold in relation to the site, and what specific information they require in order to consider the issue of flood risk in line with TAN15.

Approved Development Land

21. One of the most significant problems with the implementation process concerned land already allocated through the appropriate land use planning framework and granted outline planning permission being reopened for consideration by this TAN process. This is obviously a transitory process which will diminish as the new LDP system develops. However it has caused significant problems.

22. Such sites may have previously been the subject of no objection from the EAW or were not objected to within the UDP process. Again there is evidence from LPA's that EAW are trying to take a more pragmatic approach in these issue however in the case of areas such as Tawe Vale there may not be an easy way forward. There is an inherent conflict between the EAW duty and requirement to highlight potential risks and the need on social and economic grounds to regenerate a particular locality.
23. It is worth considering the role of A1.15 safe evacuation processes in this context. In cases where a significant flood risk remains but where a 'balanced judgement' suggests that development should proceed it is imperative that there is confidence that the risk is assessed fully and procedures identified that would mitigate that risk.

C2 Land Inflexibility

24. In certain parts of Wales there are areas where there is very little land suitable for development that is not classified as C2. This presents a significant block to development in these areas. The fact that the TAN does not make provision for development which includes significant mitigation measures which may reduce the flood risk to a level which brings a site outside C2, without causing any significant risk in terms of the flood consequences is a problem. This means that if development is proposed within C2 land it will always be in breach of national policy regardless of what mitigation is developed. There needs to be clearer advice provided by the emergency services on risk which needs to be informed by EAW technical support.

Clarification on the Vulnerability of Certain Land Uses

25. The Regional Waste Plans are placing great emphasis that B2 (General Industrial) sites are suitable for waste processing and transfer facilities in order to meet the regional requirements for minimising landfill through recycling and re-using waste. However TAN15 is not clear as to what category these waste processing facilities would fall under. It is clear that Waste Disposal sites are considered Highly Vulnerable Development, whilst General Industrial is considered Less Vulnerable Development. However, as a certain amount of waste material would be stored awaiting processing or transfer at any one time then should it not be highly vulnerable development, in that there could be an attendant risk to the public and water environment should the site be inundated (paragraph 5.2 TAN15)? This matter needs to be clarified urgently if regional requirements are to be soundly incorporated into Local Development Plans.

Concluding Remarks

26. TAN 15 is an essential tool in dealing with flood risk and climate change issues. There have been a number of issues in terms of its implementation but many of these relate to existing allocations/development sites. As the guidance 'works through the system' these issues are being resolved. It is also worth noting that the EAW has been adopting a constructive attitude to these issues.
27. However there needs to be a rational debate about how development can be progressed in significant flood areas. The topography of areas of Wales and the infrastructure requires that this is dealt with to allow continued economic stability and growth. This should be subject to further consideration and a clear direction indicated in terms of WAG policy.

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**Evidence taken by the Environment, Planning and Countryside
Committee on 15 November 2006**

Home Builders Federation Submission

Title: TAN 15 - Problems and Issues

1. Accuracy of Maps

The HBF and its members have experienced many issues relating to the accuracy of the TAN 15 Development Appraisal Maps (DAMs) and the discrepancies that exist between the DAMs and the Environment Agencies maps. It has been reported that the Development Appraisal Maps are scheduled to be updated every three years, whilst the Environment Agency consider it prudent to update their own maps every three months, in order to ensure accuracy. The HBF is concerned that the incremental changes that may happen over a period of three years will no doubt render large sections of the DAMs obsolete, as they move towards their final years before amendment. This is without taking into account any sudden changes that could occur, which may render the maps obsolete a lot sooner than anticipated.

The HBF's concern is heightened by the fact that the Environment Agency, being an organisation involved in the assessment of flood risk and well versed to the dangers association with flooding, see it fit to update their maps on a three monthly basis, whereas the Assembly consider it suitable to update their maps every three years. Surely if we are to maintain the accuracy of flood risk guidance and if we are to reflect the situation that currently exists in our environment, the DAMs must be brought into line with the EA maps and updated on (at least) a three monthly basis.

The accuracy issue is compounded by the fact that there is no statutory procedure for updating the DAMs. It is understood that when the exercise is finally undertaken, it will be done so by taking a snapshot of the Environment Agency's maps at that particular time. The HBF finds this wholly unacceptable, especially when you consider that the primary point of policy legislation on flood risk is TAN 15 and the maps associated with it, and for many people this will be their first point of call when assessing the suitability of developments or assessing planning applications. Indeed, the HBF believes that considering the information used to update the DAMs will be gained from the EA, the requirement for a separate set of maps within TAN 15 could be deemed unnecessary. In our experience the current mapping arrangement only adds to the confusion as to the suitability of land for development and creates further lengthy and costly delays in the planning application process. This situation could also cause problems outside the planning arena. Insurance companies, for example, may look at the DAMs and assume residential developments are situated within a flood risk areas, when the EA maps show otherwise. This will no doubt have an impact on

obtaining buildings and contents insurance or may even cause problems with obtaining a mortgage application.

2. Conflicting advice between the EA maps and TAN 15 maps (DAMs) and how this is interpreted.

The Environment Agency have said that in many cases they override the guidance given within the DAMs, as the information given within their maps is more accurate. The EA has also suggested that developers should be wary of any site that the DAMs depict as prone to flooding but not necessarily take this advice as definitive. The EA has further stated that they will not object to development that is within the flood risk areas as depicted by the DAMs, provided that the site can be shown to be safe from flooding. However, in many cases our evidence is to the contrary. Our members have cited situations where planning applications have been judged on the basis of the DAMs alone, despite there being contradictory evidence from the EA. Furthermore, the DAMs have also caused the EA to object to developments on flood risk grounds, even when their own maps depict otherwise.

In relation to this point, I quote an example from one of our members where outline consent for planning permission was granted in the light of a statement from the EA in the Committee Report. Then, when a reserved matters application was made, the EA objected on the grounds that the site was prone to flooding, having less than 1:100 year protection. On the basis of this objection, and ignoring the statement in the previous outline consent, the planning application was written up for Committee with a recommendation for refusal on flooding grounds. The reason for the EA's objection was that, prior to the submittal of the reserved matters application, the DAMs were published showing the site to be in a floodplain and the developer was told that the EA "automatically" objects to areas prone to flooding as given within the TAN 15 maps.

This error was compounded by the fact that the department/section of the EA that (automatically) objects to applications in the light of the DAMs, was a different department/section from that which supported the site during the outline application process. In addition to this, the planning officer dealing with the application was prepared to take the information given by the DAMs on face value, despite contrary evidence existing within his/her files.

Following this, the problem was further compounded by the fact that despite the EA acknowledging that the DAMs were wrong, the mistake could not be rectified without formal approval from the Welsh Assembly Government, which they reported would have taken at least a year to process.

This example emphasizes a common problem that is experienced by many of our members, in that even though the DAMs were proven to be incorrect, both the planning officer concerned and the EA themselves were willing to take the DAMs at face value and give an automatic objection towards residential development. In addition, even when the DAMs are proven to be incorrect, it

is extremely difficult to get them changed or overruled to reflect the current situation.

There is a plethora of evidence to suggest that in many cases the DAMs are wrong. It is for this reason the HBF believes that in the absence of one robust set of guidance maps, the information within the DAMs should be taken as indicative and that people should not be automatically objecting to developments in light of the information they provide. Instead, people should use them a warning signal, helping them to realise when to contact the EA to get a more accurate picture of the current situation, in order to make a more informed decision.

3. Problems with assessing and alleviating the consequences of flooding

Many of our members have experienced problems when faced with the requirement for a Flood Consequences Assessment (FCA) and the need for advice on how to satisfy them appropriately. In many cases, developers are told that FCAs and certain hydraulic modeling assessments are required in order to gain a true picture of the consequences that may arise if a particular development floods. However, a difficulty exists that even when FCAs are undertaken and such modeling is completed, there is no guarantee that this evidence will be accepted by the Environment Agency and that any planning application will be approved as a result.

This is a particular problem for some of our smaller member companies, as they are often not as aware of the situation as larger developers and find it difficult to know where to turn for information. They will also not have the resources to employ large consultancy firms that are used to dealing with FCAs and complicated hydraulic modeling techniques and therefore the risk of producing inadequate assessments is magnified.

In relation to these problems, there needs to be more interaction between the EA and the developer in order to gain a more accurate picture of what is required to satisfy FCAs, and whether the modeling assessments that are undertaken will actually achieve a positive result. There also needs to be a greater amount of flexibility in the interpretation of flood risk, especially where there is a clear opportunity to reduce that risk. It is understood that the government expects the EA to play an advisory role within this process and also to give advice in relation to these topic areas. In light of this, the HBF believes that more guidance should be given to developers to allow them to assess the situation more clearly, and also to allow them remedy the risk of flooding with greater peace of mind that their efforts will be met with positive results.

At present, TAN 15 is the Assembly's main policy guidance document on development and flood risk and is meant to give advice on how to go about alleviating those risks. However, there is a common consensus with our members that due to the complexities involved within flood risk assessment, there needs to be a set of guidance notes or a companion guide that sits

below TAN15, which goes into more detail on how to satisfy the criteria within it. The HBF believes this guidance would help to alleviate some of the uncertainty that our members face when assessing sites for flood risk. It will also aid in providing consistency of advice across the board, which will help planning officers, developers, the EA, consultants and any other parties involved within the process, to effectively deal with issues surrounding flood risk and residential development.

**Evidence taken by the Environment, Planning and Countryside Committee on
15 November 2006**

Country Land and Business Association Submission

**Review of the Implementation and Operation of Technical Advice Note 15
(TAN 15)**

CLA Wales welcomes the opportunity to comment to members of the National Assembly for Wales Environment Planning and Countryside Committee in their review of the implementation and operation of Technical Advice Note 15 (TAN 15).

CLA Wales represents over 4,200 land managers and businesses who actively manage over 500,000 hectares throughout Wales, including considerable areas of land and property that is affected by floodplains, and therefore have a significant locus in the debate over appropriate development in the floodplain and assessment of flood risk.

The adoption of TAN 15, published in July 2004 as formal planning guidance, has had a profound influence on the land use sector in Wales, given that so many communities have historically grown within floodplains. TAN 15 has impacted on debates over the sustainable growth of communities, it has guided in a rigid way both Local Planning Authorities and the Planning Inspectorate in their implementation of National Policy, and ultimately it reflects poorly on the Environment Agency Wales (EAW) as to their willingness to advise on floodplain development in a wider and more sustainable context.

There will clearly be exceptional cases where the historical development pattern in a floodplain has created a risk to existing businesses and households, exacerbated by climate change, which can be mitigated by properly-considered development and associated flood alleviation.

CLA Wales considers the fundamental weakness of TAN 15 to be the interpretation of a strong national policy presumption against development, in what is agreed to be the Zone C Floodplain, as an absolute embargo. This must be wrong as a matter of law, and the precautionary framework of TAN 15, when misapplied, can be seen as an impediment to good decision making.

In particular, CLA argues that proper consideration must be given by all those involved in the decision making process to cases where the result of granting permission will be to reduce flood risk in existing populated areas, generating a wider public benefit overall. As national policy, TAN 15 must, like all such policy and guidance, be weighed in the overall planning balance on a case-by-case basis. However it is being interpreted by EAW as a rigid rule, rather than as advice or guidance. EAW have consistently failed to give any reasonable consideration to Zone C development cases, let alone weigh the balance of evidence and the case for development having regard to the assessment of relative risk and advantage. By so doing, they are, to all intents and purposes, denying the possibility of exception and ignoring the possibility of advantage.

To date, all appeals against planning decisions based on EAW advice since publication of TAN 15 have fallen at the Planning Inspectorate, or before the National Assembly for Wales' Planning Decision Committee, although we are aware of a few cases (such as the Appeals at Llandovery, Carmarthenshire, reported in January 2005 – APP/H6825/X/04/514568-70) where an Inspector had recommended, by weight of material evidence, that such development in the floodplain might be acceptable.

Where a demonstrable net advantage to the flooding situation would accrue from such development, we do not see a decision in such circumstances as setting any form of precedent for insufficiently merit-worthy cases; it would merely be recognition that intelligent, balanced, risk-based decision making should prevail. In those circumstances where development can produce a net better result for all, Local Planning Authorities, the Planning Inspectorate and ultimately the National Assembly for Wales should be encouraged by their policy advice to permit such development, subject of course to appropriate terms and conditions, and with appropriate developer contributions.

This approach is now belatedly recognised in England in the final consultation version of PPS 25. PPS 25 shows the direction of travel of UK Government thinking. It recognises that where development will not create any new unacceptable flood risk, and at the same time achieves a net reduction in flood risk for those currently vulnerable (and / or an improvement in the environment / economy / amenity / landscape), there may be grounds for granting planning permission. Thus development proposals in England will be considered on their merits, and tested against all relevant criteria rather than being constrained within the confines of narrowly defined and inflexible procedure.

CLA Wales recommends that TAN 15 be similarly reviewed, and that appropriate guidance and advice be given by Welsh Assembly Government planning officials to Ministers and Assembly Members when considering and determining reports of Inspectors at appeal in the circumstances above.

Separately we are concerned as to the accuracy of the TAN 15 Development Advice Maps (DAMS), which require expensive delays in site assessment, as well as creating problems with buildings insurance.

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09 November 2006

Annex C

Record of Proceedings Transcript – 15 November 2006

Adolygiad o Gyflawni a Gweithredu Nodyn Cyngor Technegol 15 Review of Implementation and Operation of Technical Advice Note 15

[1] **Glyn Davies:** Welcome back to the second part of the meeting. We are planning on taking the best part of an hour to look at TAN 15. We will start with some presentations. We have a Government paper, but I do not think that anyone from the Government will speak to it initially, although Rosemary may come in towards the session, if appropriate. Chris Mills from the Environment Agency will make a presentation to start with, and then Craig Mitchell, on behalf of local government, will say something, and then Richard Price will speak. It will then be opened up to questions and comments; that is the format that we have in mind.

[2] **Elin Jones:** Where is Richard Price from, because the papers do not say where the witnesses are from?

[3] **Glyn Davies:** I assume that we all know of the Environment Agency. Perhaps we should leave it to the presenters to introduce themselves when they speak, rather than my struggling to do so. You can then choose the description of yourselves that you prefer. Chris is to start.

[4] **Mr Mills:** Good morning. In the short time that I have been the director of Environment Agency Wales, I can say quite honestly that TAN 15 has by far been the most contentious issue that I have dealt with. We have received a lot of feedback about TAN 15, and we have listened very carefully to it. We have also considered the practical experience that we have had of implementing our role with respect to TAN 15 over the past two or so years. In the light of that, we have produced some guidance for our staff about the agency's role in the implementation of TAN 15, and that is appended to the written evidence that we have submitted to you. I wish to acknowledge the vast amount of work that Dave Clarke has done in relation to TAN 15, which is why I am also asking him to lead on the evidence-giving for this session. I will hand over to Dave.

[5] **Mr Clarke:** Thank you. I want to show you five pictures to illustrate some important points that we will discuss more fully subsequently. The first picture is already up on the screen. Some of you may recognise where it is. For anyone that does not, this is Cardiff on 27 December 1979.

[6] **Lorraine Barrett:** Was it Canton?

[7] **Mr Clarke:** Yes. Around 3,000 properties were flooded, and just to put that into scale, it is about 50 times the number of properties that were recently flooded in Trefriw and Llanrwst in the Conwy Valley in broad terms, so that gives you some idea of the scale of the issue. It did significant economic damage, and it is fair to say that flooding like this also damages communities, in that people are often out of their homes for a year or so. Flooding like this also has health effects on elderly and vulnerable youngsters in particular. This picture illustrates that floods can happen anywhere—no-one expects to be flooded until it happens.

[8] The next picture is Boscastle, and I am sure that everyone here will have seen

news footage of it, so I will not labour this particular issue. There were some people caught in the water in that event, and it is a miracle that no-one was killed.

[9] The next picture was taken 50 miles along the coast from Boscastle, at Lynmouth. It is about the same distance again to the south Wales Valleys. The Lynmouth event was remarkably similar to that in Boscastle. It happened in the early 1950s. It was a flash flood on a steep catchment, in a valley with a limited floodplain. Sadly, the flood at Lynmouth killed 31 people and the reason that it did so was primarily because it happened at night. If the flooding in Boscastle had happened at night, the outcome might have been very different. An important point that I want to draw out of the Boscastle and Lynmouth examples is the similarity of the catchments to many parts of the south Wales Valleys, in particular, and to parts of west and north Wales. In other words, we have many steep catchments with limited floodplains in areas where rivers are flashy and we really should avoid developing in these places.

[10] The next picture comes from Carlisle. A few years ago I was asked to lead the national lessons-learned review of the Carlisle floods, so I spent several months up there evaluating these sorts of issues and the emergency response. I have included this picture for two reasons. It illustrates the importance of emergency services and key infrastructure and of keeping those out of the floodplain. In the lower right-hand corner of the picture, you have what is normally a small stream, the Little Caldew. It is spilling over a wall, which is the line that goes diagonally across, and you can see a standing wave beyond it. Underneath that standing wave are several British Telecom vehicles. I know that because I have the picture that was taken just beforehand, before they went under, and you can also see BT vehicles in the background. This is the BT telephone exchange. So, obviously this flood knocked out the landline telephones in Carlisle. The electric switch gear for much of Carlisle was in the floodplains, so they lost power. When you lose power, after a period, the mobile phone service goes down because the masts need power and they only have about a three-hour back-up. So, early in the morning, about the time when this picture was taken, Carlisle residents had no landline or mobile phones and, without power, they had no television or radio, so communications were fairly limited.

[11] To add to that, the police station that was designated gold control, where the incident was supposed to be managed from, flooded and so gold control had to be moved. The fire station flooded so it could not go there and the local authority offices, which were supposed to manage the evacuation of people, were flooded about 12 ft deep. So, in summary, the emergency response was significantly compromised because all of these facilities had been built in the wrong place.

[12] The other reason for showing this picture is that we often hear suggestions that flood risk should be managed by mitigation. There are cases when that is entirely appropriate. Mitigation often means building defences, rather than avoiding building in areas. However, we need to be clear that defences do not stop floods; they simply make them less likely. They happen less often, but they still happen. This picture shows what a defence looks like when it is overtopped. It is worth bearing that in mind when we are discussing these issues.

[13] If you want to translate that into a real example, two of the submissions that

we have seen have identified Tawe vale as a difficult site to deal with, and this picture explains why. The main difference when Tawe vale floods—and it is a ‘when’ and not an ‘if’—is that the floodwall at Tawe vale is somewhat higher than the floodwall in the front of this picture and the river is about 10 times as wide. So, it will be a significant flood event when it happens. The flood modelling there shows that the water depths exceed about 12 ft in some places. That does not mean that that site cannot be developed but it does mean that that has to be done carefully, that we have to put things in the right place and that we cannot simply fix it with the stroke of a pen. That is an important point to understand as we discuss this more fully.

11.20 a.m.

[14] This last picture illustrates what a flood evacuation looks like. In practice, the standards for evacuation in TAN 15 are set at flood depths on evacuation routes of about 0.6m. I will just leave you with the thought that this sort of situation will probably be allowable, in development terms, under the current TAN 15 guidance.

[15] **Glyn Davies:** Tawe Vale is in the Swansea area, is it?

[16] **Mr Clarke:** Yes, the Swansea vale side. That is the whole strategic development side.

[17] **Glyn Davies:** I thought it was, but I was not sure.

[18] **Mr Clarke:** Parts of it are likely to flood; deepened parts are not. In my view, developing that site is about selecting the right development for the right place, and we are working with the local authority to try to do that.

[19] **Glyn Davies:** You have given us a fair summary of the reasons for TAN 15.

[20] **Mr Clarke:** Absolutely.

[21] **Mr Mitchell:** My name is Craig Mitchell, and I am from the Welsh Local Government Association. On my right is Bryan Graham, head of planning at the City and County of Swansea Council, and Gail Evans, the regeneration co-ordinator. In light of today’s discussion, I thought that it would be useful to have their expertise in any lines of inquiry that we may want to follow, as they work for a local planning authority and deal with these issues on a day-to-day basis.

[22] Assembly Members will be all too familiar with the devastation that flooding causes from having worked with constituents who have suffered the consequences of flooding. Some of the impacts and costs are usefully set out in the Environment Agency’s submission. When you ally the facts and figures with the continuing debate on climate change, you see that it reinforces the need to deal proactively with this issue. Therefore, TAN 15 is an essential tool in this process and it is entirely appropriate that national and local planning policy should reflect this issue. The WLGA fully supports taking such a risk-based approach to flooding issues.

[23] As with any new approach to a particular issue, there will be implementation issues, and I think that many submissions to the committee from individual local

planning authorities have identified some of those concerns. I will dwell on a couple of those points. I would like to make clear that the WLGA is very encouraged by the stance taken by the Environment Agency and its willingness to debate these issues to try to find a common-sense way forward. That pragmatic approach is to be commended. The new guidance appended to its submission is very positive in this regard.

[24] I would also like to dwell on some implementation issues, the first being the capacity of the whole system to tackle this new way of dealing with flood issues, not least the capacity of the Environment Agency, as I understand, as it did not have additional resources to help to implement and deal with the volume of work associated with this matter. Local planning authorities must react to this new way of working. I understand that there were also some issues in the private sector with the level of competence of engineers to undertake flood consequence assessments and the number of them available to do that.

[25] I know that there are broader capacity issues with smaller developers that I am sure the Home Builders Federation will pick up on. In that context, the committee may want to look into the issue or the potential of strategic flood consequence assessments and what role they may have in this process. I know that Rosemary's submission makes reference to Conwy, and the City and County of Swansea Council has also done some work around the Tawe vale in relation to that.

[26] The maps are probably one of the most problematic areas, but we are comfortable that the new guidance from the Environment Agency highlights the fact that these maps are there to indicate areas of possible concern that should initiate a dialogue between local government, the EA and other parties. So, they are not there as a straitjacket to prevent development. Next year, with the opportunity to review the maps, we should also begin to look at the Environment Agency's own mapping systems, and the potential to try to make these maps more robust and more dynamic. Perhaps the Home Builders Federation will pick up on the issue of the potential blighting of areas in relation to the maps, which is a good point well made that requires further debate.

[27] There are significant problems regarding the planning system migrating from unitary development plans to local development plans, which we feel will deal with all of the problems relating to the identification of sites at risk of flooding. We are in a current situation of transition, which means that many sites across Wales are earmarked for redevelopment and regeneration, many of them brownfield sites. In terms of retrofitting TAN 15, that means that they are potentially not suitable for development. Some of the sites have had a lot of investment. I know that some of the submissions have talked about the level of flood risk attributed to this, namely one flood every 1,000 years, and the potential for reviewing that. I am sure that the committee will also want to consider those issues.

[28] On what planning can do in relation to that, I think that there is a role for enabling the kind of mitigation that Dave spoke about, to ensure that it becomes embedded in the planning process and that it is done in a way that will reassure us all, so that, where we have to develop on or near flood-risk areas, the kind of situations that we have seen this morning will not occur. If the committee wanted to

investigate that further, I know that Bryan would gladly talk about the role that the planning service could have in that.

[29] The fundamental point that I would like to leave you with is that if we have this level of risk and this process in place, we will have to face the reality that there are sites across Wales where we would like to see regeneration and redevelopment for social and economic reasons, but, because of the risk associated with them, frankly, we will not be able to regenerate those localities. I am sure that the committee would like to discuss the implications of that.

[30] **Mr Price:** Good morning, everyone. My name is Richard Price and I am here today as a representative of the Home Builders Federation. We are the principal trade organisation for private sector home builders across England and Wales, and our members account for 80 per cent of the new homes that are built across Wales in any one year.

[31] I do not need to reiterate the problems associated with flooding that we have heard about today. Our company, our members and I hold this issue in the highest regard. I am here today to describe some of the problems that our members face with the implementation and operation of TAN 15. My presentation is based on a paper that I wrote about that, and I will pick out some of the main points.

[32] To begin, I would like to draw your attention to the first main issue, which is the discrepancy between the TAN 15 development appraisal maps, or rather development advice maps, and the Environment Agency's maps. It has been reported that the development advice maps are scheduled to be updated every three years, but the Environment Agency updates its maps every three months. We are concerned that the three-year period could render large parts of the development advice maps out of date, especially as time moves towards the final year before they are amended. If we are to maintain the accuracy of flood-risk guidance and if we are to reflect the current situation of our environment, the development advice maps should be updated far more regularly and maybe brought in line with the EA's guidance and updated on a three-monthly basis.

[33] To go further—and I may obviously be corrected on this—it is understood that the development advice maps will be updated by taking a snapshot of the Environment Agency's maps at that particular time. If that information is correct and the development advice maps are to be updated in that way, the requirement for a separate set of maps in TAN 15, which often conflicts with the Environment Agency's set of maps, could be deemed to be unnecessary. That would not only cause problems for development, from a developer's point of view, it but it could also cause problems with insurance companies, for instance, as they could read the maps wrongly and assume that residential developments are situated in flood-risk areas. That would no doubt have an impact in that it could raise premiums for buildings and contents insurance, and could even lead to difficulties with mortgage applications. This links well into the next issue that our members highlighted, namely conflicting advice between the Environment Agency and TAN 15, and how that is interpreted.

11.30 a.m.

[34] The Environment Agency has said in many cases that it overrides the guidance given in the development advice maps, and has further stated that it will not object to development that is within flood-risk areas depicted by the development appraisal maps, provided that the site can be shown to be safe from flooding. However, unfortunately, in many cases, our evidence is to the contrary. Our members have cited situations in which planning officers have objected to development sites on flood-risk grounds on the basis of the development advice maps alone, even when they have contradictory evidence from the Environment Agency, and also that the development advice maps have caused the Environment Agency to object to developments on flood-risk grounds, even when their own maps depict otherwise. This problem is compounded by the fact that, if you prove that the development advice maps are incorrect, it is extremely difficult to get them updated and changed to reflect the current situation. The example that I have given in my report highlights those issues well.

[35] Finally, I will highlight the problems with assessing and alleviating the consequences of flooding, which the gentleman picked up on earlier. Many of our members have experienced problems with the requirements of flood consequences assessments, and the need for advice on how to satisfy them appropriately. This is a particular problem for some of our smaller member companies, which sometimes find it difficult to know where to turn for advice, or do not have the resources to employ large consultancy firms to do the hydraulic modelling assessments. It is a risky business for them, at times.

[36] In light of this, the Home Builders Federation believes that more guidance should be given to developers to allow them to assess the situation more clearly, and remedy the risk of flooding with greater peace of mind that their efforts will be met with positive results, if that is possible. To bolster that, the HBF believes that it would be good to have a set of guidance notes, or a companion guide, to sit below TAN 15, which could go into more detail on satisfying the requirements of TAN 15 or the requirements of a flood consequences assessment or that sort of thing. That would be really helpful for our members.

[37] Those are the three main issues that our members have raised with me, and that is what I have gone into in my report, so that concludes my presentation. Thank you for giving us the time to raise our concerns and for listening to our issues.

[38] **Glyn Davies:** It is not over yet. [*Laughter.*]

[39] **Mick Bates:** Your evidence has been useful. May I ask a question to each presenter, Chair? Would that be in order?

[40] **Glyn Davies:** Yes, that is fine.

[41] **Mick Bates:** My first question is to Richard Price, and I thank him for his evidence. You brought up the problems of insurance—I will leave the maps to one side for a moment—and how insurance companies work. Do you have evidence that premiums are being increased on the basis of the maps provided? Secondly, is the insurance factor impacting on development?

[42] **Mr Price:** No, I do not have evidence of that. It was brought to my attention in a meeting that we had with our members on TAN 15 a while ago. I have been chasing it up with the Association of British Insurers, but it has not got back to me yet. To that effect, I do not have any evidence; I just thought that I would bring it in. However, it could be a consequence, and it could be a real issue.

[43] **Mick Bates:** Yes, it could be. I am pursuing this question particularly, because I know of cases in which premiums are being increased on the basis of a designation of an area as being at risk of flooding.

[44] **Mr Price:** Indeed. When an area floods, we know that your insurance premium will go up at a rapid rate. So, if developments are built in flood-risk areas and insurers see that, it stands to reason that they would take that into account, and assess the risk in that way.

[45] **Mick Bates:** The evidence on that is important to this inquiry about the impact of TAN 15, because insurance cost is a big impact. May I move on to the WLGA?

[46] **Glyn Davies:** I do not want to lose that point. Does anyone else wish to come in on this issue? Like you, Mick, I have heard anecdotal evidence from constituents who have approached me because they have suddenly found that their insurance premium has gone up. In fact, in one case, someone's house became uninsurable. I also heard anecdotal evidence recently from someone who wanted to change to another insurance company because the policy was cheaper, but she suddenly found that no other company would insure the house, so she stayed where she was. There is anecdotal evidence, but, clearly—[*Inaudible.*]—big risks. It would seem fairly straightforward, would it not? Does anyone else wish to come in on that? I have a list of three questions that I would like to deal with. We need to finish with the subject of insurance before we move on.

[47] **Brynle Williams:** I am sorry.

[48] **Mr Clarke:** Funnily enough, in preparing for this, I explored the position of the Association of British Insurers. It may be interesting for Members to know that, for new build on floodplains, ABI's current position is that it would raise premiums for anything within the 1 in 200 years zone. That is on its website.

[49] **Glyn Davies:** Brynle, do you want to come in?

[50] **Brynle Williams:** There is anecdotal evidence to suggest that, in some regions in the north, there has been a considerable increase in some insurance premiums simply because of mapping.

[51] **Glyn Davies:** Tamsin, do you want to come in?

[52] **Tamsin Dunwoody:** The point that I want to make on insurance relates to the assumption that you are all making that everyone has insurance. The most socio-economically disadvantaged do not have insurance. These are the people who are

usually most at risk. So, the responsibility for making decisions on where to build houses, particularly social housing, must take account of technical advice note 15, because those are our most vulnerable residents. They may not have insurance to cover their property. I am sorry, but I take a hard line on this. If someone who is in social housing and cannot afford insurance loses his or her property through flooding, that has a significantly greater impact on them, their families, their communities and their lives than it would on someone who is rich and middle class.

[53] **Glyn Davies:** No-one would disagree with any of that. Would you like to ask any more questions?

[54] **Mick Bates:** I would like to ask a question to the WLGA, and particularly to the planning officers. One of the issues that I raise regularly is the preparation of flood consequence assessments. From your point of view and that of the local authorities, can you tell us how these FCAs are prepared, the costs involved, and the availability of consultants who will do them?

[55] **Mr Graham:** The best person to answer that question is Gail Evans, as she has been working on the FCAs, particularly in terms of Swansea vale, which has already been mentioned. So, I will hand over to Gail on that point.

[56] **Ms Evans:** A limited number of companies undertake these hydrological assessments, and I understand that a limited number are able to use the technology and software to do the modelling techniques. The agency has an approved list, but the companies are under a lot of pressure to complete a number of these to support planning applications that are coming forward. The large developments, which involve the more costly flood consequence assessments, take priority on their list of things to do. Smaller developers suffer with regard to what companies are able to deliver.

[57] **Mick Bates:** Do you have any information about the costs that are incurred by developers or individuals?

[58] **Ms Evans:** Depending on the size of the development, it can range from £6,000 to £15,000, according to the limited information that I have.

[59] **Glyn Davies:** I wish to stick with the flood consequence assessments. Is yours a separate point, Brynle?

[60] **Brynle Williams:** Yes, mine is on a different point.

[61] **Glyn Davies:** Ask your third question then, Mick.

[62] **Mick Bates:** My third question is to the Environment Agency. You are aware that there is a different planning regime in England and I am aware of at least one cross-border development. How do you deal with the different requirements of the 1 in 1,000 and 1 in 100 zones when you have developments on the borders?

[63] **Mr Clarke:** We deal with that with some difficulty in terms of developments that cross the border, but those single developments in two places are obviously the

exception rather than the rule. Generally, if you look at the position in England compared to that in Wales, the guidance in England—‘Planning Policy Statement 25: Development and Flood Risk’—is currently being revised. A final decision has not been made with regard to the standards that are likely to be included in the new guidance, but our understanding is that the guidance is likely to be based on our 1 in 1,000 years flood outlines. So, I think that the position in England is moving towards that in Wales and might, in some instances, go past it. It is not an entirely straightforward situation, because the regime is also somewhat different. However, in broad terms, we expect England to move towards Wales on this matter.

[64] **Mick Bates:** Do you have an indication of the timescale?

[65] **Mr Clarke:** I think that the answer to that is that it will be months rather than years.

[66] **Glyn Davies:** I would like to raise an additional point on that, because evidence that we received from, I think, the Country Land and Business Association seemed to suggest that PPS 25 is likely to have a higher degree of flexibility than you allow. That is an assertion. I do not know whether it is right, but it was a point that was made quite strongly by the Country Land and Business Association. Is that fair?

11.40 a.m.

[67] **Mr Clarke:** The answer to that is that none of us knows until the Government takes its view. I am not closely involved in those discussions, and therefore I cannot add any information.

[68] **Glyn Davies:** We shall just leave that on the table as an assertion made in the letter to us from the Country Land and Business Association. Does anyone else wish to ask anything else? This is a comparison with what is happening in England, so it is a pretty significant issue.

[69] **Brynle Williams:** To Environment Agency Wales, we have an interesting situation in north Wales where a major flood alleviation scheme has been put through. We are now looking at a conflict with TAN 8, because it anticipates the clear-felling of 1,000 acres of forest upstream. I understand that we must look at the whole picture. With 1,000 acres of clear-felled forest and nothing to uptake water, the water will be sped further down. To what extent do we look at the cause of the flooding to see how we can help in some way?

[70] **Mr Clarke:** I do not want to comment on the specific example, not least because it is likely that we will receive some applications that will be directly affected. In broad terms, our view is that we must look at these issues holistically. Where you are dealing with clear-felling, as far as we can contribute to the discussions, we would look to contribute our views on flood risk and the implications. Ultimately, wherever you develop you must take account of the actual risk that exists. If that land has been cleared and the flood risk has been increased, that would have to be taken into account in any review of development. The correct place for that decision-making is in the local development and spatial planning processes, rather than through development control in individual applications.

[71] **Glyn Davies:** Does anyone else wish to comment on flood mitigation?

[72] **Tamsin Dunwoody:** Brynle's point is very important. This is not just about felling trees; it is about climatic change and everything around the process of building and having to deal with the climate. The expectation in society is that either local government or we, as the Government, will always put in some form of defence to protect against the threat. In fact, we need to look at it the other way around. Therefore, Brynle has raised a critical issue, and the Environment Agency and local authorities also have an important role to play in addressing the issue. It is not going to go away; the geography of Wales is not going to change. Climatic conditions are going to get worse, and we must take that on board in our planning and in the way that we manage all those aspects where we develop.

[73] **Glyn Davies:** Much of the talk has been of drainage systems that move the water more quickly. It is obviously a way of mitigating against flooding, but I know from discussions that I have had that it effectively means reversing the entire history of draining a valley simply to retain water. Clearly, there would have to be a support mechanism to back that up. No land manager would move from managing land in a productive, profitable way to simply farming it as a bog to retain water. Is there any work ongoing on large-scale changes to land management in order to mitigate, rather than to just defend?

[74] **Mr Clarke:** There is some work going on. There is a case study being undertaken at Pontbren, which has been quite successful. Alongside that, looking at slightly smaller-scale issues, TAN 15 encourages the adoption of sustainable urban drainage systems in individual developments, as part of the solution. There are some practical issues that are constraining the uptake of that, but, nevertheless, in principle, the policy on that is currently in a sensible place.

[75] **Brynle Williams:** To put this in a local context, we have mentioned the Conwy valley. It is interesting that there, I believe, water run-off has been partially blamed on farming practices, way up where land has been reclaimed, and this is why we come back once again to retaining environmental schemes on the uplands, and connecting that to the importance of trying to keep people up there.

[76] **Glyn Davies:** You are not talking about Tir Mynydd here, are you, Brynle?

[77] **Brynle Williams:** No, but it is worth a try. [*Laughter.*]

[78] **Lorraine Barrett:** I have a question for Richard Price and the homebuilders' federation. Are you, as an organisation, thinking about different ways of building houses and estates? In some parts of Australia, for example, they build their houses on stilts or platforms, but, obviously, they have slightly different houses—they are often wooden houses and kit houses that arrive in a box and you put them together. I am also thinking of things such as patios and hard standings. Years ago, we would all have had more garden, which would gradually have absorbed much of the water. Looking to the future, are those the sorts of issues that you are, or perhaps should be, considering?

[79] **Mr Price:** To my knowledge, I do not think that any of our major developers are considering building houses on stilts or anything like that. However, I had a meeting about consequences assessments the other day with someone who works in a consultancy, and he mentioned the importance of using intelligent flooring and so forth on lower-ground floors in houses in flood-risk areas, not only in terms of the mitigation that comes beforehand but in terms of the planning application.

[80] You will have to forgive my inexperience—I have only been in the job for three months, so I do not have a detailed explanation of what our members are trying to do in that regard, but I am sure that that is something that they are thinking about.

[81] **Glyn Davies:** This is an important area.

[82] **Lorraine Barrett:** Obviously, with regard to houses on stilts, platforms or raised bases, there are issues of accessibility and so on. However, in terms of the hard standings and patios that I mentioned, everyone now wants them. If you consider the modern housing development in my area, all the houses have hard standings at the front. Maybe we expect these anyway, because we want to take cars off the streets, and many people have a car. Can you take that away with you to your organisation and think about it for the future? Often, you could sell the houses, and people will fill spaces with those hard standings, patios and decking in any case, although, with some decking, the water can drain into the garden. I think that those are important things that everyone has the responsibility to start thinking about.

[83] **Mr Price:** They are certainly issues that have been flagged up and brought to my attention, so I will take them forward.

[84] **Glyn Davies:** One starts to explore the issue of flexibility in this area. For example, if somebody wants to develop in a flood-risk area, or at the edge of a flood-risk area, it is entirely possible, with earth-moving plant, to raise the level of the ground, by using soil from somewhere else within that area, so that it does not actually affect water storage. You can lift that development out of the flood-risk area without having any effect, as I say, on the capacity to hold a flood, as it takes the soil from the same place. In that sort of area, are you willing to compromise in terms of your recommendations to planning authorities?

[85] **Mr Clarke:** Yes; absolutely. The guidance that we have just issued says clearly that our advice will be based on the flood consequence assessments. It is feasible, within flood consequence assessments, to bring forward mitigation measures—certainly in some parts of the floodplain—that are entirely acceptable. We and our teams work with developers to try to give at least general advice on those things. So, the answer is ‘yes’.

[86] **Glyn Davies:** That is an interesting assurance. Does anybody else want to ask about this specific area?

[87] **Brynle Williams:** I have rather a ridiculous question, Chair.

[88] **Glyn Davies:** If it is a ridiculous question, Brynle, then you should not ask it, really.

11.50 a.m.

[89] **Brynle Williams:** No, but it is interesting that we now have building with the mitigation of raising foundations and so on. Will that go on indefinitely or can we turn off and say to the councils that we will accept this up to 2020, and thereafter there will be no planning permitted in floodplains? Are you using up your present allocation for building, provided that it is done as was said earlier? Is there any merit in saying that there is a cut-off date, and that, after a certain date, we will not consider any floodplain development?

[90] **Glyn Davies:** Does anyone wish to respond to that?

[91] **Mr Clarke:** We are of the view that certain developments within a one in 100-year floodplain should be prohibited, simply because of capacity issues, although we take a more relaxed view on zones between one in 100 and one in 1,000. In principle, if you build areas up you can reduce floodplain capacity, and that is an issue on which we need to keep an eye. I would also like to take the opportunity to distinguish one thing: there is a difference in mitigation terms between building up an area and raising a property, and providing a defence. The latter situation is much less satisfactory, because when the defence overtops the situation is much more dangerous.

[92] **Glyn Davies:** Elin, did you want to come in?

[93] **Elin Jones:** Yes. I missed an opportunity earlier to comment on the flood consequence assessment, but I want to go back to a point raised by Richard Price about the role of smaller developers. My constituency has many small developers who develop less than five houses—they are often one-man-band builders—and who find that the prospect and cost of commissioning or finding expert advice on very small developments is prohibitive. What support do local authorities or the Environment Agency give to those very small developments? In my experience, such developments are currently not happening, because developers are being turned away when local planning authority officers say that they cannot proceed. That might be what the Environment Agency or TAN 15 wishes, but if very small developments are not happening, while some very big developments are happening because those developers are able to commission expert advice on flood consequence assessments, I do not think that that is what TAN 15 had in mind. So, if it is having that type of impact, it would be useful to know what the Environment Agency or the local planning authorities can suggest in terms of ways in which that impact can be mitigated in some way.

[94] I want to go on to the question about the conflict between the maps, which has already been raised. The Environment Agency paper is quite clear in saying that the accuracy of development advice maps in some localities is questionable. This is proving to be problematic to local authorities and to developers. How can it be resolved, because the onus should not only be on developers to provide the support or the evidence to challenge the maps? The public authority should also take a responsibility in getting maps that are as robust as possible in place at an early stage in this new process of alleviating the flooding risk of any new developments.

[95] **Glyn Davies:** The points that you make relate to the accuracy of the maps. The first point is about the cost of challenging the accuracy of the maps. Richard has made his points on this issue.

[96] **Elin Jones:** Yes, and he suggested that there should be guidance for smaller developers.

[97] **Mr Price:** I mentioned earlier my meeting with a small consultancy that deals especially with smaller developers. It said that in C1 and C2 flood areas, people who just want to build extensions or conservatories have been asked to do flood consequence assessments. They are just residents, and they do not have a clue what the assessments are, and what they need to do. There seems to be one set of guidance for huge developments that is the same for smaller developments.

[98] **Glyn Davies:** It might help to have some comments from you, Dave.

[99] **Mr Clarke:** There were a bunch of questions there, but I will try to take them a bit at a time. On extensions and so on, there is a *de minimis* in the TAN and in our guidance that says that they pass through. So, there should not be a requirement—

[100] **Glyn Davies:** What level is that?

[101] **Mr Clarke:** The level of a household extension. That sort of thing should not require a flood consequence assessment.

[102] **Glyn Davies:** Is that the same level as the permitted development level?

[103] **Mr Clarke:** I am not a planner by trade.

[104] **Mr Graham:** It is just the fact that it is a household extension and many of those do not require planning permission. It is the same problem as with the points that you were making about hard-standings, patios and decking, which do not require planning permission, so there is no control in the first place. In terms of the Environment Agency's *de minimis* standard, it only applies if planning permission is needed.

[105] **Mr Clarke:** I will just come back on some of the other points. The question related to difficulties for small developers and we recognise that there are issues with that. The guidance that we have given to our staff is to try to apply proportionality as much as is practical, albeit recognising that TAN 15 sets out quite specific requirements for a flood consequence assessment.

[106] The other point is that, okay, this creates issues at times for builders but there are also buyers. Often, people who come along subsequently and buy things that have been developed are not aware of the flood risk, so part of our role is to provide a degree of a safety net. So, while I accept that it creates some issues, we need to deal with it.

[107] On the help and support that we give developers, unlike local authorities, we

do not get the application fees for applications. The cost of TAN 15 to us—and we support it fully and have put these resources in—is currently running, we believe, at about 18 FTEs. So, it is a significant—

[108] **Glyn Davies:** At what price was that?

[109] **Mr Clarke:** Sorry. We have to employ—

[110] **Glyn Davies:** Full-time equivalents?

[111] **Mr Clarke:** Yes. We have had to employ about 18 extra people to respond to these issues on a full-time basis. We have done that by reprioritising our existing resources, and we have not had additional resource to do that. We have done it because we think that it is important. It is the first part of flood-risk management and it is dealing with the issue before it even becomes an issue. We try to be helpful as far as we can but there are limits. We do not claim to offer a fully bespoke service to people on this issue, given present resource levels.

[112] **Glyn Davies:** Does anybody want to come back on mapping?

[113] **Elin Jones:** I do not think that my question in terms of the two maps has been addressed yet.

[114] **Mr Clarke:** Could you remind me of the questions? Sorry, I got lost with all the questions.

[115] **Elin Jones:** It was on the conflict between the two sets of maps, which has been referred to by the local authorities and by everybody, really, in the evidence, and your views on how that can be resolved.

[116] **Mr Clarke:** Obviously, the development advice maps were set at a point in time and reflected our maps at that time but also information from the British Geological Survey and information from the Assembly in terms of the C1/C2 division. As has been said, we update our maps regularly and we have instructed our staff to use the most up-to-date information that we have.

[117] In terms of public investment and improving those maps, we are currently investing in LiDAR surveys, which are aerial overflights with a radar for ground topography mapping. We have been doing that for the last couple of years and the last set of flights are due this autumn. We have to wait for the leaves to go from the trees for the radar to work, so that is a practical limitation. However, once that is done, it will still take a couple of years for all the maps to be updated, because it is not just a question of levels; you also have to model flood consequences, but there is a programme in place, which I do not think is being constrained particularly by resources, but more by practicalities and availability of consultants and so on. So, there is a programme in place to improve those.

12.00 p.m.

[118] **Glyn Davies:** I want to let Craig come in next—

[119] **Elin Jones:** May I ask my question first?

[120] **Glyn Davies:** Yes.

[121] **Elin Jones:** I want to clarify that the maps that local authorities use are Environment Agency maps that are later than the—

[122] **Glyn Davies:** That is what Craig was going to say.

[123] **Mr Graham:** Just to confirm the procedure, the development advice maps that the local authorities hold are effectively part of the TAN and we interrogate those in relation to every planning application that we receive, to establish whether there is a need to consult the Environment Agency because the application site is within the C1 or C2 areas. We hold and rely on those maps.

[124] **Glyn Davies:** Richard, you also wanted to make a comment.

[125] **Mr Price:** Yes, considering that fact and your question on what local authorities use, they use the TAN 15 maps on which they are supposed to consult with the Environment Agency maps. You have just mentioned the fact that you do not have the resources to do everything, which is fair enough. I think that that highlights, even more, the priority to get the TAN 15 maps and the guidance that local authorities use up to date. If that is the only thing that many of our smaller members, or even members of the public, can use and if the Environment Agency does not have the resources to go out there to help them through these hydraulic modelling assessments and so on, then I think that the guidance in TAN 15 should be brought up to date.

[126] **Glyn Davies:** The heavy guns now want to come in.

[127] **Mr Mills:** The point is that the local authorities use the development advice maps to raise the issue with the Environment Agency. That is the point; they are not using them in detail, but are using them as the guide or the trigger, if you like, for when to refer matters to the Environment Agency. We will then use our map and the best available data to give the flood-risk advice. In a way, whether or not we are using the development advice maps, at the end of the day, it is our maps that are used to assess the flood consequence.

[128] **Glyn Davies:** Craig, did you want to comment? Then I will let Elin come in.

[129] **Mr Mitchell:** Yes. I was going to make that point, in that this is about beginning that dialogue with the Environment Agency. A review of the maps next year possibly offers an opportunity to revisit that issue and see whether there is any potential to do things differently. There is the issue—I think that the Home Builders Federation picked this up earlier—of potential blighting that may not be addressed by that process, but I think that that is separate.

[130] There is a point about the potential for strategic flood consequence assessments as a process to deal with the difficulty of individual developers having to

generate flood consequence assessments for each development. I do not know if that is a potential way forward. I know that Conwy has done some work on that and that colleagues from Swansea have been involved in that. I do not know if they want to offer a view on whether that is a potential way forward.

[131] **Mr Graham:** In Swansea, we have done a number of strategic flood consequence assessments related to Swansea vale, the city centre and some of our development sites around Swansea bay. It is fair to say that smaller developers have benefited as a consequence. If I am frank, that has been an unintended consequence. We undertook those strategic assessments because we needed them to inform and fundamentally re-examine our regeneration programme. It is an issue because, notwithstanding the fact that we get a planning fee for our planning applications, you would be amazed at the claims that are made on the planning fee. We are not in a position to assist small developers with the cost of preparing or commissioning the flood consequence assessments. Looking at the figures for the applications that we have turned down because of TAN 15 issues, there is not a huge number, but there is a small and noticeable number, including the typical infill housing developments and single-dwelling houses where we have requested an FCA and, for whatever reason, it has not been forthcoming. I cannot say whether that is definitely for financial reasons, but that is what the application then tells us. It is not so much that it is unacceptable, but that they have failed to demonstrate that it can be built on a floodplain in a safe and acceptable way. So, it is an issue.

[132] **Glyn Davies:** Did you want to comment, Richard?

[133] **Mr Price:** Yes. I take the point that the Environment Agency made about using the development advice maps as traffic light signals to know when to contact the agency. However, in our experience, that is not what is happening: a lot of planning authorities are taking them as read. I think that it is just a matter of rolling out that advice to local planning authorities to get them to do that.

[134] **Jocelyn Davies:** May I just make a point?

[135] **Glyn Davies:** Of course you may.

[136] **Jocelyn Davies:** We have a Members' research service paper on this, and do not forget that we wrote to all planning authorities requesting a response. If you read the responses from the planning authorities about the maps—and they were only planning authorities—it is quite obvious that what Mr Price is saying is borne out by what those authorities said. There is a lot of confusion on this. The authorities are complaining that the maps are inaccurate and that local knowledge tells them that the maps include areas that are highly unlikely to flood; they say that there is conflict and confusion and that the weaknesses in the Environment Agency's data are being addressed at the cost of developers. That is what the research paper says that the planning authorities are telling us. I do not think that we can just dismiss that.

[137] **Glyn Davies:** On that point, Jocelyn, I think that you have an Assembly Parliamentary Service paper that summarises the responses.

[138] **Jocelyn Davies:** Yes.

[139] **Glyn Davies:** The clerk and I discussed yesterday whether all the individual responses should be made public. I cannot see why they should not be; no-one asked for them to be kept private and they have all been submitted to us.

[140] **Jocelyn Davies:** They would be subject to the Freedom of Information Act 2000 anyway.

[141] **Glyn Davies:** I think that we should be quite happy to make those responses public, so that people can see the detail rather than just a summary. If 10 or 12 people are saying the same thing, clearly, you think, 'Wait a minute, there is something in this'. Elin, do you want to come back in?

[142] **Elin Jones:** Yes, I do, on the maps and on what Bryan Graham just said. Two of the responses from local authorities—one of them might have been from your local authority—referred specifically to the issue that there was a perceived decrease in the number of infill sites, the very small developments, that are coming forward to local authorities at this stage. Whether that is a cause and effect of TAN 15 has not been substantiated. However, individual developers are being told that the development advice maps are being interpreted by local authority planning officers as the bible—I am not looking at you; I will look somewhere else. They look at those maps and give advice. There are definitely small applications out there that are not coming forward because that advice is being given and the developers are not able to challenge it in any way. I want to ask the Environment Agency, as you have your own maps, how public those maps are. How accessible would those maps be, for example, to me, if I wanted to build a house next door to mine? I live in a terraced street, so I would not be able to do that, but never mind. If the development advice map said 'no', could I go to the Environment Agency directly and ask, 'What would your mapping system tell me?'. That would give an indication as to whether it would be worth that developer commissioning some kind of hydraulic report.

[143] **Mr Clarke:** First, our maps are on the web; they are published on the internet. Secondly, if you came into one of our offices, we would be able to show you more detail, if you chose to do that. Thirdly, we recognise the limitations of the maps. They are substantially better than the development advice maps, but nevertheless are a work in progress, and when a developer brings forward evidence that shows that the maps are incorrect, we take that on board in our response.

[144] **Glyn Davies:** That was a pretty straightforward answer. Jocelyn, did you have a point that you wanted to raise?

[145] **Jocelyn Davies:** Yes. The Environment Agency's paper, in addressing the claim that the agency makes the decision, states that the facts speak for themselves and cites all the times that the agency's advice has been ignored or overruled by local government. I accept that local government is free to reject your advice, but are you not a bit worried that planning authorities are ignoring your advice in a substantial number of cases?

12.10 p.m.

[146] You said in your paper that, in almost 30 per cent of cases where you sustained an objection—this is in cases where you have continued to press your objection—the planning authority went against your objection. That was 133 cases. You then asked for just 11 of those to be called in. There is a big difference between 133 and 11, so what criteria are you using when you request a call-in? That only resulted in four cases being called in, out of that 133, although you say that another two applications were refused or withdrawn. Therefore, why is there such a big difference in the numbers? You sustained an objection in 133 cases, but you only asked for 11 to be called in, and then only four were.

[147] **Mr Clarke:** The planning process is designed to balance a range of concerns and issues, of which flooding is just one. Our role in the process is to provide advice to local authorities. The TAN, as written—and the Minister has just amended this in a recent circular—says that the agency ‘will’ object if the flood consequence assessments and so on, cannot be met, rather than the agency ‘may’ object. Our legal advice was that we have to object in those circumstances.

[148] We would prefer a higher proportion of our recommendations to be taken on board, but we have also recognised that it is local authorities that take the decision. There is a role for local democracy here—we respect that, and we have only sought call-in where we were particularly concerned, and we thought that there were more significant risks; that is a matter of judgment, frankly. We tried to give guidance on that to our staff in the guidance that we recently issued, but, ultimately, requests for call-in will be signed off by Chris, after consultation with me and the area managers. Therefore, we request call-in as a last resort, because we respect the fact that local authorities are there to make that decision.

[149] **Jocelyn Davies:** There is still an awfully big difference between 133 and 11, and then only four of those got agreement for call-in. You mentioned your relationship with local government. One authority described your approach as negative and pedantic. What do you say to that?

[150] **Mr Clarke:** I hope that it is not. I do not believe that that is the general view, and I think that that is reflected in the Welsh Local Government Association’s evidence. As I recall, it commended our approach in trying to address this. Given that we have dealt with over 2,000 applications, I am sure that there will be some instances where there are significant disagreements at the local level on individual issues, and I am sure that agency staff sometimes step over the line that we would like them to keep to. That is why we have issued guidance recently, simply to reinforce the line that we want to see kept to.

[151] **Elin Jones:** Following on from that, paragraph 20 of the WLGA paper refers to something that is also referred to in some of the individual responses, which is that the Environment Agency tends to send out responses in standard paragraphs and blanket form. It is, possibly, a kind of cut-and-paste response, which is not individually tailored to individual applications. I cannot comment on whether that happens or not, but I would be concerned if it does, because this is about individual planning applications for particular developments. The systems that we have, and the resources that we have to put into those systems, should be robust enough to allow individual assessments and responses to applications. This issue may well relate to

resources on the part of the Environment Agency.

[152] **Glyn Davies:** Do you wish to respond to that, or are you content to take it as a comment?

[153] **Mr Clarke:** They are our standard responses, so I suppose that I should respond. You are right to say that individual cases should be treated on their merit and our guidance to our staff emphasises that. However, there is an important role for standard responses in that. For example, more than half the standard responses that we give are simply responses to local authorities that say, 'This is an application in zone C, and there should be a flood consequence assessment if we are to take this further'. It does not make a lot of sense to do anything other than issue a standard response in that situation. Secondly, issuing standard responses to those sorts of issues mean a quicker turnaround, which is in everyone's interest. Thirdly, in certain circumstances, they also provide for consistency, so that common issues get common answers. I think that that is right, too. So, I am not saying that everything should be dealt with in standard responses; I do not agree with that. I agree with your general point of principle, but let us not lose sight of the fact that they are an important part of the system.

[154] **Glyn Davies:** Do you want to come back in, Mr Price? I want to wind up quite soon.

[155] **Mr Price:** I have a point for clarification. One of your colleagues explained to me last week that you will not automatically be objecting to a development within C2 areas any more, and you will consider every case on its merits. I know that you have just explained that. Is that in the new guidance that you have set out?

[156] **Mr Clarke:** Yes, and we have just issued that.

[157] **Glyn Davies:** I have a question on an aspect that we have not gone into. In some ways, it is tangential to the discussion today. However, Craig made a point earlier about this, and I would like to put it on record that many areas of development land will, as a result of this, become unavailable for development. Is there a sufficient amount of work taking place within local authorities to measure the scale of this and to ensure that replacement land is being identified and that it will not create development shortages in Wales? That is a general point, which is consequential to TAN 15, but is hugely important. I do not want you to enter into great detail, but do you have a response to the general point?

[158] **Mr Graham:** I can only speak for Swansea on this, but our biggest issue prompted by TAN 15 is that in Swansea vale, and also in other areas of the county, such as Swansea west industrial estate, we have sites that are allocated in our unitary development plans and which have been there for many years. Swansea vale was initially granted outline planning permission back in the early 1990s and it has been allocated in development plans since. To answer your direct question, while we try to work through the issues in relation to these reallocated sites to see whether we can bring forward development after all, we are having to assess the consequences if the outcome is that that development cannot take place. We will, obviously, have to find alternative sites.

[159] This highlights an important point. I consider it to be a crucial point and it is one that I would like to leave with the committee. There is a distinction between greenfield sites, where one is starting with a clean sheet of paper and where everyone knows what TAN 15 says and what applies, and sites that have outline planning permission or sites—Swansea vale is an obvious example; it has been quoted in other people's evidence—which have been allocated for some time and where there has been a huge amount of public investment. Some £25 million has been spent on infrastructure site preparation in Swansea vale. There is a duty in those circumstances to do everything that we possibly can to see whether development can be brought forward, and we are working with the agency in a very positive sense to do that. That is where the planning system has a role to play, because what we are looking at in Swansea vale is the preparation of strategic flood protocol plans, which will look at mitigation strategies, flood forecasting, and emergency evacuation plans. We can use planning permissions, in planning conditions and legal agreements, to bring that document forward, because half of Swansea vale is development and half is not. Arguably, we cannot do anything about the developments that are already there—although perhaps the agency can—such as the Asda superstore, which could end up looking like the site in Carlisle. That site is already there. Asda is not going to close; we cannot make it close. By the same token, should we not develop the site that is nearby, even though we could develop it using planning controls to ensure that we have effective mitigation strategies in place, which could be adopted as role models by other businesses that are already in place in the floodplain? I think that that is an important point for us to develop and to try to take forward.

12.20 p.m.

[160] **Glyn Davies:** We do not have time to pursue this because there is a whole range of issues here. In a situation such as this, we would normally programme a slot for our next meeting when we have the minutes of this discussion, and then we decide what we want to do. We may well want to do a report for the Minister expressing some views. We, as Members, have not decided exactly what we want to do on that yet. However, I must say that one possibility must be that we would want to talk with the planning authorities about how we deal with the position in relation to the development of local development plans across Wales, consequent upon the impact of TAN 15—but that is something for our next discussion.

[161] Do you, Rosemary, want to comment on anything that you have heard?

[162] **Ms Thomas:** I am very grateful for the opportunity to come in. It has been really interesting this morning. You have had very good exposure to the types of issues that need to be raised if we are serious about addressing climate change. The other issue that has struck me very clearly is that of the maps. When the initial draft maps were prepared and colleagues consulted on them before TAN 15 was prepared, there was very little response at that stage, because the issue was not on anyone's radar. We have produced the DAM maps—[*Laughter.*]—and now everyone knows about them. We have refined the process, as Chris explained, and everyone is very familiar with the issues about any minor changes to the boundaries.

[163] To be fair, I think that I should clarify the point that Richard was making

about this three-monthly review of the Environment Agency maps, and the fact that our development advice maps are quite out of date. I should explain that we are talking about things changing at the margins. There are not huge changes to these maps. As we made clear in TAN 15, we are committed to reviewing the maps in 2007. We will be in discussion with the Environment Agency because there is a healthy discussion as to how we take that forward. I am sure that we would involve the committee in that at some stage.

[164] The evidence that you have had from the authorities has been very helpful, and I was particularly interested in that put forward by Conwy County Borough Council, because it has had the Tywyn floods up there, so it really knows all about flooding problems. Conwy has submitted a very constructive way forward with the strategic flood consequences assessments, which others have picked up on. That really is the way forward. To pick it up with the development plan process, given that authorities are now starting to do work on their new local development plans, they can bolt on the strategic flood consequences assessment approach, and that is how it will go forward. The problem that we have, as our friends from Swansea explained, is that these existing allocations are knocking around, which we have all been investing in over the years, but, because of this policy change, we have to break into the cycle, review and take the opportunity with the new plans informed by the strategic flood consequences assessments to try to get a step change in how we re-allocate things.

[165] I also wanted to pick up on the point that Brynle made about the uplands of Wales, where trees are being cut down on a massive scale, and to talk about how that fits into the whole moisture retention process. I am off-message now, but I know from my former existence that there were river catchment management plans and there are some trial areas. That is the type of thing in which you are integrating what is going on in the uplands, because it has an impact on what could be happening lower down. So, it is all joined up in some shape or form.

[166] The other thing that has come out of today's discussion is the initial teething problems with the introduction of quite a radical and innovative approach in Wales. I think that things are better, and colleagues in the Environment Agency have been going around Wales with colleagues from the planning division, putting an awful lot of time and effort into training. I think that we are now seeing that local authorities are more confident in how the system is working. The Environment Agency has also done internal training, and we have also put out revised guidance, tweaking the existing guidance. We are all getting our act together and learning from the experience in taking things forward, and that iterative process will continue. I think that that is all that I really need to say at this stage.

[167] **Glyn Davies:** Thank you, Rosemary. I also thank everyone else for coming. That has been a helpful discussion. I am unsure in my mind as to where we will go from here, although the discussion itself was useful. I will e-mail Members and we will decide whether or not to produce a paper or whether we are content to let it lie. We will do that by e-mail, and maybe we will have a brief discussion at our next meeting. Thank you all. That ends the meeting.

*Daeth y cyfarfod i ben am 12.26 p.m.
The meeting ended at 12.26 p.m.*

