

TGN 25 Revised

June 2020

The Practical Application of Strategic Planning Policy for ‘Development in Proximity to Reservoirs’

1. Introduction

- 1.1 This Technical Guidance Note (TGN 25 Revised) supersedes the Technical Advice Noted, dated August 2018.
- 1.2 The purpose of this Technical Guidance Note (TGN) is to explain the general approach DfI Rivers will follow when providing advice to Planning Authorities on all relevant applications for development within the potential flood inundation areas of controlled reservoirs as shown on Flood Maps (NI). The advice which DfI Rivers provides to Planning Authorities is a material consideration; the relevance and weight to be accorded to it is a matter for the Planning Authority.
- 1.3 Legislative requirements for consultations with the Department for Infrastructure (the Department) (in respect of Roads and Rivers) is provided for by Schedule 3 paragraph 4 of The Planning (General Development Procedure) (Amendment) Order (NI) 2016.
- 1.4 This TGN has not been subject to public consultation and will be posted on the DfI website for information.
- 1.5 This document will be subject to periodic review and updated as required.

2. Legislative & Policy Context

Reservoirs Act (Northern Ireland) 2015

- 2.1 The Reservoirs Act, when fully commenced, will provide a proportionate regulatory framework for the maintenance and management of controlled reservoirs in order to protect people, economic activity, the environment and cultural heritage from flooding caused by an uncontrolled release of water due to reservoir failure. The introduction of this regulatory framework is dependent upon the commencement of relevant sections of the Reservoirs Act (NI) 2015 and the making of subordinate legislation.

- 2.2 The definition of a controlled reservoir is provided by sections 1 to 5 of the Reservoirs Act. These sections have commenced and provide that a controlled reservoir is any structure or area that is capable of holding 10,000 cubic metres of water, or more, above the natural level of any part of the surrounding land.

Current Planning Policy for ‘Development in Proximity to Reservoirs’

- 2.3 The Strategic Planning Policy Statement for Northern Ireland (SPPS), paragraphs 6.119 to 6.122, together with the provisions of Policy FLD5 of Revised PPS 15 provides that new development will only be permitted within the potential flood inundation area of a controlled reservoir if the applicant can demonstrate that the condition, management and maintenance regime of the reservoir is appropriate to provide sufficient assurance regarding reservoir safety and the developer provides a flood risk assessment (FRA) which includes, amongst other considerations, an assessment of the downstream flood risk, including flood water depth, velocity and flow path issues.

Long Term Approach

- 2.4 Condition assurance is one of the main considerations that informs the planning process in relation to flood risk from controlled reservoirs, which are regulated under legislation, in England, Scotland and Wales. Therefore, if a similar approach was to be adopted in Northern Ireland, the assessment of flood risk to proposed development in the potential inundation area of a controlled reservoir should be dependent on the applicant being required to provide sufficient assurance regarding reservoir safety. Once this assurance is provided, it is considered that the likelihood of reservoir failure is so remote that other considerations in relation to potential flooding should be set aside for such applications.
- 2.5 In the longer term, it is proposed that Northern Ireland adopts a similar approach to applications for development in the potential inundation areas of controlled reservoirs to that which applies in England, Scotland and Wales. It is accepted this can only apply whenever the key provisions of the reservoir safety framework, provided for by the Reservoirs Act (NI) 2015, are commenced and Reservoir Managers will have an obligation to comply with the Act. Planning policy may also need to be reviewed at this stage.
- 2.6 It is important to note the reason for introducing planning policy for development in proximity to reservoirs remains fundamentally unchanged at present, in that a risk still remains of inappropriate new development in the potential inundation areas of controlled reservoirs. Nevertheless the practical details associated with its implementation need to be addressed in the short term before the longer term solutions can come into effect. The following approaches outline how consideration of the existing policy can be retained but the weight afforded to

various aspects can be varied, depending on the condition, management and maintenance regimes of controlled reservoirs affecting the development.

3. Short Term Approach

Responsible Reservoir Manager Status

- 3.1 Until the key provisions of the Reservoirs Act are commenced and fully implemented, it will not be possible for the Department to adopt the approach being taken in England, Scotland and Wales. However, it could do so for those controlled reservoirs where it is satisfied that the condition, management, and maintenance regime of the reservoir is appropriate to provide sufficient assurance regarding reservoir safety.
- 3.2 It is considered that this will entail a Reservoir Manager voluntarily entering into a written agreement with the Department to comply with key provisions of the Act. The management and maintenance of controlled reservoirs will be assessed against the requirements of the Reservoir Act 1975 (as amended) which applies to England and Wales.
- 3.3 When it is satisfied that the agreement is in place and it can be demonstrated that it is being adhered to, the Department will confer 'Responsible Reservoir Manager Status' on the named reservoir.
- 3.4 In the context of land use planning, this would mean that the Department could have a similar approach to England, Scotland and Wales in that condition, management and maintenance of controlled reservoirs would be the key consideration and, as the likelihood of reservoir failure would be low, a FRA would not be required.

Condition Assurance Only

- 3.5 Assurance on the condition of a reservoir is one element of the requirement to demonstrate that the condition, management, and maintenance regime of the reservoir is appropriate to provide sufficient assurance regarding safety.
- 3.6 The Department will consider such assurance provided by the applicant or others, but will also insist on all the matters in the interests of safety identified in the current inspection report¹ being completed 'up front' and signed off by an All Reservoirs Panel Engineer (ARPE) before advising the Planning Authority that condition assurance has been met for planning purposes. Alternatively, the Planning Authority may wish to consider the use of negative conditions/planning agreement to ensure works are completed and agreed by an ARPE prior to the

¹ A Reservoir Inspection Report is a report completed in accordance with Section 10 of the Reservoirs Act 1975 (as amended).

commencement of development. This will provide the Department with the confidence, for the application under consideration, that the likelihood of inundation zone flooding is greatly reduced, at this time, and as such a FRA is not required.

- 3.7 For each subsequent development, the requirements of the above paragraph will need to be reconsidered as, in the absence of a regular inspection/supervision regime, deterioration of the reservoir could have taken place from the date of the last consultation response to the Planning Authority.
- 3.8 When obtaining assurance regarding reservoir safety, the developer should engage with the Reservoir Manager (if it is a different party). This will also provide an opportunity for the Reservoir Manager and developer to jointly consider any structural improvement works required to make the reservoir safe or other implications the development may have for the Reservoir Manager. The funding of such works is a private matter between the developer and the Reservoir Manager.

No/Insufficient Assurance on Condition, Management and Maintenance

- 3.9 Where no, or insufficient, evidence is provided by the applicant regarding the condition, management, and maintenance regime of the reservoir, the Department will carry out an assessment of flood risk to people and advise the planning authority accordingly.
- 3.10 The Department considers the 'Supplementary Note On Flood Hazard Ratings and Thresholds for Development Planning and Control Purpose – Clarification of the Table 13.1 of FD2320/TR2 and Figure 3.2 of FD2321/TR1', dated May 2008, to provide a suitable assessment of flood risk analysis to people for planning purposes. Link: [Supplementary Note On Flood Hazard Ratings](#)

Assessment of Flood Risk to People

- 3.11 To assist with the implementation of 3.9 DfI Rivers has produced Hazard Rating Classification banded reservoir flood mapping that can be used for the required assessment of flood risk to people.
- 3.12 Based on the Hazard Rating Classifications derived in, and presented pictorially at Table 4 on page 5 of the document (referred to paragraph 3.10), the Department will advise the Planning Authorities that the Hazard to People Classifications '*Danger for all – includes the emergency services*' and '*Danger for most – includes the general public*' to be unacceptable combinations of depth and velocity for general development proposals.

- 3.13 The Department will advise the Planning Authorities, that the Hazard to People Classifications '*Danger for some – includes children, the elderly and the infirm*' and '*Very low hazard - Caution*' to be acceptable combinations of depth and velocity for general development proposals. However, when the development is specifically or primarily for children, the elderly, or the infirm, the Department will advise the Planning Authorities that the Hazard to People Classification '*Danger for some – includes children, the elderly and the infirm*' to be an unacceptable combination of depth and velocity.
- 3.14 The Department will advise against measures aimed at changing the Hazard Rating from unacceptable to acceptable as this will impact flow paths and therefore increase flood risk elsewhere.
- 3.15 Land infilling, for the purposes of providing freeboard to fluvial flood plains and tying into existing levels will be permitted if the Department has advised the Planning Authority that the Hazard Rating is acceptable.

4. Access to Reservoir Hazard Classification Flood Mapping

- 4.1 Access to Reservoir Hazard Classification flood mapping is governed by the 'National Protocol for the Handling, Transmission and Storage of Reservoir Information and Flood Maps Version 2.4.5 June 2018'.
- 4.2 Applicants, and/or those representing an applicant, and/or a Planning Authority, wishing to view a 'Reservoir Hazard Rating Classification Map for Development Planning' should contact DfI Rivers Planning Advisory & Modelling Unit (PAMU), 44 Seagoe Industrial Estate, Seagoe Lower, Craigavon, BT63 5QE, Telephone: 028 3839 9118, Email: riversplanning@infrastructure-ni.gov.uk.
- 4.3 If requested, and after the bona fides of the applicant/applicant's agent/Planning Authority are established, DfI Rivers PAMU will facilitate the viewing of relevant Reservoir Hazard Rating Classification Maps for Development Planning.
- 4.4 PAMU can provide an applicant/applicant's agent/Planning Authority with a hard copy of a site specific map on request provided that it is entirely satisfied that the applicant/applicant's agent/Planning Authority needs to have the map to either inform the application or consider the application. Site specific maps will carry an 'Official Sensitive' classification and will be provided on a 'privileged disclosure' basis as the recipient "needs to know" the details provided on the map.
- 4.5 The covering correspondence from PAMU will explain that privileged disclosure

relates to provision of information outside of the public rights of access established by Freedom of Information Act 2000 and the Environmental Information Regulations 2004. The covering correspondence will also explain that the site specific map is classified 'Official Sensitive', is for the recipient's use only, is provided on a 'need to know basis', and the recipient must not share the map with another party.

- 4.6 PAMU will refuse any request from the general public for a copy of either a full Reservoir Hazard Rating Classification Map for Development Planning and/or a site specific map made under the Environmental Information Regulations 2004, under the provisions of Regulation 12(5)(a) as disclosure would adversely affect national security given the nature of the information that the maps contain.