

Appendix 3 – Letter from Angus Kerr, Director of Planning Policy Division to Mr Pat Aldridge, Director of Engineering at DARD Rivers Agency, dated 12/12/2014 clarifying Department of Environment's position in relation to the status of flood protection for the purposes of policy interpretation under Revised PPS 15.



the policy, under the provisions for undefended areas. The Department does not consider that this is the case. It is the Department's view that, notwithstanding that existing flood defences are now considered to be below the minimum standards, these areas should continue to be identified as 'defended'; albeit to a lesser standard than previously thought.

Can I also clarify that the provision in Revised PPS 15, by way of exception, for the development of 'previously developed land in Defended Areas' (as referred to in policy FLD 1), would incorporate proposals comprising replacement buildings (as well as new development on previously developed sites, redevelopment schemes etc). In relation to the issue of how to deal with the new modelling data for Omagh and Newry, I am reluctant to pursue an approach involving a change in regional planning policy that has already been subject to a public consultation process and recently agreed through the Environment Minister and the Executive Committee. Any such change would need to be dealt with urgently through the emerging SPPS and would require Ministerial and Executive agreement. It would be unusual to change regional policy to deal with new information emerging at a local level and to progress down this route I would need early confirmation from Rivers Agency that the existing regional policy is fundamentally flawed and requires amendment.

The alternative approach which I would prefer, would be for the planning system to address each application on a case by case basis. In discharging these functions, there is flexibility in the planning process to apply policy taking into account all other material planning considerations, including local circumstances. The weight to be given to those planning considerations which are relevant in any given case is a matter of planning judgement for the decision taker. As such, there is scope for the new modelling data particular to Omagh and Newry to be fully taken into account, paying due regard to consultation advice sought from Rivers Agency.

In addition to the current flexibility in decision taking, the transfer of planning powers to Councils next April will also present a further opportunity to take account of local circumstances, including local flood risk. Therefore, councils, in bringing forward new Local Development Plans (LDPs) can develop flood risk planning policies, in consultation with Rivers Agency, tailored to local circumstances such as those now identified in Omagh and Newry.

I hope you find this response helpful and I am of course happy to meet to discuss further, if necessary.

Yours sincerely



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