

READING BOROUGH COUNCIL

REPORT BY DIRECTOR OF ENVIRONMENT AND NEIGHBOURHOOD SERVICES

TO:	STRATEGIC ENVIRONMENT, PLANNING & TRANSPORT COMMITTEE		
DATE:	19 <sup>th</sup> March 2014	AGENDA ITEM:	
TITLE:	INTRODUCTION OF SUSTIANABLE DRAINAGE ADOPTION BOARDS (SAB'S)		
LEAD COUNCILLOR:	Cllr PAGE	PORTFOLIO:	STRATIGIC ENVIRONMENT PLANNING & TRANSPORT
SERVICE:	TRANSPORT	WARDS:	BOROUGHWIDE
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1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 Schedule 3 of The Flood and Water Management Act 2010 establishes Sustainable Urban Drainage (SuDS) Approving Bodies (SABs) in unitary authorities (in single tier local government) and county councils (in two tier areas), and gives those bodies statutory responsibility for approving Drainage Applications and, in some cases adopting, the approved drainage systems associated with all new developments .
- 1.2 A drainage application will contain the full design, construction, operation and maintenance details of a drainage system to manage surface water from development which will demonstrate compliance with the SuDS National Standards. This application is submitted to the SAB
- 1.3 The statutory procedures were due to receive approval in December 2013 with the SAB's commencing on April 6th 2014. However at a reading of the Water Bill in Parliament on the 6<sup>th</sup> January 2014, Dan Rogerson MP, Parliamentary Under Secretary of State for Water, Forestry, Rural Affairs and Resource Management stated, "*it is looking increasingly unlikely that we will be in a position to ensure that the scheme comes into force this April which was our preferred date for implementation*" but continued "*I remain committed to introducing the legislation at the earliest opportunity. I plan to lay the relevant affirmative regulations by April, to underline the Government's commitment to addressing flood risk*"
- 1.4 The Department for the Environment and Rural Affairs (DEFRA) confirmed on the 17<sup>th</sup> February 2014 that the necessary legislation to implement Schedule 3 will be laid in April with formal commencement starting on the 1<sup>st</sup> October 2014.

## 2. RECOMMENDED ACTION

- 2.1 This report details the proposed process required to commence the statutory requirement of the SAB and recommends that prior to a formal implementation date being confirmed by Government, that the authority commences an approval process on a voluntary basis.

## 3. POLICY CONTEXT

- 3.1 This is a statutory requirement that has to be implemented in accordance with Schedule 3 of the Flood and Water Management Act 2010

## 4. THE STATUTORY POSITION

- 4.1 When the SAB's implementation date is confirmed, applicants for all major planning applications (as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2010 (DMPO)) submitted for approval must also submit a drainage approval application to the Sustainable Drainage Approving Body (SAB) and that from April 2017 all planning applications serving more than 1 dwelling or 100m<sup>2</sup> will be required to also submit a drainage approval application. However there is no provision for the Planning Application to be invalidated if the drainage application is not submitted at the same time. This could result in approximately 50 drainage applications a year between 2014 and 2017 and 350 a year after April 2017. One of the important requirements of the act is that no work can commence on site until the drainage application is approved.
- 4.2 Sustainable Urban Drainage systems (SuDs) are a sequence of management practices, control structures and strategies designed to efficiently and sustainably drain surface water, while minimising pollution and managing the impact on water quality of local water bodies. A well designed SuDs scheme will manage runoff volumes and flow rates thereby reducing the impact of urbanisation on flooding. As well as being sympathetic to the environment and the needs of the local community they should also protect and enhance water quality.
- 4.3 The National Standards have a hierarchy for surface water runoff and the runoff must be discharged to one or more of the following, listed in order of priority:
- 1) discharge into the ground (infiltration); or where not reasonably practicable,
  - 2) discharge to a surface water body; or where not reasonably practicable,
  - 3) discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
  - 4) discharge to a combined sewer.

- 4.4 SAB's will have to approve the drainage proposals for all new developments and ensure they comply with the National Standards. The National Standards contain 28 policy statements with regards to run off, water quality, construction, maintenance and viability. The SAB can approve or refuse a drainage application and if it refuses an application the applicant has the right to appeal similar to the planning application process. It should be noted there are no standard drawings to supplement the national standards and DEFRA recommend applicants and Local Authorities use the drawings produced by the Construction Industry Research and Information Association (CIRIA) in their SuDs Design Manual.
- 4.5 Drainage applications should preferably be submitted jointly with a planning application, but need to be determined by a department separate from the Planning Authority. The SAB is required to determine a minor application in 7 weeks and a major application in 11 weeks, 2 weeks less than the statutory requirement for determining Planning Applications. This is in DEFRA's view to ensure the Planning Authority is aware of the SABs decision before determining any simultaneous planning application.
- 4.6 The SAB also has to consult the following statutory consultees, Sewerage Undertaker, Environment Agency (if discharge is in to a main river), Highway Authority, Canal and River Trust (if discharge is in to the waterway managed by them), Internal Drainage Board (not applicable for RBC). Addition stakeholders where appropriate are Lead Local Flood Authority (RBC), Government Pipeline Agency, Water Company. There is no requirement for the SAB to undertake public consultation as this is deemed to be done through the planning application process. The act states that consultees have to respond in 21 days if they want there comments to be considered by the SAB when they determine the application.
- 4.7 A fee for the drainage application is payable and this has been set by DEFRA as follows,
- £350 for each application plus [up to a maximum limit of £7,500]:  
For every 0.1 ha up to 0.5 ha - £70  
For every 0.1 ha between 0.5 ha and 1 ha - £50  
For every 0.1 ha between 1 ha and 5 ha - £20  
For every 0.1 ha above 5 ha - £10
- DEFRA have confirmed that it is unlikely that the fees will cover all the SABs costs but this is a similar approach to that with Planning Applications.
- 4.8 As well as assessing the compliance with the national standards the SAB also has to take in to consideration the viability of the proposals on the overall development. DEFRA have made it clear that the implementation of SUDS should not hinder development. However while the standards refer to viability, it is clear from meetings officers have had with DEFRA officials that they have not fully understood how the viability for SUDS can not logically be divorced from any viability arguments put forward in the determination of planning obligations. In practice it is likely that the provision of a good standard of SUDS will be accounted for within the viability report submitted with any planning

application and the provision of SUDs therefore will take priority over planning requirements if viability is an issue. If a poor quality of SUDs is put forward on the basis of the impact of planning requirements it would create a difficult situation for the Planning Authority. However in any event the cost of the SUDs scheme would likely to feature in a viability report submitted with a planning application and would require verification from the SAB.

- 4.9 The SAB is able to place conditions on any approvals it issues and the guidance notes which supplement the National Standards contain a list of model conditions. However there will be no mechanism to discharge conditions unlike the Planning Process and therefore if the applicant is not complying with the conditions laid on the permission the SAB may have to consider enforcement action to ensure compliance.
- 4.10 Following approval the SAB will have to adopt any drainage system under a highway or serving more than 1 property. The definition of a property within the National Standards and the Act refers to a single building which includes Supermarkets, warehouses, schools and blocks of flats. The SAB must adopt a drainage system if it meets the criteria even if it is on private land and is responsible for its future maintenance and there is no mechanism to obtain commuted sums to cover the future maintenance liability. However if under the highway and the applicant proceeds with a Section 38 agreement for formal adoption the SuDs will become the responsibility of the Highway Authority and not the SAB. As a result, commuted sums can be charged as part of the Section 38 process.
- 4.11 The SAB can exempt locations from direct discharge in to the ground (Infiltration), if it believes infiltration would result in an unacceptable risk of ground instability or subsidence. Given the severe problems the Borough has with subsidence in areas with former chalk mines, which could be made seriously worse by water ingress, the Reading Borough Council SAB will not accept infiltration methods in the areas where subsidence will occur.

## 5.0 THE PROPOSED IMPLEMENTATION

- 5.1 It is proposed that the SAB be incorporated within the Transport Development Control Section of the Transport Department given the obvious links between the SAB and the Planning and Highway sections. Given the Transport Development Control section involvement in the planning process, especially with the pre-application process, they will request applicants discuss the proposed drainage for a development at the pre-application stage to try and ensure satisfactory drainage schemes are submitted at application stage.
- 5.2 As the drainage application is required to be submitted at the same time as the Planning Application it is proposed that the validation and registering of the drainage applications is undertaken by the Planning Administrative section. DEFRA on the 17<sup>th</sup> February announced that, "*To ensure that local government are sufficiently prepared to undertake their statutory duties successfully from the outset it has been working with the Planning Portal to provide a facility to submit SuDS applications - either with an online or paper planning application or separately as a standalone paper application.*" Further details

on this process and the implementation date are to be provided at a DEFRA seminar on the 10<sup>th</sup> March. Unfortunately as this is after the deadline for reports to this committee have to be completed a verbal update will be given to committee. However in case of delays in DEFRA and the planning portal implementing this approach, a draft application form to be used by this authority in the interim and validation checklist is included within Appendix 1 to this report. The submitted details will be added to the Planning website linked to the relevant Planning Application for the site to enable statutory consultees to obtain the proposed details, thereby neglecting the need to send these out in the post at a considerable expense.

- 5.3 Following validation, the Planning Administrative section will also notify the statutory consultees who will be informed to forward their observations on the proposed drainage design to the Transport Development Control Manager (TDCM) within a period of 21 days in accordance with the regulations. Once the comments are received these will be taken into consideration along with the detailed analysis of the drainage application against the national standards. Where appropriate the TDCM will seek amendments to the proposals to ensure compliance with the national standards. The TDCM will reach a decision within 7 weeks for a minor application and 11 weeks for a major application and will issue a decision notice for either approval with conditions if required or refusal to the applicant. A copy of the decision will also be forwarded to the Planning Department for reference.
- 5.4 Following the issue of the decision notice, the TDCM will work with the applicant to proceed with adoption of the drainage system if the adoption criteria are met.
- 5.5 During the construction of the drainage, the Building Control Section will as part of their requirements ensure that the drainage is constructed in accordance with the approved scheme. However there is no separate fee for this as the SuDs application fee is set to cover the entire process from assessment and approval to construction.
- 5.6 With regards maintenance of adopted SuDs on private land a database of all adopted drainage systems will be commenced. This database will ensure that each drainage system is visited at least once a year for assessment. If maintenance is required this will be undertaken to ensure the system still functions satisfactorily.
- 5.7 Given the constrained time limit, DEFRA expect the approval of drainage applications to be an administrative process, i.e. non political activity especially as approval will be dependent on compliance with ministerial approved standards. It is proposed that Drainage Decision Notices are approved and signed by either the Transport Development Control Manager, The Head of Transport and Streetcare or the Deputy Head of Transport and Streetcare only and that a system of delegation is put forward to policy committee in February.
- 5.7 A flowchart detailing the SAB process is included within Appendix 2.

- 5.8 As detailed within 1.3, the proposed implementation date of April 1<sup>st</sup> 2014 will not be achieved by DEFRA. DEFRA have confirmed that the relevant legislation will be in place by April 2014 and given recent flooding events to formally implement the SAB's on October 1<sup>st</sup> 2014. However given the logistical nature of this operation it is proposed to commence a voluntary SAB approval process on May 1<sup>st</sup> 2014 to enable any problems in the process to be resolved and to enable developers practice at compiling Drainage Applications before the formal commencement date. As the process will be voluntary and before the formal commencement date we will be unable to charge a fee.
- 5.9 While the process will only be voluntary until the formal commencement date is known, the SAB process will benefit developers during the Planning Process. Paragraph 103 of the National Planning Policy Framework states developments should be appropriately flood resilient and should give priority to the use of sustainable drainage systems, while Policy DM1 relating to Climate Change of this authorities "Sites and Detailed Polices Document" states "All development shall minimise the impact of surface water runoff from the development in the design of the drainage system". BREEAM requirements also require that drainage is sustainable.
- 5.10 While there will be an informal application process in the interim, the adoption process will not commence until the formal legislation has been commenced. This is so that the authority does not increase its maintenance commitment prematurely and also to ensure that we do not adopt any infrastructure until the method of securing funding for future maintenance has been determined by DEFRA. DEFRA are currently considering two options with regards maintenance funding, the first is a method of commuted sums payable by developers preferred by Local Authorities and the second is a precept on the council tax / business rates of the new buildings which is preferred by developers. A consultation document on this is due out during March 2014.
- 5.11 Given the recent flooding issues within Southern England, the promotion of sustainable drainage will ensure that run off from new developments does not worsen the existing conditions at times of exceptional rainfall.

## 6 FINANCIAL IMPLICATIONS

- 6.1 DEFRA have indicated that the Treasury have agreed to provide a sum of money to each Local Authority to implement the SABS, in the years 2014/15 and 2015/16, however they are unable to confirm what the specific amount will be. The likely amounts will be confirmed around the period when the legislation is approved in parliament in April 2014.
- 6.2 As stated in 4.7, above, the SAB will be able to charge a fee for each drainage application submitted and this has been set national by DEFRA.

DEFRA have confirmed that it is unlikely that the fees will cover all the SABs costs but this is a similar approach to that with Planning Applications. However the full financial implications will be known until after October 1<sup>st</sup>, when we will have an indication of the number of applications we will receive.

**7. CONTRIBUTION TO STRATEGIC AIMS**

7.1 To promote sustainable development

**8. COMMUNITY ENGAGEMENT AND INFORMATION**

8.1 The SAB is a statutory requirement as detailed within the Flood and Water Management Act 2010. The national standards for the implementation of Schedule 3 of the Flood and Water Management Act were subject to consultation by DEFRA between December 2011 and February 2012.

**9. LEGAL IMPLICATIONS**

9.1 The implementation of SAB is a statutory requirement under Schedule 3 of the Flood and Water Management Act 2010

# Appendix 1

Draft Validation Check List and application Form



## Drainage Application Validation checklist

A validly made Drainage Application should include the following information and details:

- i. Detailed site layout at an identified scale (1:200 or 1:500 or as appropriate or any other scale agreed with the SAB) with a North point
- ii. Topographical survey of the site, including cross-sections of any adjacent water courses for appropriate distance upstream and downstream of discharge point if appropriate (as agreed with the SAB);
- iii. Full design calculations and design parameters to demonstrate conformity with the design criteria for the site;
- iv. Long sections and cross sections for the proposed drainage system (at a scale agreed with the SAB);
- v. Suitable Construction Details;
- vi. Plan of proposed drainage system with catchment areas including impermeable areas and phasing;
- vii. Details of connections (including flow control devices) to watercourses, sewers, public surface water sewers ,highway drains and SuDS;
- viii. Details of any offsite works required, together with any necessary consents;
- ix. Operational characteristics of any mechanical features including maintenance and energy requirements;
- x. Plan demonstrating flooded areas for the 1 in 100 year storm when system is at capacity and demonstrating flow paths for design for exceedance;
- xi. Access arrangements for all proposed drainage systems;
- xii. Management plan for all non adopted drainage (more applicable for single property);
- xiii. Landscape planting scheme if proposing vegetated drainage system (if proposed);
- xiv. Plan for management of construction impacts including any diversions, erosion control, phasing and maintenance period (pre-adoption);
- xv. Health and safety plan, if appropriate, considering areas of open water and confined space entry.
- xvi. Ground investigation, including infiltration test results, where appropriate.
- xvii. Water quality details
- xviii. Indicative maintenance schedule
- xix. Programme for construction

### *For a large site or multi-plot development:*

The following (if not already contained within the drainage strategy or sustainable drainage design code):

- xx. Full details of individual development plot discharge and storage constraints;
- xxi. Full details of responsibility for controlling the overall surface water management of the site.

**Application for Drainage Approval under Section 3 of the Flood and Water Management Act 2010**

You can complete and submit this form electronically via the planning portal.

Please complete using block capitals and black ink

**1. Applicant Name and Address**

Title	<input type="text"/>	First Name	<input type="text"/>
Last Name	<input type="text"/>		
Company	<input type="text"/>		
Address Line 1	<input type="text"/>		
Address Line 2	<input type="text"/>		
Address Line 3	<input type="text"/>		
Town	<input type="text"/>		
County	<input type="text"/>		
Postcode	<input type="text"/>		

**2. Agent Name and Address**

Title	<input type="text"/>	First Name	<input type="text"/>
Last Name	<input type="text"/>		
Company	<input type="text"/>		
Address Line 1	<input type="text"/>		
Address Line 2	<input type="text"/>		
Address Line 3	<input type="text"/>		
Town	<input type="text"/>		
County	<input type="text"/>		
Postcode	<input type="text"/>		

**3. Site Address Details**

Unit	<input type="text"/>	Number	<input type="text"/>
Address Line 1	<input type="text"/>		
Address Line 2	<input type="text"/>		
Address Line 3	<input type="text"/>		

Town

County

Postcode

OS Grid Ref      Easting  Northing

Description

**4. Planning Application**

Has a planning application for the site also being submitted?     YES     NO

**5. Description of Proposal**

Please describe the proposed development and the proposed drainage scheme

**6 Design Standard**

Have the drainage proposals been design in accordance with National Standards for Sustianable Drainage ?

YES       NO

If No, please detail below why the national Standards have not been followed

What is the main form of drainage is it by

Infiltration       YES       NO

Discharge to a surface water body     YES       NO

Discharge to a surface

water sewer or highway  YES  NO

Discharge to a combined sewer  YES  NO

Please provide details of how the existing sites surface water run off is managed?

Will the drainage proposed be confined to the site  YES  NO

If No, please provide details of the off site drainage proposals as well as the landowners contact details

#### 7. Drawings, Documents and Calculations

Taking into account the Drainage Application Validation Checklist, attached to this form, please list all drawings, documents and calculations submitted with this application. Please note 3 copies of all documentation are required.

**8. Declaration**

I/We hereby apply for planning permission/consent as described in this form and the accompanying plans/drawings and additional information.

Signed - Applicant

or Signed Agent

Date (DD/MM/YYYY)

**9. Applicant Contact Details**

Telephone Number

Mobile Number

Email Address

**10. Agent Contact Details**

Telephone Number

Mobile Number

Email Address

## Appendix 2

### Sustainable Drainage Authority Board Flowchart