

READING BOROUGH COUNCIL

REPORT BY DIRECTOR OF ENVIRONMENT AND NEIGHBOURHOOD SERVICES

TO:	Strategic Environment, Planning & Transport Committee		
DATE:	25 November 2014	AGENDA ITEM:	12
TITLE:	CLG / DEFRA CONSULTATION ON PROVIDING SUSTAINABLE DRAINAGE SYSTEMS THROUGH THE PLANNING PROCESS		
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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 However following several consultations by DEFRA, the Government has still not implemented the schedule due to concerns from the development industry and councils over the implications this would have on their business. Schedule 3 was due to be implemented on 1st October 2014, but this date was cancelled by the Government in May 2014 stating that a further round of consultation would be undertaken detailing how SUDS systems would be implemented later in the year.
- 1.3 At the beginning of September DEFRA together with the CLG produced a consultation document detailing that the latest proposals are not to progress with the SABs but to incorporate the provision of SUDS within the Planning System.
- 1.4 This report describes the latest proposals and includes a response to the consultation which was approved by Planning Application Committee on the 15th October 2014 and submitted to DEFRA before the consultation closing date of the 24th October 2014.

2. RECOMMENDED ACTION

2.1 That the committee note the report.

3. POLICY CONTEXT

- 3.1 These latest proposals will result in amendments to the National Planning Policy Framework (NPPF) to ensure SUDS are implemented on major developments.

4. THE CONSULTATION PROPOSALS

- 4.1 The proposals are to not formally implement Schedule 3 of The Flood and Water Management Act 2010 for the compulsory introduction of SUDS on new development which was a recommendation of the Pitt Report which followed the severe summer flooding in 2007.
- 4.2 The changes are proposed as the Government states that the previous consultations have shown that the requirement to run two consenting regimes for developers (Planning and a SAB) operated by two separate parts of Local Government could lead to delay in the approval process especially as many Local Authorities were not ready to take on the additional responsibilities. This was not the case for Reading Borough who already have a voluntary SUDS approval body in place managed by the Transport Development Control Team, in preparation for the formal implementation of Schedule 3 of the Flood and Water Management Act.
- 4.3 Paragraph 102 of the NPPF states that developments and local plan policies should make the provision of SUDS a priority and the proposal will strengthen this requirement. However the exact wording on how the NPPF would be amended was not provided within the consultation. The provision of SUDS is already incorporated within the Local Plan within Policies CS1 of the Core Strategy and DM1 of the Sites and Detailed Policies document.
- 4.5 The current Draft National SUDS Standards and Guidance would be incorporated into the National Planning Practice Guidance (NPPG) which supplements the NPPF. The NPPG would then contain the hierarchy of SUDS systems as outline in paragraph 4.3 of Agenda Item 9 of the 19th March 2014 Strategic Environment Planning and Transport Committee.
- 4.4 The requirement for a SUDs system will only apply to Major developments with the requirements for minor developments dropped. This is a sensible approach as it is the major developments that have the largest surface water runoff. The requirement for minor applications to be SUDS complaint was over burdensome and would have resulted in the proposed approval system being overloaded. However the consultation did point out that the SUDS requirement would have to be part of the numerous material considerations the Planning Authority would have to assess. Given that viability will be an issue, it is likely that developers will use drainage options from the SUDS hierarchy which minimise land take.

- 4.5 The consultation stated that Planning Authorities will need expertise from other bodies to enable SUDS schemes to be assessed. In Reading Borough, the Transport Development Control Team already assess SUDS applications and it would be assumed that the Planning Department would seek this teams advice on the suitability of any schemes submitted.
- 4.6 As a result, if the Planning Authority considers that the proposed drainage is not complaint with polices it would be able to refuse planning permission on these grounds after taking into account all the other material considerations. The applicant still would have a right to appeal, so any objection would have to clearly show why compliance with the national standards is not being achieved.
- 4.6 One of the major implications of these changes is that the Local Authority (under its statutory requirement as detailed with Schedule 3) would no longer have to compulsorily adopt Sustainable Drainage Systems. The long term maintenance of the systems will be down to the developer and owners (presumably through management arrangements) and covered by a condition or S106 agreement. The consultation did indicate that developers could negotiate with third parties, namely a Local Authority or a Water and Sewage Company, to take on future maintenance or start up a Service Management Company to ensure future maintenance was undertaken. If the drainage system is located under the highway, it is likely that the maintenance will be covered via commuted sums as part of a Section 38 agreement under The Highways Act. If located within open space, again this could come down to contributions being agreed for future maintenance within a section 106 agreements.
- 4.7 The consultation also stated that where the drainage from a single dwelling within a development would drain to a soakaway for example within the properties grounds, the maintenance of this would be down to the home owner, which is the same as current procedures.
- 4.8 Under Schedule 3 of the Flood and Water Management Act, if the SABs were implemented, separate applications fees would have been charged for the approval process. Under the proposed regime, the approval of SUDS would be incorporated into the planning process and the planning application fee will now have to cover this cost. Under the previous proposals, the average SUDS application cost for a major site would have been around £500 and there are approximately 40 to 50 major applications a year, so these changes will mean the authority may lose out on between £20,000 and £25,000 a year from drainage application fees. However this has to be balanced against the fact that we would no longer have to compulsory adopt and maintain in to perpetuity SUDS systems which would have place a considerable pressure on resources.
- 4.9 It is anticipated that these changes will be implemented in Spring 2015.
- 4.10 The consultation response as approved by the Planning Applications Committee is attached to this report for reference. Subsequently the Transport Development Control Manager has been asked by DEFRA, given the proactive approach this authority has taken to implement SUDS systems, to work with

DEFRA to assess the outcomes of the consultation to enable a report to be submitted to the Secretary of State for the Environment in December 2014 on the implementation of the proposals.

5.0 IMPLICATIONS ON THE PLANNING PROCESS

- 5.1 The changes would mean that there would be another material consideration to be considered by the Planning Officers when a planning application is assessed. However the advantage for this authority is that as it is unitary authority, the expert advice is already in house and within a team which already has regular contact with the planning department.
- 5.2 Consultation would be via the existing planning process although the following organisations will also need to be consulted specifically for SUDS: Sewerage Undertaker, Environment Agency (if discharge is into a main river), Highway Authority, Canal and River Trust (if discharge is into a waterway managed by them),
- 5.3 While the use of the Planning System to implement SUDS will not be as regimented as that proposed under Schedule 3 of the Flood and Water Management Act, it does allow for a more holistic approach to be taken where all the aspects of design can be considered. For example the recent planning application for Wells Hall had a SUDS system which, while not being at the top of the SUDS hierarchy, still considerably reduced surface water runoff.
- 5.4 There could be additional work for the enforcement team ensuring that conditions covering the maintenance of SUDS are undertaken. However this is a considerably lesser burden on the authority than the original proposals where it would have had to adopt and maintain all new SUDS.
- 5.5 While the consultation stated that changes to the NPPF and NPPG will be undertaken, it did state that Local Planning Authorities can produce stand alone guidance so there may be a need to produce a Supplementary Planning Document to reinforce the requirements for SUDS. This could have implications on staff resources.

6 FINANCIAL IMPLICATIONS

- 6.1 DEFRA paid a grant of £61,500 to this authority to implement the SABs which will now be used to offset any costs involved if the Government confirms changes to the process as a result of this consultation.

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. This is still the position until it is changed as a result of these proposals.