

Open Report on behalf of Richard Wills, Executive Director for Communities

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| Report to: | Flood and Drainage Management Scrutiny Committee |
| Date: | 30 January 2014 |
| Subject: | Implementation of Schedule 3 of the Flood and Water Management Act 2010 – Sustainable Urban Drainage Systems (SuDS) |

Summary:

To update the Committee on the progress in respect of the implementation of SuDS within upper tier Lead Local Flood Authorities (LLFA).

Actions Required:

The Committee is invited to consider and comment on the contents of the report and to note the impacts upon Lincolnshire County Council, as LLFA, once the legislation is implemented.

1. Background

The Flood and Water Management Act 2010 (FWMA) established Lincolnshire County Council (LCC), as an upper tier Authority, as a LLFA, with many new responsibilities relating to local flood risk and drainage management. Most of the Act has now been implemented (through statutory instruments) since 2010. However, the final and most significant part, Schedule 3 – SuDS has yet to be enacted.

Once implemented the legislation will mean that developers or others will need to apply for approval to the County Council for permission to begin construction work which has drainage implications. LCC as the SuDS Approving Body (SAB) must then grant an application approval if satisfied that the drainage system will comply with National Standards for sustainable drainage. In addition if the SuDS is approved and will be serving more than one property, the County Council as SAB will have a duty to adopt that SuDS for the purpose of maintenance. However, it is currently planned that the implementation will be phased such that minor development (less than ten properties) is excluded from the requirement for approval for the first three years.

Whilst the SuDS process by nature will need to be closely aligned with that of planning, it is important to draw the distinction that it is not directly related to

planning permission, but a parallel process similar to building regulation approval, for example. Also LCC as an upper tier Authority is responsible for approval, unlike planning which sits with District Councils as Local Planning Authorities.

It is important to appreciate that SuDS will fundamentally change the way we develop in this country moving away from piped systems to managing water at source and on the surface, which will lead to developments with more vegetative areas and space. Additionally, the organisation responsible for draining surface water from new developments and hence charging for this, will change, from Water Companies to upper tier Local Authorities, LCC in this case.

2. Impact on Lincolnshire County Council as SAB

Based upon previous planning applications and predicted build rates in the county it is anticipated that LCC would receive in the region of two hundred and sixty major applications per annum for phased implementation of SuDS (ten + properties and above for the first three years) and six hundred and fifty applications following full implementation (two + properties after three years).

The County Council will be responsible for:-

- Pre application discussions with developers
- Consulting with other Risk Management Authorities
- Undertaking checks and hydrological analysis of applications
- Approving applications
- Inspecting works
- Adoption upon completion
- Placing adopted SuDS on a public register
- Responding to local property search enquiries relating to SuDS.

In addition LCC will be responsible for maintaining adopted SuDS in perpetuity. Government are currently considering charging mechanisms for this. Based upon scenarios currently being discussed it is estimated that maintenance expenditure by LCC would range from around £0.5m to £0.87m for the first year which would rise due to cumulating, after three years, to £1.5m to £2.61m per annum.

Clearly the above will have significant impact on the County Council in terms of staff resources, IT and management systems and contractual arrangements for ongoing maintenance of SuDS.

3. Timescales and Associated Issues

The Department of Environment Food and Rural Affairs (Defra) has announced that it is currently working towards an implementation date of early April 2014. However, they have yet to lay the necessary statutory instruments before Parliament, which is programmed for some time in January and finalisation of the necessary SuDS guidance is not planned for publication until February/March 2014.

In addition Government has yet to agree and finalise the funding and charging mechanisms for the ongoing maintenance of SuDS.

Whilst Lead Local Flood Authorities fully support the implementation of Schedule 3 and the benefits SuDS will bring they have always maintained that a minimum of six months notice is necessary to prepare. The current timetable proposed by Defra will effectively give two months notice.

The Local Government Association and the Association of Directors of Environment, Economy, Planning and Transport have both recently lobbied Defra for a minimum of six months notice prior to implementation of SuDS in this country and that the basis for charging and collection be understood before the legislation is implemented. County Council Officers also sit on National Steering groups and have made similar views on behalf of LCC.

4. Preparing for Implementation

Notwithstanding the above Officers are continuing to prepare for SuDS, anticipating an implementation date of April 2014 but recognising that a more likely and practical date would be October 2014.

However, whilst preparations can be made up to a point, full commitment cannot be made in terms of significant financial commitments, staffing and contractual arrangements until a firm announcement is given by Government.

5. Conclusion

The implementation of Schedule 3 of the FWMA – SuDS will have a significant impact on LCC and the way development takes place and is managed in the county. The current difficulties regarding Government uncertainty and timescales present challenges which will require careful management as the implementation date approaches.

A verbal update will be given at Committee concerning any revision to timescales and implementation plans.

6. Consultation

a) Policy Proofing Actions Required

n/a

7. Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

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