

Open Report on behalf of Richard Wills, Executive Director for Environment & Economy

Report to:	Flood and Drainage Management Scrutiny Committee
Date:	27 February 2015
Subject:	Government Plans for the Implementation of Sustainable Urban Drainage Systems (SuDS) and for Lead Local Flood Authorities (LLFAs) to become Statutory Consultees in the Planning Process

Summary:

To update the Committee on the Government's new intentions to implement SuDS through the planning process and to make LLFAs Statutory Consultees to Planning Authorities in the roles of; providing technical SuDS advice and advice with regard to local flood risk.

Actions Required:

The Committee is invited to consider and comment on the contents of this report and to note the impacts upon Lincolnshire County Council as LLFA and District Councils as Local Planning Authorities (LPAs)

1. Background

- 1.1 The Flood and Water Management Act 2010 (FWMA) established Lincolnshire County Council (as an upper tier authority) as a Lead Local Flood Authority, 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 part, Schedule 3 – SuDS has not yet been enacted.
- 1.2 The intention of Schedule 3 of the FWMA, was for LLFAs to become responsible for assessing and approving SuDS submissions, prior to eventual adoption, in a related but parallel process to planning applications.
- 1.3 Following the appointment of the new Minister the Department for Environment, Food & Rural Affairs (Defra) issued a rapid six week consultation in September/October last year (Appendix A), outlining a very different approach. This would, in effect, seek to implement SuDS provision through the National Planning Policy Framework (NPPF) and local planning policy, with LPAs determining SuDS proposals as part of the planning process. Arrangements

for long term maintenance of any agreed SuDS schemes were left open, although the consultation suggested a range of possible approaches, to be secured through the planning process including; management companies, local voluntary approaches and water and sewerage companies (should they choose to undertake maintenance responsibilities). However, in the consultation Defra recognised that LPAs would require expert advice to undertake these new roles and indications were given that upper tier authorities as LLFAs may be asked to provide this.

Government Proposals

1.4 Shortly before Christmas, Mr Eric Pickles the Secretary of State for Communities and Local Government (DCLG) issued a House of Commons Written Statement (as Appendix B) which effectively implements the proposals within Defra's consultation and outlines the Government's intentions to amend the NPPF to require:-

- SuDS to be provided on all major developments and developments of 10+ properties, unless demonstrated to be inappropriate.
- LPAs to consult LLFAs (ie LCC) on the management of surface water.
- LPAs to satisfy themselves that the proposed minimum standards of operation are appropriate and ensure through the use of planning conditions or planning obligations that there are arrangements in place for future maintenance.
- The above to be taken into account in the preparation of local and neighbourhood plans, become material consideration in planning decisions.
- The changes to have effect from 6 April 2015.

1.5 Additionally DCLG have subsequently issued a further consultation (as Appendix C) outlining the proposals for making LLFAs Statutory Consultees in the planning process, not only for SuDS, but also in the wider role of local flood risk, which includes; surface water, groundwater and ordinary watercourses. It is proposed the Environment Agency pull back from consideration of local flood risk – concentrating on flood risk from fluvial and coastal sources.

Implications

1.6 The vast majority of major developments coming forward from 6 April 2015 will need to be sustainably drained to meet planning requirements and LPAs as decision makers will have to ensure that they are delivered and that "arrangements" are put in place for ongoing maintenance. The County Council will, for the first time, become a Statutory Consultee as a Flood Authority and will also provide LPAs with the necessary technical advice relating to SuDS proposals.

These requirements represent a significant new burden on both LPAs and Lincolnshire County Council as LLFA and also affect the interactions between all flood risk management authorities including; internal drainage boards, water and sewerage companies and the Environment Agency.

- 1.7 The timescales for the implementation of the changes are extremely challenging, however, work has already started on; resource allocation, processes and information technology systems, partnership interactions and training and awareness workshops.
- 1.8 Government has indicated, in the consultation that they will meet the cost of the new burdens, however, this has yet to be agreed and officers of the County Council are currently engaged at a national level, supporting the Local Government Association, in lobbying Defra and DCLG for the costs to be met.
- 1.9 Previously under Schedule 3 of the FWMA future maintenance of the SuDS systems were to be undertaken by LLFAs. However under these new proposals, within which Schedule 3 will not be enacted, future maintenance of SuDS is left open to a number of options and whilst within Lincolnshire Anglian Water have indicated that they will adopt SuDS on new developments, in certain circumstances, this is a matter of choice for both themselves and the developer. The likely alternative to this arrangement is that developers will set up management companies to be responsible for the future maintenance of SuDS on individual developments.

2. Conclusion

Whilst the introduction of SuDS is long overdue and the strengthening of the NPPF to require them in new development is welcome, the Government's new proposals will place significant burdens on Local Authorities and concerns remain over the arrangements for long term maintenance.

The proposal to give LLFAs the wider role with respect to local flood risk in the planning process is also welcome as it reflects the County Council's holistic role in local flood risk management, and preventing flood risk to new developments is one of the best investments we can make. However, again it needs to be recognised that this is an additional burden, which will require funding.

3. Consultation

a) Policy Proofing Actions Required

n/a

4. Appendices

These are listed below and attached at the back of the report	
Appendix A	Delivering Sustainable Drainage Systems
Appendix B	House of Commons: Written Statement (HCWS161)
Appendix C	Further changes to statutory consultee arrangements for the planning application process.

5. 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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