

Suffolk Flood Risk Joint Scrutiny Sub-Committee

30 October 2015

Implementation of Sustainable Drainage (SuDS) Legislation

Summary

1. Sustainable Drainage Systems (SuDS) are used to collect surface water run-off from developments and release it slowly, reducing the risk of flooding, reducing water pollution and providing sites for biodiversity initiatives and public amenity.
2. From April 2015, Local Planning Authorities (LPAs) have had an obligation to ensure that new major developments (residential developments of ten units or more, or equivalent non-residential or mixed developments) have sustainable drainage systems, unless they are demonstrated to be inappropriate. District and Borough Councils are the LPAs in Suffolk, but Suffolk County Council, as Lead Local Flood Authority (LLFA) and Highways Authority, is a statutory consultee for major planning applications.

Objective of Scrutiny

3. This scrutiny will enable the Committee to consider the way in which the Suffolk LPAs (District and Borough Councils) and Suffolk County Council are working together to implement SuDS legislation.

Scrutiny Focus

4. The scope of this scrutiny has been developed to provide the Committee with information to come to a view on the following key questions:
 - a) What are the legal roles, responsibilities and powers of the LPAs and the County Council with regard to SUDS in planning applications for new developments, and what powers do they have to charge for services?
 - b) How are the LPAs and SCC working together to implement the SUDS legislation and is the process satisfactory for all parties?
 - c) Are the resources of all parties sufficient to implement the legislation effectively?
 - d) Are pre-planning consultations with developers taking place and working effectively?

- e) What arrangements are LPAs putting in place to ensure the adoption and on-going maintenance of SuDS in Suffolk and how is this funded?
 - f) What are the arrangements for:
 - g) Ensuring SuDS are constructed correctly?
 - h) mitigating against non-compliant construction or non-performance?
 - i) Ensuring new SuDS are logged on the SCC Flood Risk Asset Register.
5. Having considered the information, the Committee may wish to:
- a) make recommendations to the Cabinet Member for Environment and Public Protection and the Member with special responsibility for Suffolk the Greenest County;
 - b) make recommendations to the District and Borough Council Members with responsibility for planning;
 - c) Identify areas of good practice;
 - d) Seek further information or identify issues which may warrant further scrutiny.

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Local Councillor(s): All Councillors

Background

6. Sustainable drainage systems reduce the risk of surface water flooding by collecting water run-off and releasing it slowly, rather than discharging it all straight into the public sewer system or watercourse. They are commonly known as "sustainable drainage systems" (SuDS).
7. SuDS are designed to mimic the way that surface water run-off would have occurred if the land had not been developed. Examples of SuDS are:
 - Permeable paving or road surfaces.
 - Soakaways.
 - Green roofs.
 - Swales (depressions, usually grassed over, beneath which are layers of aggregates, allowing water to collect and drain away).
 - Ditches.
 - Attenuation basins, ponds, etc.

SuDS also provide an opportunity to improve water quality (because pollutants and sediment are deposited in the soil rather than reaching the water course or aquifer), and can provide sites for biodiversity initiatives and public amenity.

8. The Flood and Water Management Act 2010 created a compulsory approval regime for all construction works with drainage implications, allowing the relevant experts (the SuDS Approval Body or SAB) to consider whether SuDS could be incorporated into the development. The SuDS approval regime was set out in Schedule 3 to the Act. However, this was never enacted, essentially because developers and government were concerned that the method of implementation it set out would cause delays and costs to development.
9. On 18 December 2014, Eric Pickles MP issued a ministerial statement, confirming that the government would make changes in planning policy in connection with major developments (essentially, residential developments of ten units or more, or equivalent non-residential or mixed developments) to ensure sustainable drainage systems are put in place, unless demonstrated to be inappropriate. These changes took effect from 6 April 2015.
10. Drainage Approval is now given or refused by the Local Planning Authority (LPA) as part of the planning consent. Suffolk County Council is a statutory consultee on surface water drainage in the planning process for major developments, as it is the Lead Local Flood Authority so has a strategic view of the county's drainage plans.. LPAs are also required to consult the Environment Agency where developments are in or near to river or sea flood zones 2 or 3.
11. As Statutory Consultee SCC will comment on the suitability and viability of the proposed drainage scheme as defined in the Suffolk SuDS protocol.
12. In considering an application for approval including a SuDS scheme, the LPA is required to consider:
 - the design and proposed minimum standards of operation of the SuDS;
 - any proposals for the connection of the SuDS to a watercourse or the public sewer system; and

- the proposed arrangements for ongoing maintenance of the SuDS for the lifetime of the development, ensuring, through the use of planning conditions or planning obligations, that these are clear and unambiguous.
13. Approval may be refused if the LPA believes that the proposed SuDS does not comply sufficiently with National Standards (and local guidance once the updated Local Flood Strategy has been approved), unless this would be more expensive than an equivalent conventional design (this is known as the "affordability test").
 14. It is the responsibility of the developer to put forward a proposal for the adoption and ongoing maintenance of the drainage system and the responsibility of the LPA to approve it. Options could include Management Companies or adoption by Anglian Water or local councils.
 15. The LPA is responsible for ensuring SuDS are constructed in accordance with approved plans, and the LPAs' current powers of enforcement can be used to ensure this is the case.
 16. As Lead Local Flood Authority, SCC will maintain a Register of all flood risk assets including new SuDS, with details of who is responsible for them and a maintenance regime. It is for the LPA or developer to ensure the Lead Local Flood Authority is informed once these systems are constructed.

Main body of evidence

17. The following written evidence has been provided:
 - a) **Evidence Set 1** Overview of the legal situation regarding SuDS, provided by Emma Bethell, Principal Solicitor, Planning and Environment, SCC
 - b) **Evidence Set 2** Case Study, Lamb Drove residential SuDS Scheme, Cambourne.
 - c) **Evidence Set 3** Suffolk County Council Protocol for advising LPAs on surface water drainage aspects of planning and development control.
18. The Committee will receive verbal information from:
 - a) Jane Burch, Flood & Coastal Policy Manager, Suffolk County Council;
 - b) An Officer with responsibility for planning at Suffolk Coastal and Waveney District Council;
 - c) Denis Cooper, Senior Engineer Ipswich Borough Council
19. A presentation on the Essex County Council SuDS approval and adoption process will also be received from Graham Thomas, Head of Planning and Environment, Essex County Council.

A glossary is available on page 89 of the Agenda Documents

Supporting information

Suffolk SuDS Protocol: <http://www.greensuffolk.org/assets/Greenest-County/Water--Coast/Suffolk-Flood-Partnership/General-Information/SCC-Floods-Planning-protocol-Version-12.pdf>

Suffolk Local SuDs Guidance: <http://www.greensuffolk.org/assets/Greenest-County/Water--Coast/Suffolk-Flood-Partnership/General-Information/SCC-Local-SUDS-Guide-May-2015.pdf>

Ever wondered where the rain goes? Sustainable Drainage Animation, Susdrain: <http://www.susdrain.org/resources/videos.html>

