

DECISION-MAKER:	CABINET		
SUBJECT:	IMPLEMENTATION OF THE SUSTAINABLE DRAINAGE SYSTEMS APPROVING BODY		
DATE OF DECISION:	18 MARCH 2014		
REPORT OF:	CABINET MEMBER FOR HOUSING AND SUSTAINABILITY		
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY

NONE

BRIEF SUMMARY

This report outlines the requirements and operational arrangements for the Sustainable Drainage System (SuDS) Approving Body and seeks the delegation of authority to the Head of Planning, Transport and Sustainability to establish and implement the statutory function. The common commencement date, postponed from April 2014, has yet to be formally announced but it is anticipated to be later in 2014.

RECOMMENDATIONS:

- (i) That the details of the requirements and operational arrangements for the SuDS Approving Body set out in this report be noted;
- (ii) That authority be delegated to the Head of Planning, Transport and Sustainability to undertake any actions and make any arrangements necessary for the implementation of the SuDS Approving Body.

REASONS FOR REPORT RECOMMENDATIONS

1. To enable the new SuDS Approving Body function to be delivered within the timescales required by the Department for Environment, Food and Rural Affairs (Defra).

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

2. An alternative option is to do nothing. However, this option was rejected as the SuDS Approving Body will become a statutory function for upper tier authorities and failing to make provision for the Authority to be able to discharge its new function could incur legal, financial and reputational implications.

DETAIL (Including consultation carried out)

3. SuDS are an alternative to conventional piped drainage systems, designed to mimic natural drainage in order to control the peak flow rate and volume of

surface water runoff from a site through interception, attenuation and infiltration (where feasible), helping to reduce flood risk. There are a wide range of different SuDS features which are outlined in more detail in Appendix 1.

4. Schedule 3 of the Flood and Water Management Act (2010) introduces a new statutory requirement for a SuDS Approving Body (SAB) to be established in unitary and county councils to manage surface water within future development. The SAB will be required to approve drainage proposals within new developments, where the drainage will have to meet National Standards for the design, construction, operation and maintenance of SuDS. The SAB will also have to adopt and maintain approved SuDS which serve more than one property.

5. ***Phasing arrangements***

Once commenced, the requirement for SAB approval will apply only to works which constitute major planning applications as set out in The Town and Country Planning (Development Management Procedure) (England) Order 2010. The requirement for SAB approval will apply to minor planning applications three years after initial commencement.

6. ***Transitional arrangements***

For existing Outline Consents in place on the date of commencement all reserved matters will have to be discharged within one calendar year. After a year the requirement for SAB approval will apply to all works which are not exempt.

Developments that were already granted full planning permission before commencement or a valid planning application had been submitted before commencement are exempt from requiring SAB approval.

7. There are two SAB approval routes:

- (i) With planning application (where planning permission required).
- (ii) A freestanding application direct to SAB (whether or not planning permission is required).
 - ⇒ SAB will be a statutory consultee to planning process.
 - ⇒ SAB decision **independent** of planning decision.
 - ⇒ Applicant *may* be charged a non-performance bond which can be used if the drainage system has not been constructed according to the approved proposals or it is unlikely to be completed. Defra may issue guidance for calculating the amount required for a non-performance bond.
 - ⇒ SAB must consult with the statutory consultees where an application may impact upon that consultee (Defra propose setting a time limit of 21 days for response).

8. Further details on the approval, appeals, enforcement and adoption processes are outlined in Appendix 2.

9. It is anticipated that the common commencement date for the SAB role, yet to be formally announced by Defra, will be later in 2014. Hence, it is advantageous for the Authority to be in a position to commence preparatory

work now to allow sufficient time to establish the SAB prior to commencement. This will help to ensure SAB approvals can take place in an efficient manner so as not to obstruct the wider planning process.

10. The main tasks required to establish the SAB include, but may not be limited to, the following:
 - Develop local guidance to support the National Standards
 - Recruitment of the relevant technical expertise
 - Source appropriate software to manage the application process
 - Source appropriate software to manage the process for future maintenance of adopted SuDS
 - Establish the required finance systems and processes
 - Develop standard forms, letters and templates
 - Staff training/briefings
 - Liaison with the development industry and statutory consultees
 - Publicity/communications

RESOURCE IMPLICATIONS

Capital/Revenue

11. Ongoing delivery of the SAB role is anticipated to be cost neutral. There will be a chargeable fee for drainage applications, with a national fee structure set for the first three years. Using the average number of planning applications received over the last four financial years and assuming the average size of a large major site as 4 hectares and a major site as 0.5 hectares; it is estimated that the SAB would initially have an annual income of approximately £35,750. It has been indicated that the SAB will also be able to charge fees for inspections which will generate an additional revenue income of up to approximately £10,000.
12. Additional staff resources will be required to enable the SAB to operate. Based on the average number of planning applications received over the last four financial years (conservative figures), it is estimated that the following staff resources will be required, considering the phased approach for major applications only for the first three years of commencement:
 - Drainage engineer
 - Admin support
 - Input from other expertise, such as ecology, landscape architecture, maintenance operator and legal, as required (sourced from existing Council departments or outside sources)

Ongoing staff revenue costs, including other expertise input requirements, are estimated at approximately £45,000 per annum.

13. Costs for the first year following commencement will also include initial set up costs of approximately £25,000, which will be resourced from current revenue budgets where money has already been identified to cover this cost. If any funding is made available nationally to help support these set-up costs the

Council will endeavour to recover these where possible.

14. The mechanism for funding the maintenance of future adopted SuDS has yet to be finalised and communicated by Defra. It is likely that the SAB role will not be commenced until the charging mechanism for future maintenance is agreed. It will be the Council's aim to ensure fees charged for SuDS maintenance cover the authority's costs to avoid a negative impact on the general revenue fund. Defra have stated the fee structure will be set with the intention it will cover all the costs. The preferred approach for delivery of the maintenance of future adopted SuDS is to develop the required skills within the Council's existing grounds maintenance teams.
15. Depending on the final date for commencement of the SAB role and the lead in time provided, it may be necessary to adopt an interim system for provision of the drainage expertise, other than direct recruitment. Joint proposals with neighbouring SABs will also be explored.

Property/Other

16. There are no identified property implications within the Council's own estate arising from implementation of the SAB. Should property implications be identified as implementation develops, these will be brought to members after consultation with relevant interested parties.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

17. Schedule 3 of the Flood and Water Management Act 2010 and associated secondary legislation, once progressed through Parliament in 2014.

Other Legal Implications:

18. The SAB will be required to take on the responsibility for the future management and maintenance of adopted SuDS which could present potential liability implications. Rigorous approval, adoption, inspection and maintenance procedures will be developed to provide a robust system to minimise any potential liability issues.
19. If other legal issues surface during development and implementation of the SAB, these will be addressed accordingly as they arise.

POLICY FRAMEWORK IMPLICATIONS

19. There are no identified policy framework implications. The use of SuDS on development sites is encouraged within existing Local Plan documents to enable surface water to be sufficiently managed to reduce the potential flood risk to the site and surrounding area.

KEY DECISION? Yes

WARDS/COMMUNITIES AFFECTED:	ALL
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SUPPORTING DOCUMENTATION

Appendices

1.	SuDS features
2.	SAB overview

Documents In Members' Rooms

1.	None
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Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	No
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Other Background Documents

Equality Impact Assessment and Other Background documents available for inspection at:

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	None	
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