Ciria LANDFORM event: SuDS not duds – Local Authority Guidance: 3 November 2010

The Regulatory Context for Sustainable Drainage Systems (SuDS):
Flood and Water Management Act 2010

Vicky Dawe
Defra, Head of SuDS Policy Team

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Department for Environment Food and Rural Affairs

Purpose

- Recap of main provisions on SuDS in Flood and Water Management Act 2010
- Secondary legislation
- National Standards for SuDS
- Funding
- Implementation

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Surface Water Drainage - What will the Act do?

- Establishes a SuDS Approving Body (SAB) in county or unitary local authorities.
- Requires SAB approval, **before** construction can commence, of drainage systems in new developments and redevelopments.
- The proposed drainage system will have to meet **new** National Standards for design, construction, operation and maintenance of SuDS.
- Water and Sewerage Companies, the Environment Agency, British Waterways, Internal Drainage Boards and the Highways Authority will all be statutory consultees to the SAB.

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Surface Water Drainage - What will the Act do?

- Requires the SAB to adopt and maintain approved SuDS that serve more than one property.
- Amends S106 of Water Industry Act 1991 to make the right to connect surface water to public sewers **conditional** on the SAB approving the drainage system as meeting the National Standards.
- The SuDS provisions in Schedule 3 to the Act make **no changes** to the right to connect foul water to the public system.

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SAB Approval Process

- Two approval routes:
  1. With planning application (where planning permission required).
  2. 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.
- SAB may charge a fee for drainage approval.
- Applicant may be charged a non-performance bond.

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Adoption process

- SAB required to adopt and maintain approved SuDS that **serve more than one property** to National Standards.
- SAB will adopt once satisfied the SuDS is constructed, and functions, as approved.
- SAB can adopt at its own initiative or at the developer's request.
- Highways' Authorities responsible for maintaining SuDS in adopted roads to National Standards.
- On adoption SAB must designate SuDS on private property (adopted or private), via local land charge.
- SAB to place SuDS on local authority risk register.
- SAB releases bond if not used.

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Surface Water Drainage: Secondary Legislation

- 4 pieces of secondary legislation on SuDS stemming from the Act.
- The Government is currently reviewing the regulations provided for in the Act as part of the better regulation action plan announced by the Department for Business Innovation and Skills.

Surface Water Drainage: Secondary Legislation

Negative Order and Negative Regulation covering such things as:

- The requirement for SAB approval (considering how we implement the requirement, including phasing options).
- Timeframe for SABs response to applications for approval and adoption requests.
- Definitions - sustainable drainage system, when a drainage system is serving a single property.
- SAB fee for considering applications for approval.

Surface Water Drainage: Secondary Legislation

Affirmative Regulation on Appeals

A right of appeal against SAB decisions about:
•Applications of approval.
•Conditions of approval.
•Duty to adopt.

Affirmative Order on Enforcement of requirement for approval

Where:

•Construction commences without drainage system being approved.
•Conditions of approval are breached.
•Construction does not conform to approved proposals.

National Standards for Sustainable Drainage

- Set out the requirements for the design, construction, operation and maintenance of SuDS in England and Wales.
- Sets out a hierarchy of approaches.
- Apply to domestic and commercial developments and redevelopments.

- A Project Advisory Board guiding development.

National Standards for Sustainable Drainage

Standards will be guided by Principles – we will consult on these

Principles should guide developers and local authorities and may include:

•Drainage systems should be considered at the earliest stages of site design.

•SuDS can be multi-functional spaces, e.g. operates as both a SuDS and for example car parking or gardens on site, or make use of public spaces such as parks, car-parks, footpaths and verges etc.

•SuDS should follow the management train.

•Rainwater should be managed as close as possible to where it falls.

•No connection to foul sewers.

National Standards for Sustainable Drainage

National Standards Hierarchy, on which we will be consulting, allows flexibility for the site. Likely to cover:

•Run-off destination - Where runoff from highway/development may be discharged. (connection to sewer as last resort).

•Peak Runoff Flow Rate - minimise the risk of downstream flooding.

•Volume of Run-off - manage the rainwater as close as possible to where it falls.

•Visibility, Adaptability, Amenity and Biodiversity - ensure that SuDS are visible on the surface, incorporate vegetation, are attractive and can be adapted.

•Water Quality - minimise risk of pollution to water bodies.

How will SuDS be funded?

- SABs can charge fees for approving applications and inspections on a cost recovery basis.
- Funding for SuDS maintenance will be covered for first few years through savings to local authorities arising from transfer of private sewers to water companies.
- Developing options for long term funding for adoption, which is essential to secure the uptake of SuDS.

Timings for implementation of the Act

- SuDS provisions in Act need to be commenced by Ministerial Order.
- We will consult on date for commencement for SuDS provisions – likely to be 2012.
- Aim to publish the National Standards and Regulations in advance of commencement.
- Working with key groups including local authorities (LAs), Environment Agency and other professional bodies on building LA capacity to implement Act (SuDS, SWMPs , other strategic frameworks).

Further Questions

SuDS team email address- suds@defra.gsi.gov.uk