



GRaBS Briefing approval of sustainable drainage systems

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1 Background

The Flood and Water Management Act 2010 received Royal Assent in April 2010. Among the provisions of the Act of interest to local authorities is how the Act will affect their decision-making in regards to Sustainable Drainage Systems (SUDS). This briefing outlines the Act's provisions on SUDS and the related responsibilities of local authorities in the planning process.

2 Policy context

Schedule 3 of the Flood and Water Management Act 2010 sets out the new planning process for SUDS, which includes a number of measures designed to implement a change in the way that rainwater drainage is managed and to support the uptake of sustainable drainage systems.¹ The new approach has a number of benefits, including reduced flood risk and improved water quality.

The legislation requires decisions on sustainable drainage to be made by an 'approving body', which is the unitary authority or the county council for the area. Instead of having the automatic right to connect to public sewers, developers now have to seek approval from the approving body. This is the major change in the legislation; however, there are no changes to the right to connect foul water to the public system.

Approval of drainage systems in new developments and redevelopments must now be gained from the approving body before construction can commence. The proposed drainage system will also have to meet national standards for the design,

construction, operation and maintenance of sustainable drainage systems in order to gain approval.

3 Relevance to local authorities

The Flood and Water Management Act 2010 gives local authorities new powers to assess and manage local flood risk. Local authorities will approve, inspect and in most cases adopt new sustainable drainage systems. The approval process operates in parallel with the existing planning process. There are two approval routes:

- **With planning application, when planning permission is required:**
 - Pre-application discussion is encouraged.
 - The planning application and the SUDS application are submitted to the planning authority.
 - The planning authority forwards the SUDS application to the approving body.
 - The approving body considers whether the application meets national standards and consults its statutory consultees (any sewerage undertaker with whose public sewer the drainage system is proposed to communicate; the Environment Agency, if the drainage system directly or indirectly involves the discharge of water into a watercourse; British Waterways, if the approving body thinks that the drainage system may directly or indirectly involve the discharge of water into or under a waterway managed by them; the relevant highway authority for a road which the approving body thinks may be affected; and an internal drainage board, if the approving body thinks that the drainage system may directly or indirectly involve the discharge of water into an ordinary watercourse within the board's district).
 - The approving body returns its decision to the planning authority which, in turn, informs the applicant of the planning decision and the approving body decision – including any conditions.
 - The approving body decision is independent of the planning decision.
- **When planning permission is not required, the drainage application can be made direct to the approving body:**
 - The SUDS application is made direct to the approving body.
 - The approving body consults its statutory consultees, where relevant.
 - The approving body considers whether the application meets national standards.
 - The approving body informs the applicant of its decision – including any conditions.

Once the new national standards are created, they will provide the basis for approval, adoption and connection to the public sewer. Approving bodies are required to adopt and maintain the majority of surface water drainage systems

within the public realm, but they may charge a fee for the application or require that developers deposit a financial bond with them as a guarantee of satisfactory completion of the SUDS project.

The approving body is required to adopt and maintain SUDS that serve more than one property. Highways authorities are responsible for maintaining SUDS in adopted roads. Adoption can occur on an approving body's own initiative or at the developer's request. If adoption occurs, then the approving body must:

- Notify the sewerage undertaker, the owners of land on which the SUDS sits, consultees, and anyone who has drainage provided by the SUDS.
- Designate SUDS on private property as designated features, via a local land charge, to ensure that property owners are aware.
- Designate roads with SUDS under the New Roads and Street Works Act.
- Place SUDS on local authority flood risk register.
- Release any bond.

The finer details of the implications of Schedule 3 have not yet been released. Secondary legislation will set out what will require drainage approval, the fee the approving body can charge for consideration of applications, the powers available to the approving body to enforce the requirement for approval, the circumstances in which drainage serves a single property, and the exceptions to the duty to adopt.

Most importantly, national standards have not yet been produced. Consultation will be a major part of shaping the forthcoming national standards, and it is important for industry, local authorities and interested parties to work closely with the Government to ensure that effective provisions are made.

4 Notes and further information

- 1 Flood and Water Management Act 2010.
<http://www.legislation.gov.uk/ukpga/2010/29/contents>
- 2 A. Nowosielski: 'Sustainable Drainage Systems (SuDS) – Policy Context'. Presentation to Society of British Water and Wastewater Industries (SBWWI) Wastewater Seminar, 1 Jul. 2010. <http://www.sbwwi.co.uk/cms/img/SeminarPresentation/File-230.pdf>
- 3 'Sustainable Drainage Systems and the Flood & Water Bill'. Hydro International webpage. http://www.hydro-international.biz/stormwater/flood_and_water_bill.php



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