



Development Control

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Our ref SUDS consultation response  
Date 24 October 2014

Dear Sir / Madam

**Delivering Sustainable Drainage Systems Consultation Response**

Please find below the Tonbridge and Malling Borough Council consultation response to the consultation by DEFRA and DCLG with regard to SUDS:

**Q1** – The proposed revisions to a national policy presumption in favour of the use of SUDS in *Major* schemes is desirable. However what appears unclear in the assumption of the benefits is the lack of costing of the implications thereof. Unless and until the precise implications of both the capital and maintenance cost of SUDS are clearly identified it is simply not possible to endorse the principle for inclusion as a national policy direction bearing in mind that the application of such a policy in a new Local Plan *must not* threaten the viability or deliverability of the Local Plan. The fact that this current approach has been proposed now arises because earlier discussions around other procedures outside the planning system have stalled – this illustrates the complexity of the background to this matter, which cannot be simply resolved by expounding revised policy. Policy has practical implications.

Further, the amendments to the Governments' planning guidance do not go far enough. If the Strategic Flood Risk Assessment is expected to include consideration of the provision and suitability of sustainable drainage systems across the local area, then it makes sense that the guidance expects this evidence to inform a policy on SuDS in the



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Local Plan itself. This policy could then provide the justification for the imposition of planning conditions to effectively secure the delivery of SuDS.

**Q2** – The bodies listed are often consultees (either statutory or non-statutory) in the planning process but none, habitually or regularly, currently give advice as to the workings of SUDS schemes and it is far from clear that they have detailed experience of such schemes. Incidentally SUDS will also discharge water to land, a factor of interest to the EA. LPAs will require specialist technical advice on the function of SUDS and a unless this can be provided Free of Charge by a current statutory consultee then procuring such advice whether by increased staffing or consultant advice *will increase the financial burden on the LPA*. The suggested policy approach is not a cost free option for the LPA.

In addition, details of the SUDS schemes would be required by planning conditions. At this stage it is not clear how this consultation interacts with the consultation for the DCLG Technical Consultation on Planning July 2014. This consultation sought comments with regard to the automatic grant of planning conditions if a decision is not made within 8 weeks. It may be that complex and detailed negotiations with regard to SUDS schemes take longer than the standard 8 weeks and it would be inappropriate to automatically consent such schemes. If the 8 week automatic consulting deadlines were imposed for SUDS conditions, it would have significant financial implications on the LPA to find additional capacity and expertise to negotiate and determine these applications within the time period.

**Q3** – flooding related aspects of planning applications already take a disproportionate place in the timetabling of application determination where flood related matters arise. The introduction of SUDS obligations will, especially in the short term, while consultees and consultants are *learning* the system, will inevitably slow down the speed of application decision making. Whether, in the future when such matters become somewhat more routinized, things speed-up remains to be seen. Given that statutory consultees are themselves managing staffing cadres downwards, it seems highly unlikely that the introduction of SUDS assessments in consultees' workloads will speed-up the development applications process.

**Q4** – Yes – apply only to Major developments.

**Q5** – Each one of the options mentioned is capable of being implemented. However the preferred approach must be that Water and Sewerage Companies *are required and empowered to adopt SUDS*. This is being resisted in some cases at present and this resistance should not be allowed to continue (subject to the relevant technical standards being met – as is currently the case with underground surface water systems). Solutions other than public adoption by Water and Sewerage Companies are second class solutions provided that the proper legal safeguards and obligations are in place.

The issue for the LPA is the enforceability of conditions relating to ongoing maintenance if responsibility or ownership is passed to individual residents or management companies. If the maintenance responsibility / ownership was passed to residents directly, any enforcement action would need to be taken against multiple property owners or occupiers for one system.

**Q6** – None but this evidence should be developed at a national level by DCLG/Defra in promoting this latest suggested approach.

**Q7** – Government must accept that its policy approach may well lead to additional costs to households and should carry-out its own financial research to establish if DCLG/Defra is satisfied that households can bear the direct cost of this policy approach.

Yours sincerely

**Kathryn Holland**  
Senior Planning Officer

*NB – Please see questions on next page.*

## **Part 5: consultation questions**

Q1. Do you agree that the proposed revision to planning policy would deliver sustainable drainage which will be maintained? If not, why?

Q2. How should the Local Planning Authority obtain expert advice on sustainable drainage systems and their maintenance? What are the costs/benefits of different approaches?

Q3. What are the impacts of different approaches for Local Planning Authorities to secure expert advice within the timescales set for determining planning applications?

Q4. Do you agree that minor size developments be exempt from the proposed revision to the planning policy and guidance? Do you think thresholds should be higher?

Q5. What other maintenance options could be viable? Do you have examples of their use?

Q6. What evidence do you have of expected maintenance costs?

Q7. Do you expect the approach proposed to avoid increases in maintenance costs for households and developers? Would additional measures be justified to meet this aim or improve transparency of costs for households.