

Rt Hon Elizabeth Truss MP  
Secretary of State for the Environment, Food and Rural Affairs  
Department for Environment Food and Rural Affairs  
Nobel House  
17 Smith Square  
London  
SW1P 3JR

25 February 2015

**New duties for Lead Local Flood Authorities as statutory consultees in planning for major development in relation to surface water drainage.**

Dear Elizabeth,

I write further to my letter in December in relation to the new duties for Lead local Flood Authorities (LLFAs) as statutory consultees on surface water drainage that will come into force on 6<sup>th</sup> April 2015.

The LGA and local authorities support government's intention to ensure that sustainable drainage systems (SuDS) are put in place for new development and support the principle of more closely aligning SuDS approval with the planning process. Our key concerns are to ensure that the new arrangements deliver SuDS effectively to reduce flood risk and that this is done in a way that does not result in delays within the planning process.

Since I last wrote to you on this issue in December, the LGA provided an assessment of the likely costs arising from the new responsibilities. Defra officials have subsequently shared with us the new burdens assessment which assumes a significantly lower assessment of costs, both in terms of preparation for the new role and ongoing costs of delivering the responsibilities. LGA officers are working with your officials to provide further evidence on the resource implications for LLFAs and Local Planning Authorities (LPAs) however, I wanted to draw your attention to key concerns arising from these discussions.

Firstly, it is clear that the role that LLFAs had expected to play in providing technical advice to Local Planning Authorities will not be deliverable within the resources set out under the new burdens assessment. In addition, the new burdens assessment assumes no new burdens on Local Planning Authorities. However, Local Planning Authorities have expressed concern that as they will not have access to technical expertise on SuDS themselves they will be reliant on LLFAs to provide this and are concerned that without sufficient resources this could lead to delays in processing applications and discharging conditions. This is clearly not what is intended and risks undermining Government's ambitions to speed up planning processes.

There is a need for a shared understanding that the level of funding to be provided to LLFAs will mean a light touch approach to providing technical advice on surface water drainage, much like the Environment Agency (EA) currently do. Our suggestion is that where more technical advice is needed, this could be dealt with in two ways. The LPA could put in place a planning condition that the developer must seek approval from the local water and sewerage company on the design of

the SuDS scheme to be constructed, before development commences. Alternatively, developers could be required to seek technical assessment of the SuDS design from the LLFA during pre-application discussion. This would need to be paid for on a cost-recovery basis and the assessment shared with the LPA to inform decision-making on the planning application.

Given the late changes to the role LLFAs and LPAs are expected to play, it is welcome that the new burdens assessment recognises that LLFAs will face additional upfront costs in the first year of their new role as they set up the necessary systems, provide training and raise awareness. They are also likely to incur additional costs in responding to requests for advice from the 6<sup>th</sup> April before the systems are place which will mean the service will be more expensive to run in the first year. LGA officers are working with your officials to ensure that these issues are taken into account in the resources provided in the first year.

In the longer term, our view is that responsibility for approval, adoption and maintenance of SuDS should sit with Water and Sewerage Companies within their existing regulatory regime. It is also our view that the costs of processing applications should be fully funded by planning application fees. This would ensure that planning authorities were adequately resourced to process applications and discharge conditions relating to SuDS.

However, given that we are now five weeks away from the date when the new duties will come into force, there is an urgent need to clarify what is expected of Lead Local Flood Authorities and Local Planning Authorities and the resources available for them to deliver that role. I would ask that the issues set out above are considered in your decisions about the resources made available, not least for preparation and set-up costs, to enable LLFAs and LPAs to gear up as quickly as possible to ensure that the new duties can be implemented in a way that does not lead to delays in processing planning applications.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mike Jones', written over a horizontal dashed line.

Councillor Mike Jones  
Vice Chair, Economy, Environment, Housing and Transport Board.

cc Brandon Lewis – Minister of State for Communities and Local Government