

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member - Environment
Date:	26 January 2011
Title:	Sustainable Drainage Interim Policy
Reference:	2400
Report From:	Director of Environment

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1. Executive Summary

1.1. The purpose of this paper is to consider the need for a County Council position statement on sustainable drainage (SuDS) in advance of the establishment of the SuDS Approval Board and to approve the authority's interim requirements of developers if it is to retrospectively adopt shared SuDS.

2. Contextual information

2.1. Among the new responsibilities assumed by the County Council as a result of the Flood and Water Management Act is the establishment of a SuDS Approval Body (SAB) to approve, inspect, adopt and maintain sustainable drainage systems for new developments exceeding one property. Where the proposed drainage system affects only one property it need not be adopted or maintained, but will have to be approved. Drainage of highways will continue to be the responsibility of the Highway Authority, but in all cases the County Council will (as Highway Authority or as SAB) be responsible for the approval of future SuDS and their maintenance if they drain more than one property.

2.2. Until the establishment of the SAB, the County Council has no authority to adopt SuDS that take private water. At present, proposals are being made in Hampshire for SuDS systems that will drain both the highway and private water. The County Council cannot adopt these as the Highway Authority, and until the Flood and Water Management Act is fully enabled it cannot adopt them as the SAB either. In addition, until the adoption of the drainage system is guaranteed the Council cannot undertake to adopt the highway itself.

2.3. Anticipating the establishment of an SAB, developers have begun to approach the County Council's Section 38 teams (who deal with the highways

adoption process) seeking clarity as to the Council's intentions vis-a-vis SuDS standards and requirements as and when it is charged with the SAB responsibility.

- 2.4. Uncertainties surround the future enablement of the Act, particularly in terms of funding and the outcome of a Parliamentary review which it is thought will consider the suitability of the County Council's taking up the SAB function. Moreover, national standards and further guidance on the implementation of this provision are awaited.
- 2.5. Committing to a course of action in negotiations with developers is therefore difficult. However, to not engage with developers on the design and future maintenance of SuDS is untenable, since the future adoption of highways depends upon adoptable drainage systems.

3. Future direction

- 3.1. In order to work positively with developers to ensure that development is not held up and infrastructure is provided to an adoptable standard, it is proposed that the County Council approve a position statement that outlines its willingness to adopt shared SuDS retrospectively when:
 - (i) the County Council is confirmed as the SuDS Approval Body;
 - (ii) the SuDS are built to a standard agreed by the County Council and developer with reference to expected national guidelines, sufficient funding (in the County Council's view) is made available for the future maintenance of such drainage systems; and
 - (iii) the developer agrees to cover the costs in approving and inspecting such SuDS at their development sites.

4. Recommendation

- 4.1. That the interim position statement on Sustainable Drainage be adopted by the County Council.

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	yes
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	yes
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	yes
Corporate Improvement plan link number (if appropriate):	

Other Significant Links

Links to previous Member decisions:		
<u>Title</u> Cabinet: "The Flood and Water Management Act 2010"	<u>Reference</u> 2280	<u>Date</u> 29 November 2010
Direct links to specific legislation or Government Directives		
<u>Title</u> The Flood and Water Management Act 2010		<u>Date</u> 8 April 2010

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

IMPACT ASSESSMENTS:

1. Equalities Impact Assessment:

- 1.1. The decision will help ensure that the drainage of the highway on future developments is appropriately constructed, ensuring that it can be publicly adopted under current plans for a SuDS Approval Body, and that the highway can likewise be adopted by the County Council as Highway Authority. As a result, residents of new developments in Hampshire will enjoy the same highways maintenance service as residents of existing development.

2. Impact on Crime and Disorder:

- 2.1. There will be no direct impact, but the decision will contribute to the delivery of functional and well maintained infrastructure in the County, contributing to the orderly conduct of business and community life.

3. Climate Change:

- a) How does what is being proposed impact on our carbon footprint / energy consumption?

Until more sustainable forms of road use are developed, by guaranteeing the construction and maintenance of new roads the decision could be seen as contributing to the county's carbon foot print. However, the delivery of effective drainage will also help prevent flooding and, therefore, the considerable energy use required in clearing up and responding to flooding events.

- b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

Climate change is expected to result in more regular and more intense flooding events. Fostering the use of sustainable drainage and developing an infrastructure of this kind across the county will be invaluable to the Council's efforts to contain these events and avert damage to property.

Hampshire County Council Interim Position Statement on SuDS for New Development

STATEMENT:

The County Council is willing to retrospectively adopt proposed sustainable drainage systems on new developments that drain both highways and private water on the following conditions:

- 1. That the County Council is confirmed as the SuDS Approval Body for the Hampshire Area;**
- 2. That sufficient funding is made available for the maintenance of such systems;**
- 3. That the systems are constructed to a technical standard agreed between the County Council and the developer;**
- 4. Developers agree to cover the County Council's costs in approving and inspecting such SuDS at their development sites.**

SUPPORTING INFORMATION

1. As the Highway Authority, the County Council currently inspects surface water drainage systems (including "SuDS", or sustainable drains) which take highway water only and then considers them for adoption. The statement above states the County Council's position in situations where a new SuDS drainage system is proposed to take water both from the highway AND from private properties on new developments.
2. The County Council's approach to highway drainage for new developments is set out in the HCC 'Companion Document to Manual for Streets' (April 2010) which encourages the use of SuDS for highway drainage where appropriate. Where SuDS are agreed to be the appropriate highway drainage solution, they are to be designed and constructed in accordance with 'The SuDS Manual - CIRIA Document C697'.
3. At present, the County Council is not empowered to adopt SuDS that take private water. Under current practice, both Surface Water and Foul Water systems dealing with private water are covered by an agreement with the relevant water company under Section 104 of the Water Industry Act and are not adopted by the County Council.
4. The County Council notes that the Flood and Water Management Act (FWMA), which received Royal Assent in April 2010, encourages the use of sustainable drainage in new developments and re-developments.

5. The County Council also recognises that under the Act, upper-tier authorities are likely (should this part of the Act be enabled) to become SuDS Approval Bodies (SAB), responsible for the approval of all SuDS, private or shared.

6. As the Act currently stands, the County Council would also be responsible for the adoption and maintenance of all SuDS following their completion, where they serve more than one property.

7. The timing of the Act's enablement is uncertain, as is the impact that funding and legislative reviews might have on the eventual implementation of new responsibilities under the Act.

8. In advance of the SAB's being established, the County Council considers that at all development sites under negotiation, where a SuDS system is proposed to drain both the highway and the new development, a feasible sustainable drainage solution should be considered and agreed by all parties (HCC, the LPA, Environment Agency and the relevant Water Company). At the outline planning stage the solution can be agreed 'in principle' but for full planning applications the agreement must be 'detailed'. SuDS should be in line with the existing CIRIA C697 guidance and national SuDS standards when they are published. This will provide the greatest opportunity for these systems to be adopted by the SAB in the future. It is anticipated that a planning agreement will then require the 'in principle' or 'detailed' solution to be delivered to the satisfaction of the eventual SAB once it is established. Until such time as the SuDS can be adopted and a Section 38 completed, the internal roads and drainage systems will remain the responsibility of the developer.

9. Although the County Council does not have a duty to retrospectively adopt SuDS approved or constructed before the SAB is established, the Act makes provisions for this to be done voluntarily.

10. The County Council will work positively with developers and landowners to develop SuDS to drain the highway at new developments which accord with the CIRIA guidance and national standards when they are published. Subject to satisfactory financial arrangements being in place, provision will be made for the assessment and inspection of the design and construction of SuDS which drain both the highway and private development in anticipation of their possible future adoption by the SAB. In the interim it is anticipated that developers will be required to cover the County Council's costs in approving and inspecting such SuDS at their development sites. Any approvals and inspections by the County Council shall not be deemed to necessarily lead to future adoption by the SAB.

11. New roads and other highway infrastructure draining into shared SuDS and existing developments draining into shared SuDS will not be adopted by the Highway Authority under Section 38 of the Highways Act until such time as the SAB has been established and can consider the SuDS on a case by case basis.