



Report to the Environment, Transport and Locality Services Select Committee

Title:	Information Paper on Buckinghamshire County Council's Way forward for Sustainable Drainage
Committee date:	17 th March 2015
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Report signed off by Cabinet Member:	Lesley Clarke OBE, Planning and Environment
Electoral divisions affected:	All

Purpose of Agenda Item

The paper is for discussion on the latest position for dealing with Sustainable Drainage as part of major development planning applications and discussion and feedback on the options and proposal for the way forward.

Background

Recently there have been several changes to the proposals under the Flood and Water Management Act (2010) Schedule 3 for implementing Sustainable Drainage Systems (SUDS) for the management of surface water run-off. The current intention is that SUDS will be not now be approved by a separate SUDS Approval Body (SAB) but will be the drainage part of a planning application under the existing planning system and decisions will be made by using local planning policies and advice from the Lead Local Flood Authority (LLFA). The County Council is the LLFA for Buckinghamshire. There will be some national standards and guidance issued on SUDS by DEFRA. The suggested arrangements for SUDS are due to be implemented on 6th April 2015.

The current proposal (still being considered after a consultation) is that Lead Local Flood Authorities (LLFA) will be a statutory consultee for the drainage part of the planning application for major developments of 10 properties or more. The Local Planning Authority (LPA) i.e. District Councils, will then consider the comments made on the drainage part of the planning application alongside all other comments when making their decision on these major developments. The Environment Agency will also still be a statutory consultee on those developments at risk from fluvial flood risk.

The LPA will be responsible for any subsequent approval/inspection of the works and any enforcement required. BCC will be expecting to see a maintenance/management plan for the SUDS as part of the planning/drainage application. Developers will be expected to put in place a management company or suitable arrangements for the maintenance/management of the SUDS.

Implications for BCC

It is not yet clear whether the response to the drainage parts of the planning applications will be a statutory requirement but the assumption is being made that this will be the case. Based on this current year's level of applications there are likely to be around 160 major applications (AVDC 70, WDC 30, SBDC 35, CDC 25) per year which BCC as the LLFA will need to respond to. It may be that there will be some income made available from Central Government if this becomes statutory.

As a result of a previous MTP bid there is currently £200,000 base funding to cover staff costs and some level of technical advice. This bid was made on the basis that DEFRA's initial intention was to introduce a SUDS Approval Body (SAB) which would have been administered by the County Council.

Although there will be no SUDs Approval body the funding is still required manage the expected applications under the new regime. The exact level is dependent upon what response level is adopted. The options set out below are the resource requirements for a range of different responses to these proposals and the associated implications and risks

It is also anticipated that BCC could charge developers for pre-application discussion and recover some resource costs through this route. The level of the these costs is being discussed internally and benchmarked against other organisations such as the Environment Agency and other internal services such as Ecology and Highways DM.

Some of the LPAs (WDC, SB, CDC) have suggested that they may wish to ask BCC to look at and comment on the drainage aspects of minor as well as the major planning applications and that they would fund BCC to have a central resource rather than the individual districts covering this. If this is agreed with LPAs then this will be an additional resource to option 2 and would be reflected in the resources suggested under option 3.

AVDC have indicated that they would have the internal resources to comment on minor applications so would not be seeking this resource from BCC.

Options

Option 1- Low level response

Provide standard response notices to the LPAs on management of surface water (e.g. standard maps and standard surface water response)

Implications:

Some resource required but at low level – technician with limited understanding/experience which would be around £40k per year total costs.

Risks:

If this option were chosen the risks would be:

- Key issues on surface water flooding could be missed which would lead to flooding on developments in future years which would be the responsibility of BCC to manage and deal with. The legacy of flooding problems could be high.
- Reputational risk that BCC doesn't deal with or take surface water responsibilities seriously.
- Poor level of service to residents
- No involvement in inspection/enforcement/adoption of SUDS with a risk that they may not be well built and if they fail then BCC would be the authority to address the subsequent problems

Option 2- Risk based approach and adoption of highways SUDS

All drainage applications will be looked at on a risk basis – identifying and responding in more detail to those which have a high risk of impacting on surface water or groundwater flooding. This is likely to be around 80 higher risk applications per year. Responses will be made to other low risk applications with a standard notice with 80 lower risk applications likely. SUDS on highways would be considered and adopted as part of the highways and be part of the S106 agreement. Encourage and take part in pre-application discussions with developer.

Implications:

To assess and respond to higher risk application and being part of S106 agreement negotiations will require a resource of 2*FTE at Range 6 and Range 4 requiring £80k per annum staff costs and £30k per annum costs for consultancy support - total resource requirement £110k. Likely workload would be 80 applications at 3 to 4 days per application plus pre-app discussions and input into S106 agreements (50 days per annum). This is an educated estimate and will depend on number of applications. A third person may be required if application load is greater - additional £40K. Some external consultant input will be required on specialist aspects such as water quality. Some of this resource could be funded through pre-app discussions and S106 agreements on pre agreed charges, but this is yet to be established.

Risks:

If this option was chosen risk would be:

- If there are lots of these low risk applications in one area this could represent a higher combined risk which could be underestimated with this suggested approach
- Danger of not turning around applications within the deadline of 21 days due to lack of resources at peak times – consultant resource could be used to cover peaks in workload
- Borderline risk applications may be missed due to lack of resources.
- Level of applications not known accurately so risk of being under (or over) staffed
- Skilled staff not being available in market for recruitment for salaries offered

Option 3- As option 2 but also:

a) Respond to all major applications

All major applications would be considered (160 per year) irrespective of risk.

b) Respond to minor applications for 3 out of 4 LPAs

All minor applications would be considered from three out of the four LPAs (1000 per year).

c) Consider inspection/enforcement/adoption of SUDS

Options for funding inspection, enforcement and adoption of SUDS (which may be substantial) should be considered if BCC wanted to take on these responsibilities.

Implications:

- a) 3 *FTE officers at R6, R5 and R4 with a resource requirement of £125k plus £30k for consultant support per annum – total £155k.

The benefits would be that the risks of underestimating the combined impacts of major developments would be greatly reduced a greater consistency of approach for all developments.

- b) 4 * FTE officers at R6, 2* R5 and R4 with a resource requirement of £170k plus £30k for consultant support per annum – total £200k. Negotiations would be undertaken with the 3 districts to contribute to the additional FTE R5 post.

The risks of surface water and groundwater flooding from multiple minor developments would be better addressed, mitigated and reduced giving better long term management of flood risk and fewer issues in the future.

- c) To identify and the implement inspection/enforcement and adoption regime the resource required would need to be determined but this could be very large and could require inspection/enforcement and maintenance teams with no guaranteed funding. A business case would need to be developed and established for this option. The benefits of this approach would be that the control of the process of implementing SUDS would be with BCC and this would improve the management of flood risk and reduce the risk of longer

term issues which are likely to arise from poor inspection/enforcement and maintenance/management of SUDS.

Risks:

If this option was chosen the risks would be:

- Level of applications not known accurately so risk of being under or over staffed
- If application levels are higher than anticipated, 3 or 4 FTE staff may not be sufficient and existing base funding would not cover resource required.
- High unknown costs of taking on an inspection/enforcement/maintenance regime would require high set up costs which would be outside the 200k base funding.
- Skilled staff not being available in market for recruitment for salaries offered.

Resource table for options

Options	Staff resource	Consultancy resource	Total resource
1	£40k	10k	50k
2	£80 to 120k	£30k	£110 to 150k
3a	£125k	£30k	£155k
3b	£170k	£30k	£200k
3c	Greater than £200k – further work needed to prepare costs and business case		

Preferred Option

The recommendation from the Cabinet member, Lesley Clarke, and Strategic Flood Risk Management Team is to go for Option 2 in the short term because this would give good coverage of the estimated level of major applications with 2 * FTE. If major development applications levels were higher than anticipated then suggestion would be to move to option 3a and employ a further 1 FTE. In the medium to longer term, in the next year 2015/16, the Strategic Flood Risk Management team will continue to explore option 3b, responding to major and minor applications, with the Districts and negotiate financial contributions towards employing an additional FTE to support this option.

Option 2 would be the preferred option in the short term with funding through a combination of:

- Base funding from BCC supplemented by;
 - Central Govt. funding for statutory consultees if available after consultation;
 - Recovery of some monies through pre-app discussions

Initially employing 1* FTE Range 6 SUDS officer and 1* FTE Range 4 technician. The resource requirement would then be reviewed after 6 months to assess whether further resource would be required up to an additional 2*FTE officers at Range 5.



Alongside suggesting options 2 and 3a/b it is proposed that there are possibilities for developing an inspection/enforcement/adoption of SUDS regime which is set out in Option 3c and a business case would be developed within the 1st year of the SUDs applications process going live.

Actions and Recommendations

- In anticipation of new applications coming in from 1st April job summaries have been prepared for R6 and R4 posts and will go through the job evaluation and vacancy approval process over the next few weeks with the posts advertised in April 2015.
- Confirm interim arrangements before permanent staff can be appointed. Initial discussions have been held with consultants Jacobs to provide support from mid-April for 3 months until FTE staff can be employed. This interim arrangement will be up to 3 days per week depending on application demand with 1 day a week being at BCC offices. Funding for this arrangement is being carried forward from funding provided by DEFRA in 14/15 for setting up SUDS.
- Disseminate to members, internal staff (directors, business managers, team leaders and relevant staff within TEE), Flood Management Strategic and Technical Groups and Districts the current position and decision from DEFRA on BCC being a statutory consultee on drainage part of planning applications
- Continue to work with LPAs on submission and drainage application processes including: introduction of checklist; establishing conditions; enforcement; pre-applications; and appeals.
- Continue discussions and negotiations with Districts over considering and responding to minor development drainage applications
- Gather information on charging for pre-application discussions; make a proposal and get approval for charging; set out the process; and disseminate to LPAs and developers.
- Monitor level of applications and review applications and level of resource after 6 months
- Begin investigation of the options for inspection/enforcement/adoption of SUDs and begin to prepare a business case for this.