

**Department for Environment, Food and Rural Affairs**

**December 2011**

**Consultation on implementation of the  
Sustainable Drainage Systems (SuDS)  
provisions in Schedule 3 of the Flood and Water  
Management Act 2010: Full list of consultation  
questions**

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## **Question 1**

We have based our proposals on the evidence, outlined in our Impact Assessment, of the impact of surface runoff on future development and the benefits of SuDS. Do you have any additional evidence that may alter the recommendations of the Impact Assessment?

## **Question 2**

We propose that SAB approval will not be required for the first 12 months:

- for developments that already granted planning permission before commencement; or
- for developments with one or more reserve matters where an application for approval of the reserve matter(s) is made; or
- for which a valid planning application has been submitted before commencement

Do you agree with this approach for transitional arrangements, if not please explain why?

## **Question 3**

We propose implementing on the common commencement date of 1 October 2012, do you agree this is reasonable? If not would you prefer an implementation date of April 2013, October 2013 or after 2013?

## **Question 4**

We understand that there may be capacity issues for SABs to meet their new duty to approve drainage. We are therefore considering whether to phase implementation of the requirement for approval. Do you think a phased approach is necessary?

## **Question 5**

Do you agree that development under a Neighbourhood Development Order should be exempt from the requirement of SAB approval?

## **Question 6**

Drainage for surface runoff should be sustainable and affordable to build and maintain. Do the National Standards deliver this, if not please explain why?

## **Question 7**

Affordable sustainable drainage systems for surface runoff are comparable in costs with conventional alternatives. Do you agree?

## **Question 8**

We propose that the SuDS Approving Body must determine an application for approval within 12 weeks where it relates to major development or a county matter and 7 weeks where it relates to other development. But could applications be determined in less time?

If yes, please specify reduced time to consider applications:

- 1 week less
- 3 weeks less

5 weeks less

### **Question 9**

Do you think guidance for calculating the amount required for a non-performance bond is necessary?

### **Question 10**

Do you agree with our proposals to set approval fees for three years? If you disagree, please explain why and provide any supporting evidence.

### **Question 11**

We propose that the fee for each inspection of the drainage system should be set on a cost recovery basis rather than to a fixed fee. Do you agree with this proposal?

### **Question 12**

We propose to make arrangements for fees for applications to vary an approval, re-submitted applications, discounted fees, fees for cross area approvals as well as the refunds of application fees. Do you agree that this covers all the scenarios for which fees are likely to be needed? If not, please explain what is missing and provide further explanation if required.

### **Question 13**

We propose setting a time limit of 21 days for statutory consultees to respond to the SAB. Do you agree with the timeframe proposed?

### **Question 14**

We propose to give enforcement powers to the SuDS Approving Body and the local planning authority. Do you agree?

### **Question 15**

Do you agree that the proposed powers of entry are reasonable and proportionate, if not please explain why?

### **Question 16**

We propose that claims for compensation related to powers of entry and temporary stop notices must be submitted within 12 months of the powers being exercised or the notice being withdrawn/ ceasing to have effect. Do you agree, if not please explain why?

### **Question 17**

We propose that, as in planning, a time limit of four years is set for when the SuDS Approving Body is able to give an enforcement notice? Do you agree, if not please explain why.

### **Question 18**

Are the criminal offences proposed in the draft statutory instrument appropriate and proportionate?

### **Question 19**

We propose to provide similar procedures for appeals against SuDS enforcement notices to those which currently apply to planning enforcement appeals (written representation, hearing or inquiry). Do you agree, if not please explain why?

### **Question 20**

We propose a register of SuDS enforcement notices which mirrors the register for planning enforcement notices. Do you agree?

### **Question 21**

For the purpose of the SuDS Approving Body's duty to adopt, "sustainable drainage system" means those parts of a drainage system that are not vested in a sewerage undertaker.

Do you agree this provides certainty and clarity on what is adoptable by the SuDS Approving Body? If not please provide an alternative definition.

### **Question 22**

The SuDS Approving Body's duty to adopt does not apply to a single property drainage system. We propose that "a drainage system or any part of a drainage system is to be treated as designed only to provide drainage for a single property if it is designed to provide drainage for any buildings or other structures that, following completion of the construction work, will be owned, managed or controlled by a single person or two or more persons together".

Is our definition clear on what will or will not be adopted? if not please provide an alternative definition.

### **Question 23**

We propose that the SuDS Approving Body should determine a request for adoption within 8 weeks of receiving the request. Do you agree with this timeframe?

### **Question 24**

We propose for the SuDS Approving Body to have a 28 day time limit for administrative processes (for example return of bonds, the process of registration or designations). This time limit applies throughout the SuDS process. Do you agree with this timeframe, if not please explain why?

## Question 25

We propose that all Statutory Undertakers must notify the SuDS Approving Body at least four weeks in advance of works that may affect the SuDS' operation. Do you agree with this timeframe?

## Question 26

We propose upon completion of the works, the SuDS Approving Body must decide within 12 months if it is satisfied that the SuDS functions in accordance with the National Standards. Do you agree? Do you agree, if not please explain why?

## Question 27

We propose that an appeal must be made within six months of the SuDS Approving Body's decision or within six months of when the decision was due. Do you agree?

## Question 28

We propose to adopt similar procedures for SuDS appeals to those which currently apply to planning appeals (written representation, hearing or inquiry). Do you agree, if not please explain why?

## Question 29

Should we take action to avoid the increase of un-adopted SuDS? If your answer is no, please explain why?

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Any enquiries regarding this document/publication should be sent to us at:

SuDS Team  
Defra  
Area 2A,  
Ergon House  
London SW1P 2AL  
Email: [suds@defra.gsi.gov.uk](mailto:suds@defra.gsi.gov.uk)