

**RTPI**

mediation of space · making of place

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30<sup>th</sup> April 2008

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Dear Sir/Madam,

## **RESPONSE TO CONSULTATION PAPER: IMPROVEMENT TO SURFACE WATER DRAINAGE**

Thank you for the opportunity to respond to the above consultation. The RTPI is a membership organisation representing over 21,000 spatial planners. It exists to advance the science and art of town planning for the benefit of the public.

The consultation paper 'Improving Surface Water Drainage' supports the Government's new water strategy, 'Future Water' and sets out policies to improve the way that surface water drainage is managed. This response has been formed drawing together internal consultations with the RTPI Environmental Planning and Protection and the Rural Planning Networks. In particular the RTPI would like to acknowledge the contribution of David Alexander, MRTPI in developing this response.

The summer floods of 2007 identified that around two thirds of the 57,000 flooded homes were affected by surface water run-off from fields and paved areas and were estimated to have cost £3 billion. This is a very powerful reminder of the importance and urgency attached to both identifying techniques and taking action to try and alleviate the adverse effects of future events. This approach is reinforced by climate change forecasts which suggest the UK may be subject to warmer summers with more extreme rainfall events: in short the conditions that promote flood events associated with surface water run-off.

The RTPI recognises prompt action is required and supports the need to:

- Manage surface water more sustainably, by allowing for the increased capture and re-use of water, promoting slow absorption through the ground, and where appropriate, more above-ground storage and routing of surface water separate from the foul sewer.
- Increase management of water on the surface, with the aim of becoming less dependent on sewer systems, through means broadly characterised as sustainable urban drainage systems (SUDS).

*continued*


The proposals outlined in the consultation document are broadly welcomed in our response. Key issues for further consideration in our view are:

- **There should be stronger links between the proposals and Planning Policy Statement 25, Development and Flood Risk:** The current relationship between surface water and land use planning is clarified (paras. 2.10/11). The link with PPS25 should be stronger than 'have regard to' (para. 2.10) as such it would be seem more appropriate to remove this phrase and replace with 'must normally comply with' since PPS25 is a clear policy statement rather than simply policy guidance.
- **The importance of flooding in rural areas should be recognised:** Although the proposals set out in this consultation paper will primarily benefit urban areas, where surface water flooding problems can be particularly severe due to the loss of natural drainage pathways, they are still very relevant for rural communities that can identify critical drainage issues.
- **Run-off from agricultural land, the contribution of farmland and woodland in water retention** in the face of climate change are extremely relevant in the Cross Compliance requirements of the Common Agricultural Policy and AXIS 2 of the Rural Development Programme (agri-environment measures). Clear guidance at both national and local levels can lead to financial incentives to landowners and land managers (farmers and foresters included) to minimise run-off (an important issue for soil conservation as well as flood prevention), to ensure ditches maintained to cope with flash storms, to maintain and enhance tree cover to absorb and decelerate water flow, and even to create water areas (ponds and swales) for habitat (biodiversity) as well as water management.

At present, land use planning, drainage investment decisions and emergency planning will each follow their own separate paths unless a more strategic approach is followed and there is a much stronger consideration for surface water flooding (para.2.17).

I trust that this response assists DEFRA in its final version of the Water Strategy Future Water. If you require any further assistance, please contact Mr Phil Grant, Planning Policy Officer on 0207 929 9494 or email [phil.grant@rtpi.org.uk](mailto:phil.grant@rtpi.org.uk).

Yours faithfully,



FOR RTPI PURPOSES ONLY

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## SURFACE WATER MANAGEMENT PLANS

**Q.1** Are Surface Water Management Plans the right solution to co-ordinate surface water drainage? How do they fit with current responsibilities? How else might a strategic approach to surface water flood risk management be achieved?

**A.1** Surface Water Management Plans (SWMPs) should be supported as a means of coordinating surface water drainage, and together with strategic Flood Risk Assessments, they should be seen as the evidence base for appropriate Development Plan Documents (DPDs) (para.2.18).

**Q.2** Could the principles set out in Surface Water Management Plans be delivered through a voluntary arrangement? Or should producing such plans be a requirement in critical drainage areas?

**A.2** The production of SWMPs is too important to be left to voluntary arrangements and should become a mandatory requirement, at the very least in recognised critical drainage areas (para.2.32). The location of such drainage areas could change over time and the Plans would need to be sufficiently flexible to accommodate this.

**Q.5** Do you think that local authorities are the appropriate body to take the lead on producing a Surface Water Management Plan?

**A.5** On balance, local authorities are the most appropriate body to take the lead and coordinate the production of SWMPs, particularly given their existing planning policy role and the need to dovetail the SWMPs with DPDs. However there are two provisos to this option:

- The provision of appropriate resources to allow local authorities to take on this additional role, particularly any net additional costs. The consultation paper does make clear that 'these will be fully funded, as required under the government's new burdens rules' (para.2.58).
- The provision and availability of staff with both expertise and training, although it is accepted that some of the very specific technical work can be outsourced to consultancies. There seems little doubt that training will be required, rather than 'might be' (para.2.41). It should be noted that in a number of authorities there will be scope for joint use of professional resources, making best use of both existing planning skills and training and the skill sets of highways and drainage engineers: particularly in those authorities that have had a tradition of providing draining services on an agency agreement.

**Q.6** Do local authorities have the appropriate levers to bring about effective participation in preparing Surface Water Management Plans by stakeholders? What more might be required to give local authorities a central role in coordinating surface water drainage?

**A.6** Partnership working is clearly essential, but this raises questions over public v. private issues, since the water companies are commercial operators. Given the vital importance of the public good and interest over surface water management, the Government must find ways and means, through local authorities, of ensuring cooperation and the sharing of 'vital' information. There will be issues to be resolved here including the degree to which information is commercially sensitive, proprietary or public domain. There will also be issues about the cost of information gathering and management.

What evidence is there that scrutiny committees will work effectively? (para.2.43)

**Q.7 In two-tier authorities what should be the respective roles of district councils and county councils in developing and implementing Surface Water**

**A.7** There is strong support for priority to be afforded to district councils.

**Q.8 What role do you see water companies playing in the Surface Water Management Plan process? What would need to change in order for them to play their part in producing and implementing a Surface Water Management Plan?**

**A.8** Water companies are **NOT** the most appropriate bodies to produce SWMPs. They lack an essential democratic base in their local communities and in many cases cannot access the necessary detailed local knowledge of drainage problems (para.2.46).

**Q.9 Do you agree that the Environment Agency would be well placed to play an advisory and/or regulatory role in producing and implementing Surface Water Management Plans? Are existing powers and duties sufficient to achieve this role? Are there other organisations that could provide the quality assurance role?**

**A.9** There is strong support for the Environment Agency (EA) in providing an advisory and quality assurance role for SWMPs. They are likely to work better with local authorities and they have already developed a rapport with planners and a strong understanding of and contribution towards the development of planning policy. They may have a key role in strengthening the evidence base to help influence elected members in reaching decisions on local development proposals. There is equally full agreement over requiring the adequate addressing of drainage issues before accepting the soundness of a Core Strategy DPD (para.2.49).

**Q.10 Should Internal Drainage Boards assume active leadership in producing Surface Water Management Plans in areas where they have an interest? What would be the main opportunities and barriers to such an approach?**

**A.10** The considerable rural expertise of Internal Drainage Boards (IDBs) needs to be made full use of. It would be helpful to see a map setting out those areas subject to the operation of IDBs. How many exist in areas with critical rural drainage problems? Where relevant, IDBs could become a part of the partnership arrangements for SWMPs, set up and coordinated by local authorities.

The costs and benefits of the SWMPs provide interesting and hopeful reading, notably the average production cost of £100,000(para.2.55) and the cost-benefit ratio of even a 1% reduction in flood risk (para.2.57).The investment looks likely to be a sound one.

**Q.13 To what extent can spatial planning resolve surface water flooding problems? Can it adequately address existing problems as well as emerging issues from new development? & Q.14 What else might a Surface Water Management Plan include? What technical barriers still need to be overcome?**

**A.13 & A.13** The benefits of a spatial planning approach to SWMPs is clearly shown (para.2.66) and their contribution to the Local Development Framework (LDF) is likely to be very helpful in supporting planning policy and individual planning decisions. SWMPs might be particularly useful as a tool to consider both controlling urban creep and reducing the amount of hard standing.

There are clearly spatial planning tasks to be addressed at the national as well as regional and local levels however. To make this position clear, in respect of overland flows, there is considerable scope for national action to redefine the nature of permitted development (General Permitted Development Order) rights over hard standings currently enjoyed by dwelling houses, seeking to reduce the rate at which new impermeable surfaces are made and incentivising performance measures that increase rather than decrease the discharge of surface waters to groundwater, within the confines of a dwellinghouse curtilage. Such action could also be reinforced by a nationally prepared and endorsed design guidance document amounting to a supplementary planning document, setting out techniques that can appropriately be used to increase surface permeability, whether surfaces are being created pursuant to permitted development rights, or within a process subject to an application for planning permission.

**Q.15 Should Surface Water Management Plans be the mechanism for delivering the Flood Risk Management Plans required by the EC Floods Directive (for surface water)?**

**A.15** The link with the EC Floods Directive is an important one and developing SWMPs now could well assist the implementation of the forthcoming EC requirements, rather than waiting for them to become mandatory by 2015.

**Q.16 How best should the costs of producing Surface Water Management Plans be distributed among the key stakeholders? Are there alternative funding options that could be pursued?**

**A.16** Funding is likely to be of crucial importance, particularly given current financial projections at DEFRA and the somewhat uncertain financial climate as a whole. While the public sector is undoubtedly better placed to lead on SWMPs, there is little doubt that were it to be the water companies, then private capital could be used and at least some of the cost would be paid for by customer bills. There may also be scope to lever an element of the cost of the SWMP process from planning gain; contributions under section 106 of the Town and Country Planning Act 1990 or under the proposed Community Infrastructure Levy provisions of the Planning Bill currently before Parliament, as sound surface water management amounts to an infrastructure that benefits new and existing use and development. That being said, care must be taken to ensure that a balance of cost benefit considerations in the setting of section 106 contributions or levies has regard to the need to maintain sufficient profit element to incentivise eg ongoing private housing delivery, a particularly pertinent point as the open market value of housing softens. This is a dilemma for the Government, but one over which it needs to remain stand fast and try instead to find ways and means of using some private sector capital as part of the public sector led SWMPs, particularly in their implementation(para.2.68).

**Q.17 How should implementation of the Surface Water Management Plan be monitored? Should there be some degree of scrutiny in the process?**

**A.17** SWMPs must be updated and maintained. The mechanism for this must be in place before establishing them in the first place. A rolling programme over 3 to 5 years sounds about right, but the experience of DPD production may help put a more realistic timescale on the situation. There would be some considerable virtue in co-ordinating SWMP production and review with relevant DPD production.

## SUSTAINABLE DRAINAGE SYSTEMS (SUDS)

**Q.18** How might we ensure that such drainage partnerships are sustained?

**A.18** Table 2.1 is helpful in setting out responsibilities and accountabilities, including those of individual property owners. An annual monitoring of partnership arrangements will support reviews that might identify any needs for change.

**Q.20** Do you agree that the property owner should have responsibility for property level SUDS features? If you have answered 'no', please provide reasons and indicate who you think should bear such responsibility.

**A.20** While individual responsibility is clearly important, some responsibility should rest with local suppliers and tradesmen who implement the SUDS work and who recommend particular items to customers. For example, how does the property owner know whether the paving flags he is having installed are in fact porous? This is vital, since non-porous material will require planning permission. Should a sample paving block have to be seen by planners or building control staff to independently verify that it is indeed porous? There is a joint responsibility between owners, suppliers and those who actually carry out the job. The local authority could provide independent quality assurance. This is an area where the RTPI also returns to the concept discussed briefly above, the potential role for a national level document that records the various techniques and materials deemed to deliver satisfactory SUDs performance, together with any conditions on their use. For example, such a document could list porous surface materials, construction techniques deemed to retain porosity and also document more technical issues, such as the need for porosity tests and augmenting soak-away drainage in some circumstances and how this will relate to the planning permission trigger.

**Q.21** Do you have any comments on mechanisms by which property-level SUDS features can be efficiently regulated so that they remain effective?

**A.21** This is an equally difficult issue to monitor and assess. Had planning permission been required, then this may well have been carried out by enforcement staff as part of their monitoring function. Without requiring planning permission, it is difficult to see who might be able to assess the continued effectiveness of SUDS. One possible option would for SUDS to form a part of the HIPS package required on the sale of properties. In terms of communal or public SUDS, there is a strong case to be made in favour of local authorities taking responsibility, in view of their existing roles and the likely addition of SWMPs (para. 3.29). This begins to suggest some measure of ongoing SUDS performance which, if breached, triggers a capacity to enforce. For example, the incremental replacement of permeable with non permeable surfacing materials must at the end of the day trigger some capacity for enforcement action. However, there are significant potential cost and data issues that, whilst not insurmountable, require to be considered in this area.

**Q.23** Do you consider that local authorities are the most appropriate party to take responsibility for adoption and management of SUDS? Please give your reasons.

**A.23** The case put forward here for local authority responsibility is a strong one, but the same provisos must be made over Government ensuring they are fully funded (para.3.34) and that local authorities have the necessary staff skills, expertise and training (para.3.29). It is important to note that good SUDS measures can form attractive multi-purpose features, as part of the landscape setting of development, within parkland and recreational facilities and can also

contribute towards the achievement of biodiversity objectives. To obtain this balance of benefits, local authority control is more appropriate than private or water company control.

**Q.24** If this option were to be implemented, which tier of local authority do you feel is the most appropriate one to take on the responsibility for the adoption and management of SUDS in two-tier areas, i.e. districts or counties?

**A.24** District councils should take responsibility.

**Q.25** Would placing this responsibility on local authorities add to or detract from local authorities' overall effectiveness in place-shaping and ensuring high quality service delivery in its area?

**A.25** This role will be a useful addition that should complement the place-shaping role of local authorities.

**Q.26** To what extent do local authorities have in place the skills and capacity that are needed for this work, and over what period of time would it be realistic to gain these skills and capacity?

**A.26** Levels of training and expertise will vary from one local authority to another, but a flexible training programme will be necessary.

The potential involvement of sewerage undertakers raises the same public v. private issues as with SWMPs, since the sewerage companies are private, commercial operators. They are not best placed to take on this new role over SUDS, given some overlapping with local authorities over the management of public open space. They do not have the local democratic connection and are generally not well versed in a development planning role.

**Q.27** Do you consider that sewerage undertakers are the most appropriate party to take responsibility for adoption and management of SUDS? Please give your reasons.

**A.27** The answer must be 'no', with a strong case against being made here. They are best left to focus on their own areas of expertise and liaise with local authorities where necessary.

The establishment of separate SUDS drainage undertakers would simply add to an already complex situation. The case against is well made here, requiring new legislation, overlapping with local authorities and needing to be created from a standing start (this would mean that they could not be expected to be up and running straight away).

**Q.29** Do you consider that new specialist drainage undertakings or companies are the most appropriate party to take on responsibility for the adoption and management of SUDS?

**A.29** The answer must be 'no'. The idea of having different solutions for different areas is quite a good one that goes along with local solutions and democracy (para.3.54), but a single, lead organisation is necessary for both certainty and clarity. It is also important that development stakeholders understand where to go to secure input into the SUDS component of development design and delivery: again suggesting a common lead organisation.

**Q.32** Do you consider that it would be a satisfactory outcome if there were to be different organisations with the responsibility for the adoption and management of SUDS in different areas?

**A.32** Different solutions are fine. Even the use of different implementation bodies would be acceptable, but it is not acceptable to have different overall responsibility, or a situation emerging

where it becomes difficult for communities or development stakeholders to understand and access SUDS requirements and advice.

**Q.33 Do you consider that it would be effective and workable for there to be locally agreed solutions (with an identified default organisation) for the organization most appropriate to take on responsibility for the adoption and management of SUDS?**

**A.33** The answer to locally agreed solutions must be 'yes'.

**Q.34 What are your comments and views on the above good practice principles and their role in ensuring that SUDS can be implemented in redevelopment schemes and can contribute effectively to making existing sewerage systems more sustainable?**

**A.34** Strong support is given for the ready dissemination of good practice principles (para.3.57) and they may well be incorporated into or associated with PPS 25 as well as on local authority and Environment Agency websites. There should be a presumption that the PPS itself remains as a simple and high level policy source, with more technical material appearing in associated good practice guidance.

**Q.36 Do you feel that the principles should be provided as good practice guidance or should they have stronger status? If you feel the latter please indicate how you feel this might ideally be achieved.**

**A.36** The principles of good practice might well become the foundation stones of SUDS implementation. Where they are seen to work well, they should become the default standard, with the aim of driving up overall quality. There is a very interesting issue here about the development of a more 'performance-based' approach to planning, where some good practice can obtain a weightier status: that of a technique deemed to comply with or deliver satisfactory performance against one or more over-arching planning objectives.

**Q.37 How important is it that the responsibilities for the adoption and management of SUDS should rest with the same organisation to which the responsibility for Surface Water Management Plans is allocated and why?**

**A.37** The answer must be 'yes' for local authorities to carry out both SWMPs and SUDS, given the availability of resources, skills training and expertise. Some care will be necessary over the dual use of land for water space and amenity (para.3.62), notably safety and access issues, but, as discussed above, such joint use also suggests substantial opportunities and so should not be ruled out. Common delivery by local authorities entails the greatest scope for multi-use schemes, where these are appropriate.

**Q.38 To what extent do you consider that each of the options proposed and SUDS techniques in general could impede new development or the amount of development that could be accommodated within a given area?**

**A.38** SUDS may be a helpful tool in determining the capacity of a given area to accommodate development to a given level that will reduce the likelihood of future environmental problems. There is nothing wrong with 'impeding new development' if that new development is proven to be inappropriate as it stands and the evidence for this, including SUDS, is overwhelming. It rather sounds as if we are likely to be faced with a good old compromise between the 'need for development' and the capacity of the local environment to accommodate it. In short, if the need to manage overland flows through SUDS schemes reduces the development yield, this will place

an apparent impost on the development process. However, it must always be remembered that without a SUDS component, the development would be unsustainable and hence delivery in such a fashion has ceased to be a genuine economic objective. There will always be room to consider the relative costs and benefits of different SUDS techniques that deliver the same broad outcomes. This is a matter to be resolved in the development management process.

There is strong agreement with Government wishes to see the funding of the SUDS maintenance and charges move to one which meets the needs of service providers, is equitable and does not act as a disincentive to the uptake of SUDS(para.3.65).

**Q.39** Are there any forms of development that might need to have some flexibility over whether all elements of SUDS (both source control and public SUDS) are employed in the surface water infrastructure? If so, what criteria could be used to judge such situations and how should the adverse environmental impacts of new developments without SUDS be mitigated?

**A.39** There are considerations that should drive some flexibility over the balance between source control and public SUDS and the relative performance of techniques employed on both sides of the SUDS fence. These include issues such as the scale of the development site, the nature of any use or development currently on the site and to be retained and the capacity to safely or economically include source controls within the site. The use of section 106 agreements and related contributions to ensure that whilst a site has inadequate source control, it effectively pays for the cost of augmented transfer of water off-site and for relevant capacity off-site or a share of public SUDS measures should not be ruled out. A more difficult examples might include a regeneration project that involved the re-use of a large listed building on a densely developed site with a high water-table or low permeability soils or even significant archaeological assets underlying it, for a use where conventional source controls that do not dispose to groundwater may not be sufficient to address 100% of a predicted SUDS requirement. Clearly in such a case, the more radical options available on other sites, which could incorporate better source control through substantial redevelopment, may not be available and discretion will need to be exercised, as a requirement to provide for the full cost of off-site or share of public SUDS might also affect the ability of the scheme to achieve historic buildings conservation objectives.

Whilst not a direct answer to this question, the RTPI is also conscious that some agricultural activities currently established as permitted development but subject in some cases to notification procedures have the potential to generate overland flows that can affect nearby residential populations by reducing the permeability of broad hectare land areas. We have recently been in receipt of correspondence about the degree to which agricultural poly-tunnel development (large scale temporary horticultural structures) may be a source of damaging overland flows in severe rainfall events. Whilst it would clearly be a substantial impost on agriculture to suggest that all such structures should be subject to a requirement to obtain planning permission, or indeed to require that more typically urban SUDS measures were deployed, there may be an argument that some form of run-off evaluation for such development may be warranted and temporary steps taken e.g. to bund and divert foreseeable sheet overland flows away from foreseeable sensitive receptors such as third part dwellings and towards potential storage areas such as natural depressions. This again raises the potential for a manual of performance-based techniques to be associated with the ongoing availability of a permitted development right.

## **DRAINING SURFACE WATER TO THE PUBLIC SEWERAGE SYSTEM**

It is accepted that we cannot continually enlarge the existing piped sewerage system to enable it to cope with any eventualities (para.4.5). But, before removing the automatic right to connect surface water drainage from new developments to the sewerage system (para.4.7), an effective alternative must first be put in place and be up and running (i.e. SUDS)

**Q.41** Do you agree that the ability automatically to connect surface water drainage from premises under section 106 of the Water Industry Act 1991 should be amended? If you do not, please give your reasons.

**A.41** It is agreed that it is easier in rural areas than in urban areas, but one would not wish to see this being used as an excuse for not redeveloping brownfield sites (para.4.12). Perhaps SUDS needs a strong promotion amongst relevant bodies and organisations concurrently with or even better prior to amendment the WIA.

**Q.42** How realistic do you consider this option to be? Please give reasons for your answer and any alternative option you think should be considered.

**A.42** Of all the options to amend section 106 agreements, options 2, 3 and 4 offers the best ways forward. Option 1 is not realistic.

**Q.43** Do you consider that having a conditional ability to connect is more appropriate than option 1? Please give your reasons for your answer.

**A.43** Yes, having a conditional ability to connect is more appropriate than option 1.

**Q.44** Do you agree with the circumstances set out in paragraph 4.19 where connection should not be allowed? Please give your reasons for your answer(s) and, if you wish, suggest other circumstances you also think should apply.

**A.44** Yes, for the reasons stated in para.4.19

**Q.46** The partial Impact Assessment at Annex C suggests that the options can be put in a hierarchy of effectiveness. Do you agree with the order? Please give your reasons for your answer.

**A.46** From best to worst options, the hierarchy might read 4, 3,2,5,1

**Q.47** Which option, or options do you think should be taken forward? Please give your reasons for your answer.

**A.47** Option 4 seems the best approach, particularly since it insists on SUDS being evaluated even on small scale proposals.

**Q.49** Could the Government's aims be met other than by legislative change, such as through guidance to the water and sewerage companies and Ofwat on the circumstances in which connection might be considered prejudicial to the operation of the public sewerage system?

**A.49** Legislative change is likely to be the most effective way forward.

**Q.50** Could the Government's aims set out at paragraph 4.15 be achieved by means of financial incentives alone? Please give your reasons for your answer.

**A.50** Although financial incentives are likely to play a key role, they are not the only way forward. However, they do send the right message and reinforce the clear validity of the approach.