

**SUBJECT: FLOOD AND WATER MANAGEMENT ACT 2010 - SCHEDULE 3
IMPLEMENTATION OF THE SUSTAINABLE DRAINAGE SYSTEMS
(SuDS) APPROVING BODY (SAB)**

MEETING: INDIVIDUAL CABINET MEMBER DECISION

DATE: 11th July 2018

DIVISION/WARDS AFFECTED: All

1. PURPOSE:

- 1.1 To inform the Cabinet Member of the new statutory requirement for Monmouthshire County Council to establish a Sustainable Drainage Systems (SuDS) Approval Body (SAB) under Schedule 3 of the Flood and Water Management Act 2010 and to seek approval to establish a structure to deliver the SAB function.

2. RECOMMENDATIONS:

- 2.1 To consider the requirement to establish the SAB and approve the additional self-funded posts, which will allow Monmouthshire County Council to deliver this new statutory function and keep the relevant local engineering knowledge and expertise within the Authority.

3. KEY ISSUES:

- 3.1 Monmouthshire County Council are a Lead Local Flood Authority (LLFA) under the terms of the Flood and Water Management Act 2010 and are responsible for what are termed local flood risks. These include the risks of flooding from ordinary watercourses, surface water and ground water.
- 3.2 Surface water flooding poses an ever greater threat to our communities and has been identified in the National Strategy for Flood and Coastal Erosion Risk Management as one of the three main sources of flood risk, along with seas and rivers. The impact on citizens and communities can be devastating and the cost to the Welsh economy significant. The risk of flooding is on the rise owing to climate change and urbanisation. In particular, local flooding due to the overloading of volume constrained drainage systems and sewers is of increasing concern.
- 3.3 Surface water can be effectively managed to reduce flood risk by Sustainable Drainage Systems (SuDS). SuDS systems are alternative drainage systems to the more traditional piped systems, designed to mimic natural drainage in order to control the peak flow rate and volume of surface water runoff from a site through interception, attenuation and infiltration (where feasible), helping to reduce flood risk. Typical SuDS features include but are not limited to green roofs, water butts, swales, detention basins, attenuation ponds and permeable paving.

- 3.4 Current drainage designs, particularly on new developments, often fail to deliver multiple benefits (for example, amenity, biodiversity and water quality) and offer only simple surface water management.
- 3.5 Schedule 3 of the Flood and Water Management Act 2010 requires surface water drainage systems for new developments to comply with new mandatory National Standards for SuDS in Wales. These Standards will cover the design, construction, operation and maintenance of SuDS. It also requires surface water drainage systems to be approved by a SuDS Approving Body (SAB) before construction work with drainage implications may begin. Provided the National Standards are met, the SAB would be required to adopt and maintain the approved SuDS that serve more than one property. This can remove uncertainty over the design and adoption of surface water drainage systems which previously hampered new developments.
- 3.6 Schedule 3 introduces a new statutory requirement for a SAB to be established by Local Authorities to manage surface water within future development. Under the Act, most types of construction work with drainage applications will require SAB approval. Schedule 3 specifies that construction work means the creation of buildings or other structures that cover land and which will affect the ability of the land to absorb rainwater.
- 3.7 With the exception of single dwellings, all construction work requiring planning permission which has drainage implications should need approval. For example, construction of two houses or a factory would require planning permission and has drainage implications and therefore needs approval. Planning applications with no drainage implications would not need SAB approval.
- 3.8 Some types of construction work do not require planning permission (permitted development), although they can have significant drainage implications. It is currently proposed that construction work which does not require planning permission but involves the construction of a building or other structure covering an area of land of 100m² or more should require SAB approval. This would allow the vast majority of construction utilising permitted development rights to continue, but significant construction work with drainage implications may require SAB approval.
- 3.9 It is currently proposed that the following would be exempt from requiring SAB approval: nationally significant infrastructure projects, trunk roads & motorways managed by Welsh Government, works undertaken by an Internal Drainage Board (NRW) and construction of railways.
- 3.10 It is currently proposed that single dwellings will also be exempt from requiring SAB approval for two years following the implementation of Schedule 3. Welsh Government have advised that a review will be undertaken in two years, when a decision will then be made whether to remove this exemption or not, which could result in single dwellings also requiring SAB approval.
- 3.11 Alongside their existing duties as LLFA, the 22 Local Authorities in Wales are responsible for the delivery of the SAB function. Welsh Government made a Commencement Order in May 2018 which will implement the new SuDS approval process from 7th January 2019.

- 3.12 The SAB will be an independent body within the Local Authority, dealing with the technical statutory approval process and there will be a need to secure bonds, fees and service charges for the sustainable and ongoing maintenance of SuDS schemes.
- 3.13 Additionally, SuDS schemes will need to be inspected by the SAB during construction, to ensure they are built to the appropriate standard with the specified or suitable materials, and once in operation, to ensure they are properly maintained and not damaged. The SAB may charge an inspection fee which is currently proposed to be £60 per inspection.
- 3.14 SuDS systems which meet the specified adoption criteria must be adopted by the SAB. Adoption by the SAB will be via a bespoke legal agreement. The SAB will require payment of a commuted sum or maintenance charge which is reflective of the maintenance / replacement plan for the lifetime of the development.
- 3.15 The SAB, as an independent body within the Local Authority, will deal with a technical statutory approval process and be able to charge for services within this process. Examples of chargeable aspects are:
- SAB Pre-Applications – This is a key function of the SAB to engage with developers for technical pre-application discussions. This will steer developments to comply with the National Standards. When Schedule 3 is implemented the SAB will be able to charge for pre-application comments. It should be noted that SAB pre-application is limited to a high level overview. Detailed comments will be provided at the Outline/Full application stage. The SAB may charge for pre-application discussions, if they wish, under powers given to them in Section 93 of the Local Government Act 2003. Such a charging scheme for pre application discussions, meetings and site meetings similar to that used in Planning, will be developed to cover costs incurred by the SAB.
 - Outline/Full applications – Under the current proposal by Welsh Government two properties or above (or development above 100m² or with drainage implications) would require SAB approval. This process is chargeable at rates set by Welsh Government. Application costs start from £350 (minimum) with an additional amount up to £7,500 (maximum) calculated by reference to the size of the construction area.
 - Inspection of assets – SuDS schemes will need to be inspected by the SAB during construction, to ensure they are built to an appropriate standard. The SAB may charge an inspection fee which is currently proposed to be £60 per inspection.
 - Adoption arrangement – SuDS which meet the specified adoption criteria must be adopted by the SAB. Adoption by the SAB will be via a bespoke legal agreement and commuted sums or maintenance charges which reflect the maintenance / replacement plan that will be required for the lifetime of the development.

4 REASONS:

- 4.1 To ensure Monmouthshire County Council meets its statutory requirement under Schedule 3 of the Flood and Water Management Act 2010 to deliver the SAB and achieve multiple benefits including improvements to amenities, biodiversity and water quality.

5 RESOURCE IMPLICATIONS:

- 5.1 The above new duties will create significant new demands on existing resources. As this is a new statutory function, the current organisational structure is not sufficient to meet the requirements of Schedule 3 and the delivery of the SAB function with existing resources. Therefore, additional staff and expertise will be required to deliver this service.
- 5.2 In order to deliver the new statutory function of the SAB there will be a requirement for the additional posts of Senior Engineer and Technician/Admin Officer within the Highways and Flood Management Team. These posts would supplement the existing Flood Risk Management Team resource and would cover the technical and administration duties required by the SAB.

Total Costs (including overheads):

Senior Engineer SCP38 – SCP41 (£34,106 - £37,107)

Technician/Admin Officer – SCP18 - SCP21 (£18,870 - £20,541)

Total (Max): £50,450

In addition to the above, consideration will need to be given to the additional duties of the Project Engineer (Flood Risk Manager) and furthermore all posts within the team require assessment in accordance with the council's job evaluation scheme.

- 5.3 It will be necessary for these new posts to be in place by the implementation date of the new legislation on 7th January 2019. Should any delays be experienced in recruiting the new staff members, additional support would be required and sought through the current Engineering Services Consultancy Framework Agreement. This would be a temporary measure until the required permanent staff are in place and would be funded through the receipt of SAB application fees.
- 5.4 There will be a chargeable fee for drainage applications ranging from £350 - £7500 depending on the size of the development. Based on the number and size of planning applications received over the last two years (2016 & 2017) that would have required SAB approval, it is estimated that the SAB would receive income from application fees of approximately £57,000 per annum. The SAB will also be able to charge fees for pre-application advice and for inspections during the construction phase, which is anticipated to generate an additional revenue income of approximately £8,000. Therefore the total income generated from the SAB is estimated at £65,000 and will cover the costs and overhead of the delivery of this statutory function.
- 5.5 It is proposed to develop a detailed pre-application charging scheme proportional to the size of the development similar to that used in Planning. This will be developed in consultation with other Local Authorities & SABs to ensure a consistent approach across Wales.

- 5.6 Welsh Government have indicated that a review will take place of the new SuDS legislation after 2 years. At this stage the exemption for single dwellings may be removed. Should this occur, the SAB would experience an approximate 100% increase in the number of applications based on the figures from the 2016/2017 review of planning applications. These additional applications would result in another significant increase in workload and will require a further review of the staffing resources at that time.
- 5.7 The proposed new members of staff and existing staff within the Flood Risk Management Team will require additional specific training to deliver the new SAB duties and to ensure robust coverage of the new function. Welsh Government have advised that there will be no additional funding for Local Authorities to deliver this role, therefore costs associated with this training will need to be met by existing budgets.
- 5.8 In order to administer SAB applications as efficiently as possible, a specialist software package will be required. It is proposed to utilise the Uniform system which is a specific SAB module of the current MCC Planning software to manage planning applications. This module will be used to register, store and process documents relating to SAB applications, much in the same way Planning applications are processed. The cost of this system will be met from existing Welsh Government Flood grant funding and will be as follows:
- SuDS Module Software: £3000
 - Set up and configuration: £1250
 - 1 days training (up to 6 delegates): £1,250
 - IDOX Electronic Data Management System Integration: £2,000
 - Total Cost: £8,000

There will be an annual maintenance cost of £600.

6 CONSULTEES:

- 6.1 Senior Leadership Team

7 BACKGROUND PAPERS:

- 7.1 Flood Risk Management Strategy 2013
Flood Risk Management Plan 2016

8 Equality Impact Assessment

- 8.1 The establishment of SuDS Approving Body (SAB) under the Flood and Water Management Act 2010 will ensure sustainable drainage systems are implemented on new developments throughout Monmouthshire. As well as reducing flood risk, the SAB will ensure that future developments with flood implications will be designed to enhance the local environment and provide multiple benefits i.e. water quality,

amenity & biodiversity. Such enhancements will improve flood resilience to local communities & businesses and provide a richer landscape in which local economies can thrive.

8.2 The Future Generations Evaluation is shown in appendix A for members' consideration.

9 AUTHOR:

Paul Keeble
Group Engineer (Highway & Flood Management)

10 CONTACT DETAILS:

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Appendix A



monmouthshire
sir fynwy

Future Generations Evaluation (includes Equalities and Sustainability Impact Assessments)

<p>Name of the Officer - Paul Keeble Phone no: 01633 644873 E-mail: paulkeeble@monmouthshire.gov.uk</p>	<p>Please give a brief description of the aims of the proposal:</p> <p>To inform the Cabinet Member of the new statutory requirement for Monmouthshire County Council to establish a Sustainable Drainage Systems (SuDS) Approval Body (SAB) under Schedule 3 of the Flood and Water Management Act 2010 and to seek approval to establish a structure to deliver the SAB function.</p>
<p>Name of Service – Highways and Flood Management</p>	<p>Date Future Generations Evaluation – 11/04/2018</p>

NB. Key strategies and documents that may help you identify your contribution to the wellbeing goals and sustainable development principles include: Single Integrated Plan, Continuance Agreement, Improvement Plan, Local Development Plan, People Strategy, Asset Management Plan, Green Infrastructure SPG, Welsh Language Standards, etc




1. Does your proposal deliver any of the well-being goals below? Please explain the impact (positive and negative) you expect, together with suggestions of how to mitigate negative impacts or better contribute to the goal.



Well Being Goal	Does the proposal contribute to this goal? Describe the positive and negative impacts.	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
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Well Being Goal	Does the proposal contribute to this goal? Describe the positive and negative impacts.	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
<p>A prosperous Wales Efficient use of resources, skilled, educated people, generates wealth, provides jobs</p>	Positive	Schedule 3 of the Flood and Water Management Act 2010 will ensure sustainable drainage systems (SuDS) are implemented on new developments in Wales. As well as reducing flood risk, these SuDS will enhance the local environment and provide multiple benefits i.e. water quality, amenity & biodiversity. Such enhancements will improve flood resilience to local communities & businesses and provide a richer landscape in which local economies can thrive. By internal departments working closely to deliver the SuDS Approving Body (SAB) role, efficiencies and effective use of resources will be released.
<p>A resilient Wales Maintain and enhance biodiversity and ecosystems that support resilience and can adapt to change (e.g. climate change)</p>	Positive	Sustainable drainage will aim to mimic natural drainage systems by controlling water as close to the source and surface as possible. The design of SuDS will take into account climate change and provide multiple benefits in the form of improving water quality, enhancing amenity areas and provide greater biodiversity opportunities. By reducing flood risk, the new statutory function and resultant SuDS will enable local businesses and communities to be more resilient.
<p>A healthier Wales People's physical and mental wellbeing is maximized and health impacts are understood</p>	Positive	The mandatory implementation of SuDS on new development will help to ease the mental worry and stress that the fear of flooding can bring upon residents and communities as a whole. Creating

Well Being Goal	Does the proposal contribute to this goal? Describe the positive and negative impacts.	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
		greener environments which use water to enhance features within public areas, will enhance peoples health and feeling of well-being, and help encourage people to access these areas and wider outdoor environment.
A Wales of cohesive communities Communities are attractive, viable, safe and well connected	Positive	SuDS will help create more attractive outdoor landscapes and improve accessibility to greener environments within communities.
A globally responsible Wales Taking account of impact on global well-being when considering local social, economic and environmental wellbeing	Positive	The promotion and mandatory implementation of SuDS will ensure future developments are more sustainable and provide multiple benefits.
A Wales of vibrant culture and thriving Welsh language Culture, heritage and Welsh language are promoted and protected. People are encouraged to do sport, art and recreation	Neutral	
A more equal Wales People can fulfil their potential no matter what their background or circumstances	Neutral	

2. How has your proposal embedded and prioritised the sustainable governance principles in its development?

Sustainable Development Principle	Does your proposal demonstrate you have met this principle? If yes, describe how. If not explain why.	Are there any additional actions to be taken to mitigate any negative impacts or better contribute to positive impacts?
 <p>Long Term</p> <p>Balancing short term need with long term and planning for the future</p>	<p>Yes</p>	<p>The new statutory duty will ensure long term benefits by making the provision of SuDS mandatory new developments.</p>
 <p>Collaboration</p> <p>Working together with other partners to deliver objectives</p>	<p>Yes</p>	<p>Close working arrangements with internal & external partners will be an essential component of the SuDS approval process.</p>
 <p>Involvement</p> <p>Involving those with an interest and seeking their views</p>	<p>Yes</p>	<p>The new statutory function has been subject of a number of national consultations and workshops involving originations concerned. The new SuDS Approving Body (SAB) will liaise and consult with a number of external & internal partners as part of the approval process.</p>

Sustainable Development Principle	Does your proposal demonstrate you have met this principle? If yes, describe how. If not explain why.	Are there any additional actions to be taken to mitigate any negative impacts or better contribute to positive impacts?
 <p>Prevention</p> <p>Putting resources into preventing problems occurring or getting worse</p>	Yes	The attached report identifies the anticipated work load this new statutory duty will bring and the level of resource required to successfully deliver the function.
 <p>Integration</p> <p>Considering impact on all wellbeing goals together and on other bodies</p>	N/A	

3. Are your proposals going to affect any people or groups of people with protected characteristics? Please explain the impact, the evidence you have used and any action you are taking below. For more detailed information on the protected characteristics, the Equality Act 2010 and the Welsh Language Standards that apply to Monmouthshire Council please follow this link: <http://hub/corporatedocs/Equalities/Forms/AllItems.aspx> or contact Alan Burkitt on 01633 644010 or alanburkitt@monmouthshire.gov.uk

Protected Characteristics	Describe any positive impacts your proposal has on the protected characteristic	Describe any negative impacts your proposal has on the protected characteristic	What has been/will be done to mitigate any negative impacts or better contribute to positive impacts?
Age	N/A		
Disability	N/A		
Gender reassignment	N/A		
Marriage or civil partnership	N/A		
Pregnancy or maternity	N/A		
Race	N/A		
Religion or Belief	N/A		
Sex	N/A		
Sexual Orientation	N/A		
Welsh Language	N/A		

- 4. Council has agreed the need to consider the impact its decisions has on important responsibilities of Corporate Parenting and safeguarding. Are your proposals going to affect either of these responsibilities?** For more information please see the guidance <http://hub/corporatedocs/Democratic%20Services/Safeguarding%20Guidance.docx> and for more on Monmouthshire's Corporate Parenting Strategy see <http://hub/corporatedocs/SitePages/Corporate%20Parenting%20Strategy.aspx>

	Describe any positive impacts your proposal has on safeguarding and corporate parenting	Describe any negative impacts your proposal has on safeguarding and corporate parenting	What will you do/ have you done to mitigate any negative impacts or better contribute to positive impacts?
Safeguarding	N/A	N/A	
Corporate Parenting	N/A	N/A	

5. What evidence and data has informed the development of your proposal?

The proposal as set out in the attached report is required to meet the new statutory function as a result of Welsh Government implementing Schedule 3 of the Flood and Water Management Act 2010.

6. SUMMARY: As a result of completing this form, what are the main positive and negative impacts of your proposal, how have they informed/changed the development of the proposal so far and what will you be doing in future?

The proposal has identified the positive impacts that will be achieved following the implementation of Schedule 3 and how SuDS will meet the Well Being Goals and sustainable governance principles.

7. ACTIONS: As a result of completing this form are there any further actions you will be undertaking? Please detail them below, if applicable.

What are you going to do	When are you going to do it?	Who is responsible	Progress

8. MONITORING: The impacts of this proposal will need to be monitored and reviewed. Please specify the date at which you will evaluate the impact, and where you will report the results of the review.

The impacts of this proposal will be evaluated on:	Once set up, the SuDS Approving Body will be regularly monitored to ensure we are meeting the requirements of the new legislation. Reporting to Welsh Government on progress will also be a requirement.
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9. VERSION CONTROL: The Future Generations Evaluation should be used at the earliest stages of decision making, and then honed and refined throughout the decision making process. It is important to keep a record of this process so that we can demonstrate how we have considered and built in sustainable development wherever possible.

Version No.	Decision making stage	Date considered	Brief description of any amendments made following consideration