

Report To:	Cabinet
Date of Meeting:	18 <sup>th</sup> December 2018
Lead Member / Officer:	Cllr Brian Jones / Tony Ward
Ward Report Author:	Wayne Hope
Title:	Sustainable Drainage (SuDS) Approval Body (SAB)

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## **1. What is the report about?**

This report is about the implementation of Schedule 3 of the Flood and Water Management Act 2010, which sets a start date of the 7th January 2019 upon which Denbighshire County Council will be required to undertake the role of a Sustainable Drainage System (SuDS) Approval Body (SAB).

## **2. What is the reason for making this report?**

The role of the Council in establishing and operating the SAB is in response to new legislation and is not covered by existing provisions within the Denbighshire County Council Constitution. The report is, therefore, seeking Cabinet approval to delegate powers to a Chief Officer, the Head of Highways and Environmental Services, to establish and operate the SAB.

## **3. What are the Recommendations?**

3.1 That Cabinet notes the commencement of Schedule 3 'Sustainable Drainage' of the Flood and Water Management Act 2010 made by the Welsh Government on the 1st May 2018 and the legislative requirement for the Council to provide a new service from 7th January 2019.

3.2 That Cabinet approves the delegation of powers to the Head of Highways and Environmental Services to establish and operate the SAB.

## **4. Report details**

4.1 The management of the surface water drainage for new development has historically been undertaken through the planning process whereby statutory and non-statutory consultees such as Welsh Water, Natural Resources Wales and the Flood Risk Management Team within the Council provide feedback to planning applications. This approach has long been considered problematic with issues arising in relation to inconsistent design standards, construction quality and maintenance regimes.

4.2 Conventional drainage systems often aim to convey water away from a development as quickly as possible through piped systems, which often causes excessive flows in watercourses downstream exacerbating flooding elsewhere. The SuDS approach aims to deal with rainwater using techniques such as infiltration, and above ground retention that mimic natural runoff from a site and provide opportunities to incorporate amenity, biodiversity

and pollution reduction elements into the design.

4.3 The 2008 Pitt Review, which was commissioned by UK Government following the 2007 floods, highlighted surface water management from developments as a factor contributing to wider flood risk problems within the UK. Subsequently, Schedule 3 of the Flood and Water Management Act 2010 made provisions for the establishment of a SuDs Approval Body (SAB) to address this issue.

4.4 The Welsh Government's Order commencing Schedule 3 of the Flood and Water Management Act 2010 for Wales was made on 1<sup>st</sup> May 2018. The legislation, along with the regulations necessary for its implementation, will come into effect on 7<sup>th</sup> January 2019. This was intended to give sufficient time to local authorities to establish the SAB approval mechanism and to give developers time to become aware of the changes and prepare for mandatory SuDS Standards and the requirement for SAB approval before beginning construction. However, the Welsh Government has been slow to issue the supporting mandatory standards, guidance and related legislation which has had a significant impact on the ability of local authorities in Wales to make arrangements in advance of 7<sup>th</sup> January 2018.

## **5. How does the decision contribute to the Corporate Priorities?**

The SAB function will contribute towards reducing the number of properties at risk of flooding in Denbighshire. This will assist the Council in delivering its aims to ensure that the environment is both attractive and protected, and also supports community well-being and economic prosperity

## **6. What will it cost and how will it affect other services?**

6.1 The Welsh Government has implemented the new legislation on the premise that the activity will be self-funding, due to the Council being able to charge developers a fee for the SAB process. The North Wales Flood Risk Management Group, of which the Council is a member, has carried out a piece of work to provide an estimate of annual costs, based on a prediction of the number of development proposals that will require SAB approval, which itself is based on records of planning applications over the past four years. The predicted annual costs are around £166,000, compared with the predicted income of around £168,500, which would result in a net income of £2,500. However, because the predicted costs are based on the employment of three new members of staff, two full-time and one part time, the Council would have to bear these costs in the event that the number of development proposals is less than expected and income from fees reduced as a consequence.

6.2 There is no capacity within the flood risk management team to take on the new SAB role. This situation is mirrored in Flintshire County Council (FCC) and Wrexham County Borough Council (WCBC). Consequently, the Flood Risk Manager has had discussions with his counterparts in FCC and WCBC regarding the establishment of a collaborative regional SAB, which would mitigate the impact of the possible peaks and troughs in development activity in each authority's area. In addition, the Welsh Government has been approached with a request for financial support regarding recruitment costs and initial operating costs of the SAB.

## **7. What are the main conclusions of the Well-being Impact Assessment?**

The Welsh Governments intention by implementing 'Schedule 3 - Sustainable Drainage' of the Flood and Water Management Act (2010) is to reduce the likelihood of surface water flooding problems occurring as a consequence of new developments, which in turn plays a significant role in supporting the Well-being goals.

#### **8. What consultations have been carried out with Scrutiny and others?**

Internal discussions have taken place with the Head of Highways and Environmental Services, the Head of Planning, officers in Planning and Highways Development Control, the Lead Member for Highways, Planning and Sustainable Travel and with Legal Services. Discussions have also taken place with the WLGA and amongst the six north Wales authorities.

#### **9. Chief Finance Officer Statement**

The cost of establishing and operating the SAB function is assumed by government to be self-funded. This assumption however is based on estimates of future fees from planning applications. Councils will have to employ staff to provide the function and therefore are doing so at risk if the funding is based on future revenues. Employment obligations also accrue for which the employing body will eventually be liable. The exploration of a regional approach for this function should help to smooth activity and should also help to regulate cash-flow. If the regional approach is progressed however, it must be based on an equitable arrangement that minimises risks to the host body and partners. The report is seeking approval to delegate powers to establish the SAB. The cost implications of doing so should be calculated in consultation with Finance and reported back to Cabinet if significantly different from the estimates quoted in this report.

#### **10. What risks are there and is there anything we can do to reduce them?**

The main risk associated with the Council taking on the new role of SuDS Approval Body is that the costs of carrying out the function, primarily staff costs, will exceed the fees received through applications. This would occur if the number of planning applications requiring SuDS approval is less than anticipated. The risk can be reduced by careful monitoring of the SAB costs and income during the first two to three years of operation.

#### **11. Power to make the Decision**

Local Government Act (1972)  
Flood and Water Management Act (2010)