



POLICY STATEMENT

Sustainable Drainage

Version 1: February 2015

Background:

In September / October 2014 the Government consulted on a new approach to deliver sustainable drainage systems in order to address concerns raised in the Pitt Review. The focus of this consultation was to seek feedback on an alternative approach to the one set out in the Flood and Water Management Act i.e. to deliver sustainable drainage systems through changes to the current drainage system.

The Government's response to the consultation was published on 18 December 2014, accompanied by a Written Statement (HCWS161) from Eric Pickles, Secretary of State for Communities and Local Government). The Ministerial Statement makes it clear that its contents are a material consideration in planning decisions.

The role of this Policy Statement is to set out how the Council will implement the new system, which will take effect from 6 April 2015

The Council's approach will be kept under review and the Policy Statement amended as necessary in the light of any further guidance or clarification received either direct from Government or from the Lead Local Flood Authority (LLFA) (Hertfordshire County Council).

The revised approach:

The Government's revised approach centres around strengthening existing planning policy, rather than establishing a parallel system of consent to run alongside planning permission, as previously suggested.

The Ministerial Statement states that *"we expect local planning policies and decisions on planning applications relating to major development¹..... to ensure that sustainable drainage systems for the management of run-off are put in place, unless demonstrated to be inappropriate."*

Applying the approach:

(a) Current policy

The Council's approach to sustainable drainage is covered by Core Strategy Policy CS31: Water Management. This requires water to be retained in the natural environment as far as possible and requires development to (amongst other things) minimise water run-off and secure opportunities to reduce the cause and impact of flooding, such as using green infrastructure for flood storage.

¹ Defined as residential developments of 10 dwellings or more, or equivalent non-residential or mixed development, (which includes buildings over 1000m² or development on a site over 1ha), as set out in Article 2 (1) of the Town and Country Planning (Development management Procedure) (England) Order 2010).

This policy should be read in conjunction with further guidance within the national Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG). Government has indicated that the PPG will be updated in advance of the new regime coming into effect.

Further guidance on how to incorporate sustainable drainage within new development is provided through Hertfordshire's 'Building Futures' programme:

<http://www.hertslink.org/buildingfutures/water/>

(b) Pre-application considerations

Consideration of appropriate sustainable drainage solution should be at the heart of a scheme's design and layout: and as such needs to be considered at the initial design stage.

When submitting major applications, developers should be able to demonstrate how they have considered sustainable drainage mechanism within their scheme. This information should be included within the Design and Access Statement that accompanies the application.

(c) The use of planning conditions

In dealing with drainage matters, the Council will usually seek to address issues through the use of planning conditions, rather than planning obligations.

Where appropriate, decisions issued from 6 April 2015 relating to major applications will include condition(s) relating to the need to agree the following with the local planning authority before development can commence unless these measures are clearly identified within the application itself:

1. The precise scope and nature of the sustainable drainage system to be incorporated into the development;
2. The arrangements for the ongoing management and maintenance of that system.

Planning conditions will be used to secure such provisions prior to occupation of the development and in perpetuity.

The current standard condition will be used as a starting point (and amended as appropriate):

Prior to the commencement of the development hereby permitted details of a surface and foul water drainage system shall be submitted to and approved in writing by the local planning authority. The surface water drainage system shall be a sustainable drainage system and shall provide for the appropriate interception of surface water runoff so that it does not discharge into the highway or foul water system. The development shall be carried out and thereafter retained fully in accordance with the approved details.

Reason: To ensure that the site is subject to an acceptable drainage system serving the development.

Decisions over the discharge of this condition(s) will be made following discussion with the LLFA and Environment Agency as appropriate.

The Council will expect any sustainable drainage system to be proportionate to the scale of the development being proposed and may waive such requirements only where they are demonstrated to be significantly detrimental to the scheme's viability.

Where the local planning authority considers that specialist advice regarding technical or viability issues is required to allow it to discharge a condition, it may require the applicant to pay for this advice.

(d) Maintenance arrangements

The Council will not take responsibility for the management of any sustainable drainage systems, either directly or through the payment and use of commuted sums. Instead it will be a requirement of the applicant to demonstrate to the satisfaction of the Council that appropriate mechanisms are in place to safeguard their maintenance to a satisfactory standard for the lifetime of the development. Maintenance mechanisms could include:

- Passing the responsibility on to homebuyers / owners of the development, through appropriate wording within the purchase agreement / terms of contract;
- Drawing up a formal maintenance agreement with the LLFA;
- Drawing up a formal maintenance agreement with an appropriate private management company;
- The landowner or developer agreeing to be responsible for ongoing maintenance and associated costs; or
- Other mechanisms put forward by the applicants and considered appropriate by the Council².

The Council will use its enforcement powers to ensure that sustainable drainage systems are carried out and effectively maintained in the long-term, and encourage local communities to alert it to instances of non-compliance with planning conditions.

² Note: Any obligations would need to ensure compliance with CIL regulations relating to pooling restrictions.