



**RTPI Cymru**

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14 February 2018

e-mail response sent to: [water@gov.wales](mailto:water@gov.wales)

Dear Sir/Madam,

**Response to: Implementation of sustainable drainage systems on new developments  
- Draft regulations and national standards**

The Royal Town Planning Institute (RTPI) is the largest professional institute for planners in Europe, representing some 24,000 spatial planners. RTPI Cymru represents the RTPI in Wales, with 1,100 members. The Institute seeks to advance the science and art of spatial planning for the benefit of the public. As well as promoting spatial planning, the RTPI develops and shapes policy affecting the built environment, works to raise professional standards and supports members through continuous education, training and development. The response has been formed drawing on the expertise of the RTPI Cymru Policy and Research Forum which includes a cross section of planning practitioners from the private and public sectors and academia from across Wales.

Thank you for the opportunity to contribute views to the above consultation.

RTPI Cymru welcomes the proposals set out in the consultation in principle. They will represent a big step forward in dealing with the risk of surface water flooding.

We welcome the proposal that the SuDS approval system should mirror and link into the systems which already operate in planning. This should help to maintain clarity, consistency and transparency. However, the new proposals will in part be dependent on the effective operation of the planning system, and we have concerns regarding resources in local authority planning (LPA) teams which have been severely curtailed. This needs to be addressed if the new systems are to operate effectively.

If you require further assistance, please contact RTPI Cymru on 029 2047 3923 or e-mail Roisin Willmott at [walespolicy@rtpi.org.uk](mailto:walespolicy@rtpi.org.uk)

Yours sincerely,



Dr Roisin Willmott OBE FRTPi  
**Director**  
**RTPI Cymru**

**Question 1:** We propose to commence Schedule 3 in Wales and bring forward the related Statutory Instruments in May 2018. Do you agree this is reasonable? If not please give reasons.

We agree with the proposal.

**Question 2:** We propose SAB approval will not be required for the first 12 months for:

- Developments that were already granted planning permission before commencement; or
- Developments with one or more reserve matters where an application for approval of the reserve matter(s) is made; or
- A valid planning application had been submitted before commencement.

Do you agree with this approach for transitional arrangements? If not please give reasons.

Further clarification is required in relation to this proposal. Is this suggesting that unless a development is commenced within 12 months of the commencement of the SuDS Approving Body (SAB), it will require SAB approval - after the 12 month period?

It is also unclear what happens to those sites with longstanding planning approval which have been partially implemented and are therefore still valid? Will they become subject to SAB approval?

**Question 3:** What, if any, areas in addition to those listed above should the guidance cover?

It would be helpful to have some guidance on the design of SuDS to assist local authorities and others to identify appropriate opportunities and be able to critique proposals.

**Question 4:** Do you agree with the proposed exemption for Lead Local Flood Authorities? Can you provide evidence to support an exemption.

As it is proposed that works carried out by internal drainage boards will not need consent, it would be consistent for this to also apply to similar works proposed by Lead Local Flood Authorities.

**Question 5:** What information should the SAB be required to submit as part of a review mechanism of SAB approval costs? How often should the review take place, once every year or once every two years?

Until the outcome of the works relating to SAB approval costs is known it is difficult to respond to this question. However we would anticipate the SAB would provide evidence of the actual cost of the SAB approval process against the suggested SAB fee for a range of projects submitted in the previous year.

**Question 6:** We propose to give enforcement powers to the SAB and the local planning authority. Do you agree?

While we welcome this in principle, this could potentially create an additional workload for planning enforcement teams. It will be important that the resourcing of this workload is taken into account. There may be a case for LPA teams to be strengthened to take on the additional SuDS enforcement workload?

Equally, appropriate training would need to be made available to the LPAs to take action on the behalf of the SAB. This would require careful coordination between the LPA and SAB.

**Question 7:** Do you agree that the proposed powers of entry are reasonable and proportionate, if not please explain why?

It is unclear what would be the consequences if an adopted drainage system failed. Who would have the power of entry or could take action?

The powers of entry should be consistent/mirror those already provided to planning enforcement officers (s.196A, s.196B & s.196C of the TCPA as amended).

**Question 8:** 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?

We question the requirement for a compensation procedure for loss resulting from exercising Powers of Entry. In many instances, Powers of Entry are used to ascertain whether there is a breach. It may well be the case that a breach isn't found, but this would not be obvious to an investigating officer, unless they carry out an inspection.

In respect to Temporary Stop Notices, we would expect compensation provisions, however Regulation 7 of the draft Order at Annex D states a developer is entitled to compensation if the approving body does not take any further enforcement action. We question this proposal, as it may be the case a developer receives a Temporary Stop Notice and agrees to rectify any breaches/discrepancies found. In such a case the approving body may not need to initiate any further enforcement action.

We would only expect a claim for compensation to be made if the Temporary Stop Notice was withdrawn.

**Question 9:** 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.

This proposal appears acceptable and concurs with the 4 year time limit for operational development.

**Question 10:** Are the proposed intervention powers and criminal offences provisions in the draft statutory instrument appropriate and proportionate?

In principal the proposed intervention powers and criminal offences provisions are appropriate and proportionate. They are consistent/similar with existing LPA enforcement powers/offences.

**Question 11:** 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?

We would support this proposal.

Also see question 20.

**Question 12:** We propose a register of SuDS enforcement notices which mirrors the register for planning enforcement notices. Do you agree?

We would support this proposal; it will be essential that this register is shared between the SAB and LPA to ensure both are briefed and aware of enforcement action underway. Also see question 6.

**Question 13:** Do you have any information or case studies which could help inform the guidance on this subject? If so, please provide details.

No comment

**Question 14:** Is our definition of a single property drainage system clear on what will or will not be adopted? If not please provide an alternative definition. Can you suggest additional examples for inclusion in guidance?

Some of the examples of single properties/single curtilage can have a greater impact upon surface water drainage SuDS than those developments requiring SAB approval. Of particular concerns are hospitals, industrial estates and similar uses that potentially cover a large area and have extensive areas of built development and car parking and other areas of hard standing, all of which can have a significant impact upon surface water drainage.

**Question 15:** We propose a 4 week time limit for administrative processes (for example return of bonds, the process of registration or designations) for the SAB. This time limit applies throughout the SuDS process. Do you agree with this timeframe? If not please explain why.

No comment

**Question 16:** Are there any additional statutory works which should be included in this list?

No comment

**Question 17:** We propose that all Statutory Undertakers must notify the SAB at least four weeks in advance of works that may affect the SuDS operation. Do you agree with this timeframe? If not please explain why.

No comment

**Question 18:** We propose upon completion of the works, the SAB must decide within 12 months if it is satisfied that the SuDS functions in accordance with the SuDS Standards. Do you agree with this timescale? If not please explain why.

SuDS can only be fully tested by a range of weather conditions. If the range is not experienced within 12 months the SuDS function cannot be deemed to be fully tested. A longer period would therefore be appropriate.

**Question 19:** We propose that an appeal must be made within six months of either the SuDS Approving Body's decision or the date the decision was due. Do you agree?

No comment

**Question 20:** We propose to adopt similar procedures for SuDS appeals to those which currently apply to planning appeals (including written representation, hearing or inquiry). Do you agree? If not please explain why.

We support the proposal for appeals to be handled consistently with planning appeals. These should be handled by the Planning Inspectorate, with appropriate additional resources available to them to do so.

**Question 21:** We have asked a number of specific questions. If you have any related issues which we have not specifically addressed please do tell us about them.

We note the consultation document recognises the need for training in the new systems, but only refers explicitly to SAB officers. Training for planners in Development Management teams, including enforcement will also be required.

Plans and proposals to deal with the risk of surface water flooding should be progressed alongside the update of TAN 15 – last updated in 2004, and the National Flood Risk

Management Strategy (2011), and in parallel with progress on the National Development Framework.

Non-performance bonds will be particularly critical in ensuring that the new systems are effective. Guidance on the preparation of these should be in place before the new systems become operational.

An effective system for monitoring and review of both the way in which the new provisions are implemented and their effectiveness in terms of outputs and outcomes is important. There could be a case for detailed monitoring of a cross section of Lead Local Flood Authorities / LPAs.