

Implementing the statutory consultee role in a two-tier setting - From strategic plans to local planning

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Victoria Raiment – Flood Risk Engineer
James Biddlestone – Flood Risk Manager

Flood Risk Management Team




The Strategic Planning Challenge


Derbyshire County Council
– The Lead Local Flood Authority (LLFA)

Ten Local Planning Authorities (LPA)
- 9 District/Boroughs and Peak District National Park




 **Local Planning Policy in Derbyshire**

- Each Local Plan is at a different stage in Derbyshire
- All LPAs have obtained SFRAs (heavily fluvial based and undertaken before LLFAs) and some have WCSs
- SFRAs/WCSs have and will continue to inform local spatial planning
- Local Plan reviews
- Derbyshire LPAs have no intentions of reviewing SFRAs at present other than Erewash



It is at their discretion what they include in future policies and plans


 **The Flood and Water Management Act and the LLFA**

- Derbyshire became the LLFA
- Schedule 3 and the SAB

At the end of 2012 began gearing up to become the SAB by:

- Providing a response to planning applications (non statutory)
- SAB training
- Drafting local standards – possible link into local plans (SPD)
- Discussions with internal teams
- Discussions with District/Borough engineers, water companies and other RMAs

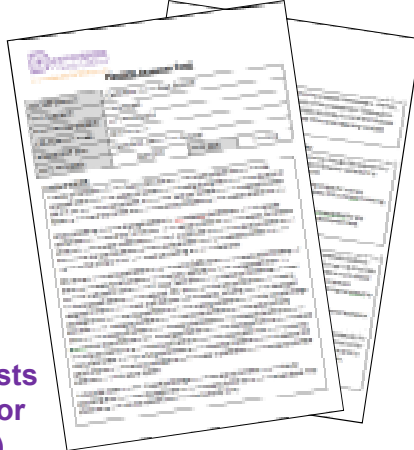
... and most importantly strengthening **engagement with the LPAs**


 **SAB role preparation**

In 2013 the County Council held 'SAB Roadshows' at all ten LPAs:

- SuDS legislation and Schedule 3
- What the SAB entailed
- Good practice SuDS
- National Standards
- Approval, adoption and maintenance process
- Discussion of key concerns


= increase in engagement and requests for advice and guidance from LPAs for planning applications (non statutory)




 **Preparing for the Statutory Consultee role**

- Schedule 3 looked increasingly unlikely through 2014
- Defra consultation response Jan 2015 (likely surface water only)
- Began preparing for a possible statutory consultee
 - EA training (planning 'buddy')
 - LPA workshop
 - Working with cross border authorities
 - Staffordshire
 - South Yorkshire Group
 - Drafting local standards

15th April 2015 Derbyshire became the statutory consultee for surface water on major development







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Statutory Consultee role

- Continued LPA engagement
- Discussed the EA updated position
- EA level of service constraints for a 2 tier authority
- Gave clear and transparent overview of levels of service that the team could provide as statutory consultee
- Allowed for LPA feedback on new position – want to know will it work?
- Discussed possible conditions to planning responses - discharging
- Shared vision and matrix for responding






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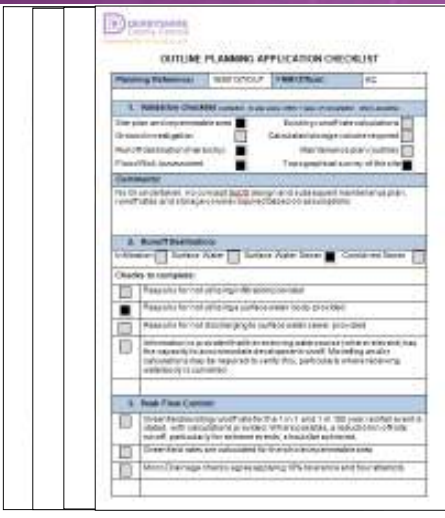
Statutory Consultee Matrix

Development site area	Development site is greater than 1ha	Development is greater than or equal to 0.25ha	Development is less than 0.25ha	
Proximity to local ordinary watercourses	There are identified ordinary watercourses within the site boundary	Ordinary watercourses are present within 20m of the site boundary	Nearest ordinary watercourse is greater than 20m away from site boundary	Consult with the LLFA as significant local flood risks are identified. DCC will provide specific detailed comments on the application and may or may not recommend planning conditions specific to the development.
Surface water flood risk	Identified surface water flood risk within the site boundary according to DCC model	Identified surface water flood risk within 20m of the site boundary according to DCC model	DCC model shows no areas of surface water flood risk within 20m of the site boundary	Some local flood risk issues are identified so the LLFA should be consulted. DCC will briefly review the application and are likely to provide standard comments and non-specific planning conditions.
Groundwater flood risk	Site falls within an area identified by BGS data as having groundwater <3m below ground surface	Site does not fall within an area identified by BGS data as having groundwater <3m below ground surface		
Presence of historical flooding records	DCC historical flood records present within 10m of the site boundary	DCC historical flood records present within 100m of the site boundary	No DCC historical flood records are present within 100m of the site boundary	No substantial local flood risk issues are identified and as such the LLFA should not be consulted. LPAs should refer to high level, non-site specific standing advice provided in advance by the LLFA.
Presence of Critical Assets	DCC critical assets are within 100m of the site boundary	DCC critical assets are within 500m of the site boundary	No DCC critical assets are within 500m of the site boundary	



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Statutory Consultee response



Standing advice for
'green development'

Bespoke advice for
'amber development'


Detailed guidance for
'red development'



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Statutory Consultee responses


Local Planning Authorities	Green	Amber	Red	Pre-App	Total
AVBC	3	0	0	0	3
BDC	1	1	1	1	4
CBC	0	1	0	0	1
DCC	2	0	0	1	3
DDDC	0	0	0	0	0
EBC	1	0	0	0	1
NEDDC	0	0	0	0	0
HPBC	6	3	1	0	10
PDNP	0	0	3	1	4
SDDC	0	2	2	0	4
Total	13	7	7	3	30

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The Local Planning Authority & the new statutory consultee

- Workshop with planning teams at South Derbyshire District Council in March 2015
- Strengthening relationships – face to face
- Confusion over the role of the EA moving forward
- Levels of service – SAB vs Consultee
- The LLFA = the expert?
- Support needed from LLFA




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The Local Planning Authority & the new statutory consultee

- LPAs under extreme pressure (set 5 year housing supply required)
- LPAs want to know – Will proposed SuDS work?
- A lot of standing advice from LLFA – not covering specific issues
- Confusion – transitional period and discharge of conditions

Paragraph 206 of the National Planning Policy Framework states:
‘Planning conditions should only be imposed where they are necessary, relevant, enforceable, precise and reasonable’

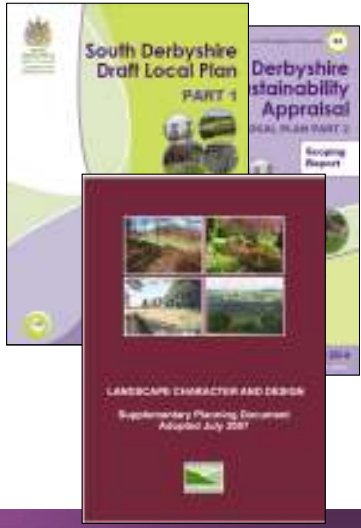
- National Policy, Local Plan & SPDs....
- No local design guides yet
- LPA have critical input into design




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Local planning policy and flood risk management

- Sequential test and flood risk guidance still heavily linked to fluvial
- Limited knowledge/understanding of connection between pluvial and fluvial flooding
- Understanding the role of the LLFA
- 10 LPAs at different points in local policy development and review
- The need to embed SuDS into vision for the future
- Some more proactive than others
- Possible use of local standards as a SPD





South Derbyshire Draft Local Plan PART 1
Derbyshire Sustainability Appraisal
Landscape Character and Design Supplementary Planning Document Adopted July 2011

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SuDS adoption at the local level

- SAB roadshow engagement
- Looking to build new legislation into local policy
- Recognising the importance and need for SuDS
- Understanding SAB not to be enacted and therefore looking to adopt at a local level (S106)
- This varies across the County – most not looking to adopt
- Adoption charging – 25 years maintenance contribution (£1,200 - £1,500 per dwelling)
- Officers costs evaluated on case by case basis
- Adoption impact on resource but how much..?



Pre application comments – charging?

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The future for planning and flood risk management

- Future amendments to local plans
- Minerals and Wastes team SFRAs – LLFA input
- Local level SFRAs?
- Adoption of local standards as an SPD from all ten LPAs?
- Evaluating the impact on resources

Engage **Develop** **Evolve**



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Thank you

Questions?

James.biddlestone@derbyshire.gov.uk
Victoria.raiment@derbyshire.gov.uk
Flood.team@derbyshire.gov.uk