

**Environment, Economic Growth and Transport Scrutiny Committee**

Meeting to be held on Thursday, 25 January 2024

Electoral Division affected:  
(All Divisions);

**Corporate Priorities:**  
Protecting our environment;

**Water Resource Management**

(Appendices 'A' and 'B' refer)

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**Brief Summary**

This report provides an introduction to what a Sustainable Drainage System (SuDS) is. It highlights the roles of various Teams within the Highway Service with regards to water management and gives examples of SuDS schemes within Lancashire.

The report also addresses questions relating to water management raised via an Overview and Scrutiny Committee request. There are three specific questions:

1. How many Sustainable Drainage Systems (SuDS) are highways responsible for?
2. How do highways engage in the planning process to ensure SuDS are considered?
3. How do highways incorporate SuDS into their own drainage asset management works?

**Recommendation**

The Environment, Economic Growth and Transport Scrutiny Committee is asked to consider and comment on the report.

**Introduction to Sustainable Drainage Systems (SuDS)**

Sustainable drainage systems, or SuDS for short, are defined in the National Planning Practice Guidance as systems “*designed to control surface water run off close to where it falls, combining a mixture of built and nature-based techniques to*



*mimic natural drainage as closely as possible, and accounting for the predicted impacts of climate change.”*

A sustainable drainage system is comprised of a series of 'components' which make up the system from source to discharge point. The range of components used in sustainable drainage systems covers a wide spectrum from underground pipes and storage tanks through to open, surface level components such as ponds, wetlands and swales.

The National Planning Practice Guidance is clear that sustainable drainage systems should be designed to provide benefits to:

- Water quantity by controlling and managing surface water runoff.
- Water quality by intercepting and treating harmful pollutants.
- Biodiversity by creating and reconnecting habitats.
- Amenity by creating beautiful spaces people want to live in.

Sustainable drainage systems should be designed to incorporate appropriate proposed minimum operational standards, set out in the Department for Environment, Food and Rural Affairs' (Defra) Technical Standards for Sustainable Drainage Systems, as stated in Policy 169 of the National Planning Policy Framework.

## **An Introduction to the Highway Service and its Teams**

The Highway Service comprises a number of teams which have differing roles and responsibilities. Each of these teams is involved in some form with regards water management:

- Flood Risk Management team which undertakes the role of the Lead Local Flood Authority (LLFA); and

The following teams which undertake the role of the Highway Authority:

- Highways Asset (Asset Management Services);
- Highways Operations;
- Highways Development Control;
- Highways Design and Construction.

### **Flood Risk Management**

The Flood Risk Management team sits within the Highway Service but represents the county council in the role of the Lead Local Flood Authority. Principally this is to discharge duties under the Flood and Water Management Act 2010 to manage local flood risk and under the Land Drainage Act 1991 (as amended) to regulate certain activities on ordinary watercourses.



Its duties include the provision of statutory responses to planning applications for major<sup>1</sup> development with surface water drainage<sup>2</sup> that the team is consulted on by the thirteen local planning authorities across Lancashire. The team has also issued 'Lead Local Flood Authority Standing Advice' to local planning authorities to support them with processing surface water drainage aspects of minor and non-major development<sup>3</sup> on which the Lead Local Flood Authority is not a statutory consultee. Appendix 'B' of this report, previously provided to scrutiny in January 2022, provides further detail of the role of the Lead Local Flood Authority in the planning process.

You can read more about other duties and powers of the Lead Local Flood Authority has in the [Lancashire Local Flood Risk Management Strategy 2021 – 2027](#).

### **Highways Asset Management**

The Highway Asset Management team sits within the broader Asset Management Service. It is responsible for maintaining the asset register, on which streets that are highways, drainage and other assets are recorded. The Service is also responsible for collecting and assessing asset condition and determining capital maintenance priorities along the lines of the Transport Asset Management Plan principles.

The service also publishes the statutory Flood Risk Asset Register<sup>4</sup>.

### **Highways Operations**

As a Highway Authority the county council is responsible for repairing and maintaining highway drainage systems and responding to flooding issues on highway maintainable at public across the county, except on those highways managed by National Highways. This includes responding to reports of blocked highway drains and gullies. The Highways Operations team are responsible for maintaining any highway drainage assets within highway maintainable at public expense.

### **Highways Development Control**

The Highways Development Control team represents the county council in the role of the Highway Authority with regards to examining and commenting on planning proposals and subsequently facilitating associated highway works and highway adoption. The principal role of the team is to ensure the discharge of statutory duties found within the Traffic Management Act 2004, being to ensure traffic can move freely and safely on Lancashire's highway and on the highway of

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<sup>1</sup> Major development is defined in Part 1(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

<sup>2</sup> As set out in Part ze of Schedule 4 of the Town and County Planning (Development Management Procedure) (England) Order 2015.

<sup>3</sup> As defined in Paragraph 051 of the 'flood risk and coastal change' section of the National Planning Practice Guidance.

<sup>4</sup> As set out in Section 21 of the Flood and Water Management Act 2010



our traffic authority neighbours. The team ensures highway (or proposed highway) water associated with development led highway works (Section 278) and private streets for highway adoption (Section 38) is dealt with appropriately to safeguard the operational efficiency and safety of the highway network and its users.

### **Highways Design and Construction**

The Drainage Design team within the Highways Service currently designs SuDS for Lancashire County Council highways and buildings projects, having considerable experience of these installations. The team provides advice to the Highways Development Control, Highways Asset Management, Bridges and Building Asset teams on technical issues. This includes technical analysis, design checks and feedback on designs proposed by other internal teams, consultants, and external developers.

### **Questions from Scrutiny**

With regards the specific questions raised the report can provide the following details:

1. *How many Sustainable Drainage Systems (SuDS) are highways responsible for?*

Highway Drainage assets are added to the Highway Asset Management System (HAMS) as individual components. SuDS as an entity cannot be identified as such, however the constituent parts are. Such components may include ponds, soakaways and swales for example.

The Highway Authority is currently responsible for a number of SuDS which principally have been developed as part of new strategic highway schemes such as Broughton Bypass and Preston Western Distributor. As SuDS cannot be identified on HAMS as an entity, the number of such schemes cannot be provided.

2. *How do highways engage in the planning process to ensure SuDS are considered?*

The county council is both the Highway Authority and the Lead Local Flood Authority. Both authorities are represented within the Highway Service and are statutory consultees to the planning process and must be consulted on certain planning applications which fall within the remit of their duties.

The principal role of the Highway Authority in responding to planning consultations is to ensure the discharge of statutory duties found within the Traffic Management Act 2004, being to ensure traffic can move freely and safely on Lancashire's highways and on the highway of our traffic authority neighbours.

Unless promoted directly by the county council all planning proposals are private. Therefore, all drainage proposals are private. The internal drainage systems of private development are not examined by the Highway Authority as part of the planning consultation process as they have no bearing on the highway network or its users and therefore fall outside of the remit of the Highway Authority and its duty under legislation.



The Highway Authority examination of planning proposals in terms of water is restricted to:

- Ensuring development does not result in water being discharged onto the highway, which is an offence under section 163 of the Highways Act 1980.
- Commenting on any proposal to place private water into adopted highway drainage systems, which is generally not permitted apart from in exceptional circumstances.

However, where development is subsequently approved developers typically approach the Highway Authority regarding the undertaking of development related works on the highway, delivered via Section 278 (Highways Act 1980) agreement, and with proposals for private development to be offered as highway maintainable at public expense and subsequently adopted via Section 38 (Highways Act 1980) agreement.

For Section 278 works any additional drainage will normally utilise the existing highway drainage system being the most efficient engineering solution. With regards to Section 38 highway adoption, it is customary practice for street gullies on private developments to be connected into surface water sewers that the Statutory Water and Sewerage Undertaker has either adopted or intends to adopt as a drainage asset. This may form part of or include sustainable drainage components. As part of highway adoption, the County Council will adopt as highway maintainable at public expense the street gullies and the pipes that connect these gullies into the surface water sewer. In circumstances where a Statutory Water and Sewerage Undertaker is unable to adopt the drainage system conveying street water the county council as Highway Authority will consider adopting as highway sustainable drainage systems which have been designed specifically for draining the street in line with its "Code of Practice on Highway Status and Adoption" as set out within paragraph 2.3.6, the excerpt of which is appended to this report as Appendix 'A'.

The role of the Lead Local Flood Authority is to discharge duties under the Flood and Water Management Act 2010 to manage local flood risk and under the Land Drainage Act 1991 (as amended) to regulate certain activities on ordinary watercourses.

Its duties include the provision of statutory responses to planning applications for major development with surface water drainage<sup>5</sup> that the team is consulted on by the thirteen local planning authorities across Lancashire. Major development<sup>6</sup> is defined as those which meet or exceed the following criteria:

- a. the winning and working of minerals or the use of land for mineral-working deposits;
- b. waste development;
- c. the provision of dwellinghouses where (i) the number of dwellinghouses to be provided is 10 or more; or (ii) the development is to be carried out on a site

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<sup>5</sup> As set out in Part ze of Schedule 4 of the Town and County Planning (Development Management Procedure) (England) Order 2015

<sup>6</sup> Major development is defined in Part 1(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015



- having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);
- d. the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- e. development carried out on a site having an area of 1 hectare or more.

The Lead Local Flood Authority is not a statutory consultee on minor and non-major development<sup>7</sup>. The Flood Risk Management team has, however, issued 'Lead Local Flood Authority Standing Advice for Non-Major and Minor Developments' to Lancashire's Local Planning Authorities and provided training to support them with their assessment of surface water and sustainable drainage systems on these developments.

A detailed report setting out the Lead Local Flood Authority's role in the planning process was provided to Scrutiny in January 2022 and is appended to this report as Appendix 'B'.

### *3. How do highways incorporate SuDS into their own drainage asset management works.*

All highway drainage schemes should be designed and constructed in accordance with CG501 (Design of Highway Drainage Systems). It describes the various alternative drainage solutions that are available, including their potential to control pollution and flooding, as well as detailed design factors to be taken into account. This would include drainage schemes as part of new highway construction, modification to existing highway and maintenance schemes. SuDS is one aspect of CG501. CG501 allows sustainable drainage systems to be considered as part of a decision matrix to identify the best solution for any drainage design challenge. Once a scheme has been implemented it is important to record the as built scheme on the Asset Register so it is clear who the asset owner is and who is responsible for future inspection and maintenance. This would include, but is not limited to, copies of any legal agreements and other permissions.

All adopted highway drainage assets, including components that make up Sustainable Drainage Systems (SuDS), should be recorded on the county council's HAMS (Highway Asset Management System) asset register. Templates have been developed to capture this information from county council design teams and developers. This process has been trialled on a number of large internal schemes. The definitive agreed format is being finalised and will be made available during 2024. The current HAMS asset register, like those of other Highway Authorities, is cumbersome to update and there is no straightforward way of transferring drainage system data from as built drawings into an electronic format. The Highway Asset Management Service is part of a benchmarking group of other authorities that is identifying mechanisms to simplify this process. As part of the procurement of HAMS, the licence for which is due for renewal, there is opportunity to improve the mechanism to ensure appropriate information is readily transferred to the Asset Register.

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<sup>7</sup> As defined in Paragraph 051 of the 'flood risk and coastal change' section of the National Planning Practice Guidance.



Highway drainage capital costs are funded from the Department for Transport highway maintenance grant fund. The apportionments for 2023/24 is £1m and was agreed by Cabinet in March 2023. The criterion for selecting highway drainage schemes is '*Countywide prioritisation based on risk of flooding and potential impact on flooding to property and highway and developed to address drainage issues prior to undertaking carriageway maintenance*'. These schemes utilise the existing drainage infrastructure where possible; use of SuDS would only be considered if the required outcome could not be delivered through modification to the existing infrastructure and SuDS offered a viable cost effective solution which is in alignment with CG501, as stated above.

### **Implementation of Schedule 3 of the Flood and Water Management Act 2010**

NOTE: The following paragraphs have been provided for information and awareness.

On 10 January 2023 the [review of sustainable drainage systems](#) was published which includes the announcement that Schedule 3 of the Flood and Water Management Act 2010 is expected to be implemented during 2024. Schedule 3 will make unitary and county councils 'Sustainable drainage system (SuDS) Approval Bodies' (SAB) and the duty will sit within the Lead Local Flood Authority (LLFA).

Schedule 3 provides a framework for the approval and adoption of sustainable drainage systems (SuDS), an approving body (the SAB), and national standards on the design, construction, operation, and maintenance of sustainable drainage systems. It also removes the automatic right to connect surface water runoff to public sewers and makes this conditional upon the sustainable drainage system being approved by the SuDS Approval Body before any construction work can start.

All projects larger than 100m<sup>2</sup> or more than one property, unless exempt, will need to incorporate a sustainable drainage system that complies with new national standards and is approved by the SuDS Approval Body before construction can commence.

At the time of writing, public consultation on the proposals was expected in 2023 but has not occurred. Implementation is subject to final decisions on scope, threshold and process once a full regulatory impact assessment has been consulted on. Implementation work by government is expected to be comprised of formalising new mandatory standards, roles and responsibilities, application forms, guidance and guidelines as well as funding for this new duty.

Schedule 3 will impact several service areas across the county council. There will be a need for the county council to consider how sustainable drainage systems are assessed and commented on. This work is expected to fall into the scope of county council preparations for the implementation of this new legislation.



## Appendices

Appendices 'A' and 'B' are attached to this report. For clarification they are summarised below and referenced at relevant points within this report.

Appendix	Title
Appendix 'A'	Excerpt from the Code of Practice on Highway Status and Adoption relating to SUDS (paragraph 2.3.6)
Appendix 'B'	Report provided to Scrutiny in January 2022: The role of the Lead Local Flood Authority in Planning and Development

## Consultations

N/A

## Implications:

This item has the following implications, as indicated:

## Risk management

This report is for information. There are no risks as a result of this report.

## Local Government (Access to Information) Act 1985

### List of Background Papers

Paper	Date	Contact/Tel
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None

Reason for inclusion in Part II, if appropriate

N/A

