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**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON  
13 NOVEMBER 2018**

**SUBJECT: FLOOD RISK AND DRAINAGE IMPACT ASSESSMENT FOR  
NEW DEVELOPMENTS SUPPLEMENTARY GUIDANCE**

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,  
PLANNING AND INFRASTRUCTURE)**

## **1. REASON FOR REPORT**

- 1.1 This report summarises the representations received to the consultation on the “Flood Risk and Drainage Impact Assessment for New Development Supplementary Guidance” and asks the Committee to approve the responses provided to these and delegates authority to the Head of Development Services to submit the Guidance to the Scottish Government for approval.
- 1.2 This report is submitted in terms of Section III (E) (2) of the Council’s Scheme of Administration relating to the review and preparation of strategic and local plans.

## **2. RECOMMENDATION**

### **2.1 It is recommended that the Committee:**

- (i) notes the representations received to the “Draft Flood Risk and Drainage Impact Assessment for New Development Supplementary Guidance”;**
- (ii) agrees the responses provided to the representations, which are provided on the portal;**
- (iii) agrees that the final draft Supplementary Guidance be used as a material consideration for development management purposes; and**
- (iv) agrees that the final draft Supplementary Guidance be submitted to the Scottish Government and, upon approval, forms part of the statutory Moray Local Development Plan (MLDP) 2015.**

## **3. BACKGROUND**

- 3.1 On 3 May 2016 Economic Development and Infrastructure Services Committee agreed the first cycle of Local Flood Risk Management Plans for the Findhorn Nairn and Speyside and the North East Local Plan Districts (Paragraphs 6 and 7 of the Minute refer).
- 3.2 Identified in these plans is Moray Council's duty to avoid overall flood risk, which can be achieved through promoting responsible development. Preparation of supplementary guidance on surface water drainage and flooding was identified as an action in the Moray Local Development Plan (MLDP) 2015.
- 3.3 On 19 June 2018 this Committee agreed the content of draft Supplementary Guidance on Flood Risk and Drainage Impact Assessment for new development; that the guidance be used as a material consideration for development management purposes; that the guidance be issued for public consultation; and that the consultation responses and final Supplementary Guidance (SG) be reported to a future meeting of this Committee (paragraph 9 of the Minute refers).

#### **4. CONSULTATION**

- 4.1 Consultation on the SG started on 29 June 2018 and finished on 24 August 2018. A total of seven responses were received and any points raised have been addressed below. A copy of the consultation responses are provided on the portal and the main points outlined below.

##### **Scottish Natural Heritage (SNH)**

- 4.2 The response from SNH is focused on protected areas and it has asked that the guidance be more explicit about the impact changes to the water environment may have on protected species and habitats. This has been added to Section 4 of the SG. SNH has also been added to Appendix 4 "Roles and Responsibilities" of the guidance, as requested.

##### **Archaeology Service**

- 4.3 The Archaeology Service is largely supportive of the guidance and has not asked for any changes.

##### **Elgin Community Council**

- 4.4 Elgin Community Council appears to be supportive of the guidance but has asked that the person checking the indemnity insurance and competence of the professional certifying the flood risk assessment and drainage impact assessment be named. Checking this information will be part of the planning application review and may be undertaken by one of a number of members of the flood team, as such it is not considered practical to have a named person in the guidance document.

##### **Historic Environment Scotland (HES)**

- 4.5 HES is supportive of the guidance and has not requested any changes.

##### **SEPA**

- 4.6 SEPA has not objected to the guidance but has made a number of requests and recommendations, which have been addressed below.

- (i) SEPA has suggested that the document title be changed to “Consideration of surface water drainage and flood risk in place-making”. In the interest of making it clear what the purpose of this guidance document is, it is not considered practical to change its title.
- (ii) SEPA has asked that the document express the multiple benefits SuDS can have. As this is the subject of EP5, which is included in the guidance document it is not considered necessary to repeat this.
- (iii) SEPA has requested that “in consultation with SEPA” be removed from EP5, that the surface water drainage section of policy ES6 make reference to opportunities to retrofit SuDS and that reference to enhancement be added to EP6. However, this is not possible as it forms part of the policy in the current approved MLDP 2015, but will be addressed in the new Local Development Plan.
- (iv) SEPA has recommended that reference to the water environment be made in either the SG or MLDP. SEPA has been consulted on the new policies to be included in the MLDP 2020 and this comment is addressed.
- (v) SEPA has requested that a statement regarding Groundwater Dependent Terrestrial Ecosystems (GDTE) be included in either the SG or the MLDP. It is not appropriate to include this in the SG as we have no in-house knowledge of this subject and could not comment on it as part of a planning consultation. However, this has again been included in the policies of the new MLDP 2020, but determining the impact on GDTE rests with statutory consultees.
- (vi) SEPA has asked that a question regarding multiple benefits associated with SuDS be added to Section 4. This has been included in the final guidance document.
- (vii) SEPA has recommended a minor word change to Section 5.2 of the guidance document. This is not considered necessary.
- (viii) SEPA has recommended that the last sentence of the first paragraph in Section 6 of the guidance document be removed. This sentence has been taken out of the final document.
- (ix) SEPA has asked that the wording in EP5 be changed from DA to DIA for consistency with the rest of the guidance document. This will be addressed in the new MLDP 2020.
- (x) SEPA has requested additional text after the first sentence of the third paragraph in Section 6. This text has been added to the final document.
- (xi) SEPA has recommended that Section 6.1 references the Technical Handbook – Domestic. This has been added to the guidance document.

- (xii) SEPA has asked that text advising applicants to use the Simple Index Approach to identifying suitable SuDS be added to Section 6.2 of the guidance. This text has been included in the final guidance document.
- (xiii) SEPA has asked that additional text regarding the Controlled Activities Regulations (CAR) be added to Section 6.2 of the guidance document. Additional text has been included in the final document.
- (xiv) SEPA has asked that the Domestic Technical Handbook is referenced in Section 6.2 in addition to an industry standard document. This is not considered necessary and has not been added to the text.
- (xv) SEPA has asked that the bullet point about appropriate SuDS design be moved to the top of the list. This change has been included in the final guidance document.
- (xvi) SEPA has recommended that the statement regarding foul water is removed from the guidance and replaced with alternative text, referencing the Council's planning policy on this matter. The final guidance document has been amended to comply with this recommendation.
- (xvii) SEPA has asked that a statement stressing the importance of drainage considerations at the start of the development process be added to Section 8. This statement has been added to the final guidance document.
- (xviii) SEPA has asked that section 11 be modified to reflect its Development Management requirements regarding buffer strips. This modification has been made to the final guidance document.
- (xix) SEPA has asked that additional references be added to Appendix 5. These references have been added.

#### **Savills-on behalf of Pitgaveny**

4.7 Savills has made a number of requests for clarification and modifications to the guidance. These requests have been addressed below.

- (i) Savills has asked that the document title be changed from Flood Risk and Drainage Impact Assessment for New Developments to Flood Risk and Drainage Assessment for New Development. The reason stated is that Drainage Impact Assessments are undertaken by Scottish Water to assess its sewerage network and this term may cause confusion. Drainage Impact Assessment is the industry standard term used for all drainage assessments and is consistently used by other local authorities in supplementary guidance for flooding and drainage. This term has not been changed.
- (ii) Savills has asked for clarity on the Council's position regarding permeable paving as a sustainable drainage solution. This is one of many SuDS options that can be adopted as part of a drainage scheme. If this option conflicts with road adoption standards the developer should investigate alternative options.

- (iii) Savills has advised that Scottish Water, as “approving/adopting authority” will accept below ground storage. Scottish Water’s Surface Water Policy which states that “surface water can be more sustainably treated above ground, often in conjunction with other existing surface waters, in a way that contributes to flood risk management, place making and biodiversity.” It is unlikely that Scottish Water would adopt a below ground attenuation system.
- (iv) Savills has questioned the practicality of providing details regarding which party will be responsible for maintaining the SuDS post construction. It is important that the responsible party is identified at planning stage to reduce the risk of the system not being maintained post construction.
- (v) Savills has questioned the need for an operation and maintenance manual for the SuDS. An Operation and Maintenance manual would be part of the Health and Safety file for new development and is required to make sure the SuDS is maintained in a safe and effective manner.
- (vi) Savills has questioned Moray Council’s commitment to SuDS for Roads publication. Moray Council supports the principles set out in the SuDS for Roads publication and it is referenced in the SG document.
- (vii) Savills has questioned who the most appropriate consultee would be with regard to the final drainage design. The Council’s flood team will review the proposed drainage design and consult SEPA if there are any concerns with regard to water quality. Scottish Water is also consulted on proposed development as part of the planning process.
- (viii) Savills has questioned the need to evidence professional indemnity insurance for the professional who signs off the final drainage design. This is requested for public protection to enable property owners who may suffer a negative impact, if flooding occurs due to inadequate design, to make a claim.
- (ix) Savills has requested clarification on the progress of the Section 7 Agreements between Scottish Water and Moray Council under the Sewerage (Scotland) Act 1968. On 14 August 2018, Moray Council’s Economic Development and Infrastructure Services Committee agreed to sign up to a Memorandum of Understanding, which sets out the principles for the Section 7 Agreements (paragraph 15 of the Minute refers). Details regarding governance and how the agreements will be implemented have yet to be agreed between Moray Council and Scottish Water. Until these details have been agreed, maintenance of SuDS will be managed as set out in the SG document.
- (x) Savills has questioned the need for a buffer strip between the development and waterbodies. This requirement has been taken from SEPA’s Development Management Water Environment guidance document.

- 4.8 The changes identified in Section 4 of this report have been included in the final SG document which is provided on the portal.

## **5. SUMMARY OF IMPLICATIONS**

**(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

Flood Risk Management is a key priority in the 10 year plan "Building a better future for our children and young people in Moray."

**(b) Policy and Legal**

Preparing Supplementary Guidance on Flood Risk and Drainage is an action identified in the statutory MLDP2015. The final version of the Guidance will be submitted to the Scottish Government for a period of 28 days, with details of the consultation exercise and then adopted forming part of the statutory MLDP2015.

**(c) Financial implications**

There are no financial implications associated with the recommendations in this report.

**(d) Risk Implications**

There are no risk implications associated with the recommendations in this report.

**(e) Staffing Implications**

There are no staffing implications associated with the recommendations in this report.

**(f) Property**

There are no property implications associated with the recommendations in this report.

**(g) Equalities/Socio Economic Impact**

An Equalities Impact Assessment is not needed because the proposals in the guidance document do not impact on people.

**(h) Consultations**

Corporate Director (Economic Development Planning & Infrastructure), Head of Development Services, Paul Connor (Principal Accountant), Senior Engineer (Transportation), Legal Services Manager (Property & Contracts), Gary Templeton (Principal Planning Officer), Development Management Manager, the Equalities Officer, and Lissa Rowan (Committee Services Officer) have been consulted and comments incorporated into this report.

## **6. CONCLUSION**

- 6.1 The flood team has drafted supplementary guidance which aims to improve the design and construction of new developments with regard to flood risk and drainage.**

- 6.2 The guidance provides clear advice on the flood risk and drainage factors that should be considered when planning a new development, and the documentation required to support the planning application.**
- 6.3 Following a public consultation, the guidance document has been updated to include relevant and reasonable requests.**
- 6.4 The report asks the Committee to approve responses to the representations made to the draft and that the final version of the Guidance is submitted to the Scottish Government for 28 days for approval prior to adoption as part of the statutory MLDP2015.**

Author of Report: Debbie Halliday, Consultancy Manager

Background Papers: None

Ref: