Wildlife and Countryside LINK

Response to the consultation framework For Sustainable Drainage Systems (SUDS) In England and Wales

Wildlife and Countryside Link

August 2003

British Ecological Society

buglife

THE HERPETOLOGICAL CONSERVATION TRUST

PLANTLIFE

THE PONDS CONSERVATION TRUST

RSPB

THE wildlife TRUSTS

WWT

WWF

Background

Wildlife and Countryside Link (Link) brings together environmental voluntary organisations in the UK united by their common interest in the conservation and enjoyment of the natural and historic environment. Taken together, Link's thirty-two members turnover more than £700 million per annum, employ 7,200 full-time staff, have the support of approximately 6 million people in the UK and manage over 398,000 hectares of land.

This statement is supported by the following organisations:

British Ecological Society

Buglife: the Invertebrate Conservation Trust

Herpetological Conservation Trust

Plantlife

Ponds Conservation Trust

The Royal Society for the Protection of Birds

The Wildlife Trusts

Wildfowl and Wetlands Trust

World Wide Fund for Nature

Introduction

Wildlife and Countryside Link (Link) welcomes this framework and its attempt to clarify the legal and technical framework which cover SUDS in England & Wales. We firmly believe that tackling runoff and diffuse pollution from urban sources will become increasingly important as the UK faces technical and regulatory pressures posed by global climate change and environmental legislation.

The widespread use of constructed ponds and wetlands could also provide significant biodiversity benefits, pleasing landscape features and improved amenity for people. We fully endorse an approach to managing surface water that maximises these benefits and provides an opportunity for communities to learn about, and interact with, wildlife.

General Comments and Discussion

Wildlife and Countryside Link are disappointed by the uninspiring tone of the document. Apart from the opening page it is far from clear if the working group actually believe that the widespread use of SUDS is practicable or desirable.

Although it is important that the framework provides a comprehensive review of the technical and regulatory issues many of the issues raised are not peculiar to SUDS but relate to all surface drainage systems e.g.

- problems of poor design/failure,
- disposal of contaminated sediment,
- consenting requirements for surface water disposal / infiltration devices.
- climate change

There is a danger that framing these issues with reference to SUDS alone can give the impression that using SUDS is far more contentious and onerous than conventional systems. To avoid this we suggest that the term SUDS is replaced except where an issue is peculiar to SUDS.

The cautious, negative, tone of the document is exemplified by the discussion of legislation which focuses purely on the regulatory burden associated with SUDS and overlooks the regulatory & policy drivers for the wider use of SUDS e.g. The Water Framework Directive, SSSI Public Service Agreement targets, the Government's sustainability agenda and so on.

SUDS and Wildlife

The discussion of SUDS and wildlife interests is very sparse and almost wholly negative, with wildlife identified as a threat rather than a benefit. There appears to be a pre-conception that conservation groups will wish to preserve the biological interest of SUDS with little or no reference to flood storage or water quality control. This is simply not the case and we are disappointed that no Link representatives were invited to take part in the drafting of this guidance.

Although we fully accept that SUDS must always be maintained as effective route for surface water treatment and disposal we do not believe that conservation and amenity interests should merely be sidelined from consideration during design and maintenance. Such an approach is not compatible with the concept of truly

sustainable drainage which should aim to maximise the benefits for wildlife and people while providing reliable surface water disposal and treatment.

The Framework's preoccupation with limiting the expectations of conservation groups comes at the expense of any detailed guidance on how wildlife may be accommodated in the design and maintenance of SUDS and what legislation governs wildlife, in particular birds and protected species.

SUDS and People

Link are disappointed that the Framework fails to address the landscape and amenity benefits that can be provided by the imaginative and sympathetic design of SUDS. While it is clear the framework should not contain detailed guidance that is available elsewhere, we do believe the issue should be highlighted and references supplied.

Public acceptability can also be an issue with the use of SUDS. In particular, schemes that include ponds and wetlands can meet resistance because of real and perceived public health and nuisance issues e.g. disease, drowning, odour etc. Again while it may be inappropriate for the Framework to give detailed guidance on these issues it would be extremely useful if the most common concerns about human and animal health were identified and information, or references given, as to the nature of risks and how they can be minimised.

Detailed Comments

1.1 Purpose of the Framework:

The opening statement is overly negative. We feel it is important to place the discussion of potential problems associated with SUDS in the context of those faced by conventional systems so as to maintain balance. We would, therefore, suggest the wording is amended to:

> "*The need for sustainable drainage is not disputed but,* ***as with all drainage systems****, SUDS that are not properly designed and maintained can lead to a number of problems"*

3.6.9 Wildlife & Maintenance:

This paragraph appears to set the interests of wildlife, amenity and drainage at odds with each other. We fully agree that environmental or amenity interests should not compromise the surface water disposal and treatment capacity of SUDS however we do not believe this needs to be the case. **SEE COMMENTS ON SECTION 5**

4 Regulation and consents:

Given the poor uptake of SUDS and the general reluctance for developers to try seemingly “novel techniques” it is important that the regulatory burden associated with SUDS is put in context with that of existing drainage systems. Discussion of Groundwater Regulations, discharges to surface waters etc. may be better dealt with under the banner of "general requirements for drainage systems" so that it does not appear to apply exclusively to SUDS.

4.1 Compliance with and exemptions from the Groundwater Regulations:

Paragraphs 4.1.1 & 4.1.2 are slightly confusing and should be clarified. For example 4.1.1 appears to suggest that the discharge of List I substances to groundwater is subject to authorisation whereas 4.1.2 points out that the Directive actually prohibits any such discharge.

Paragraph 4.1.3 might more accurately start with the statement *"Some **infiltration devices** may not require an authorisation."* because SUDS that discharge to surface waters or sewers do not require control under the Groundwater Regulations. Also the term *"infiltration devices"* encompasses all soakaways whether they are considered part of a SUD system or not.

It is worth noting Section 2 of the Groundwater Regulations exempt discharges from control if they are from:

> *"...an isolated dwelling which is not connected to a sewerage system "* OR
>
> *"...contain substances in List I or II in a quantity and concentration so small as to obviate any present or future danger of deterioration in the quality of the receiving groundwater".*

Both of these exemptions may be directly applicable to the use of SUDS infiltration devices.

The reference to SUDS in 4.1.7 is spurious and could be misinterpreted as an additional regulatory burden that is applicable only to SUDS. Again the wording *"infiltration devices"* would be more appropriate.

4.2 Control of discharges to surface waters:

This section is applicable to all discharges of urban drainage to surface waters whether from traditional systems or SUDS. We would, therefore, suggest that references to SUDS are removed to make the guidance generic for all discharges of urban drainage.

4.3 Future Legislation:

Link fully endorse the sentiments of the Forward which states

> *"The Water Framework Directive will require us to manage water resources sustainably. Sustainable drainage systems have a part to play in an integrated approach to water management. Rather than wait for the Directive to come fully into force we should act now to improve the management of water in the urban setting. "*

We are, therefore, disappointed that the subsequent discussion of the Directive focuses purely on the potential regulatory impact on SUDS and ignores how new statutory ecological and water quality targets could become a key driver for their use and retrofitting as highlighted in Table 1.

ARTICLE	PURPOSE	RELEVANCE TO SUDS
1	Sets out one of the key purposes of the Directive as promoting *"sustainable water use…"*	*"Water use"* is defined in Article 2 as *"..any activity identified under Article 5* [review of impacts & pressures] *having a significant pressure on water status"*. This clearly points to the management of urban drainage where it is a significant pressure.
4a	Establishes ecological status objectives for all water bodies.	Urban drainage can impact water quality, morphology (through erosion) and hydrological regime. Article 4a explicitly requires that all these parameters must be

		compatible with maintaining or reaching the mandatory ecological status objective set. SUDS could play a role in mitigating these impacts.
4b	Requires Member States to achieve compliance with standards and objectives of *"protected areas"*	Protected areas include SACs, SPAs, River reaches designated under Fresh Water Fish Directive etc. Where these are impacted by urban drainage SUDS could be used to mitigate impacts.
7	Requires drinking water supplies to be identified as protected areas and measures taken so as to *"prevent deterioration in their quality in order to reduce the level of purification"*	This Article requires Member States to introduce measures to protect raw water quality rather than introduce additional treatment at public water supplies. Where drinking water sources are threatened by urban run-off SUDS could be used to tackle the problem.
9	Enshrines Polluter Pays Principle in the recovery of costs for different water users.	By collecting and treating pollutants on site SUDS systems make polluters directly responsible for the costs of water they contaminate.
11.3(g) & 11.3(h)	As part of the minimum requirements Member States must introduce controls of point and diffuse sources liable to cause pollution.	Where urban drainage is identified as a source of pollution Member States will be required to put in place formal controls to achieve the various WFD objectives. This would allow general binding rules to be placed on new and existing developments to ensure urban run-off quality meets set standards and this clearly could have a major influence on the use of SUDS.

Table 1 - Articles of WFD with relevance to SUDS

5.0 Conservation and habitat enhancement.

This section of the framework is disappointing. It is unclear who the guidance is aimed at or what help it may provide developers, planning authorities or those who own and maintain SUDS.

We suggest that this section is re-written to provide guidance on:

- Government policies on sustainability and biodiversity
- Duties under Countryside and Rights of Way Act 2000 with regard to biodiversity
- Legal protection afforded to species likely to colonise SUDS
- Permitting procedures for activities liable to disturb protected species
- Implications for the management of SUDS systems

Link members would welcome an opportunity to assist in a re-drafting this section. There are also a number of references that should be drawn to the attention of designers and site managers; these are highlighted in BOX 1.

5.1 SUDS and nature conservation designations

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The designation of SSSIs is a statutory process managed by English Nature in England and CCW in Wales. Many designated wetland sites have their origins in human settlement, agriculture and industrial activity either past or present and although it unlikely that the scale or nature of operational SUDS ponds and wetlands will be compatible with SSSI criteria, it is these agencies who have the duties and powers to decide if designation is appropriate, not the SUDS working group.

Similarly the designation of non-statutory Wildlife Sites (termed "Protected Conservation/Wildlife Zones" in this consultation) is carried out using criteria aimed at highlighting and protecting biodiversity with local or regional importance. Such designations could be extremely useful in raising awareness of SUDS that become colonised by ecologically significant species allowing local communities and operators to take pride in, and care of, their wetlands and ponds.

Ultimately however the Wildlife Site system carries no statutory protection and relies on the cooperation of private landowners. Designation should not, indeed could not, prevent the management or re-development of SUDS ponds and wetlands where it is appropriate.

6.1.6 SUDS and Environmental Regulations

While Link agrees that SUDS cannot be treated as a special case we feel this paragraph could be phrased in a less negative way. For example

> *"Although SUDS can bring significant environmental benefits, as with all drainage systems, they must comply with environmental regulations."*

6.1.7 and Hydraulic Capacity

While it is true that SUDS cannot prevent flooding when the water level in receiving watercourses is high it is important to note that neither can gravity fed piped systems.

6.1.8 and Hydraulic Design

Although the challenges presented by SUDS design may be different and unfamiliar it may be misleading to suggest that they are more difficult. Such statements are difficult to quantify and will do nothing to promote SUDS to industry, planners or the public (see also 6.4.1).

Wildlife and Countryside Link would also question whether the statement that a traditional system is *"..by its very design, able to convey the peaks design away…indefinitely.."* should be included without qualification. Blockages and equipment failure lead to 3,350 sewer flooding incidents 1999/2000 while lack of capacity in the system caused 3,800 incidents over the same period[1]. Together these made up a significant proportion of reported flooding problems during the exceptional weather of Autumn 2000.

6.1.13 Drainage Principles (first bullet point)

While Wildlife and Countryside Link accept that new developments with SUDS will not stop flooding in areas already at risk we would suggest that redevelopment or retro-fitting in high risk areas could bring benefits, particularly in reducing loads on

[1] Learning to Live with Rivers, ICE, 2001

foul and combined sewerage systems. Indeed Ofwat's recent consultation on sewer flooding[2] found that

> *"The most common contributing factor* [to sewer flooding] *mentioned was increased runoff from hardstanding areas and infill development."*

8.2 Sediment as controlled waste

It would be useful to open this paragraph on a positive note. The trapping of contaminated silt by SUDS means that the polluter is being made responsible for the pollution they generate. Should this pollution enter watercourses, it would be local communities and society as a whole who would bear the costs in terms of biodiversity loss, degraded amenity and leisure opportunities and possible increased water treatment costs.

It is also important to state that SUDS are not a special case. Traditional system management also requires the disposal of contaminated sediments trapped in gully pots, silt traps, balancing tanks, oil interceptors etc.

8.5 Spreading of waste on site

The spreading of waste on land near a SUDS pond or wetland may be the most expedient and sustainable option for disposal. However in some cases this practice may conflict with the interests of wildlife (including protected species), amenity and public health.

The Framework should raise these as issues that need to be addressed by any management plans.

[2] Flooding from sewers: Response to consultation, Ofwat, September 2002.