



Representing Drainage Water Level & Flood Risk Management Authorities

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Consultation:	Planning White Paper		
By:	Ministry for Housing, Communities & Local Government	Contact:	Ian Moodie, Technical Manager
To:	Submitted online to MHCLG	Tel:	024 76 992889
Date:	29 October 2020	Email:	ian.moodie@ada.org.uk

Planning for the future

Consultation response by ADA (Association of Drainage Authorities)

About ADA

ADA is the membership organisation for drainage, water level and flood risk management authorities throughout the UK. Today ADA represents over 230 members nationally, including internal drainage boards, regional flood & coastal committees, local authorities and national agencies, as well our associate members who are contractors, consultants and suppliers to the industry.

Our purpose is to champion and campaign for the sustainable delivery of water level management, offering guidance, advice and support to our members across the UK, and informing the public about our members' essential work.

Consultation questions and responses

1. What three words do you associate most with the planning system in England?

NO COMMENT

2. Do you get involved with planning decisions in your local area?

[NO]

2(a). If no, why not?

Other – please specify

ADA is a national membership body for authorities managing flood risk and water levels across the UK, as such ADA does not directly engage in specific planning decisions. However our members, include internal drainage boards, the Environment Agency and local authorities are involved in thousands of planning matters relating to flood risk every year.



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Our proposals will make it much easier to access plans and contribute your views to planning decisions. How would you like to find out about plans and planning proposals in the future?

[Other – please specify]

ADA wishes to highlight that whilst internal drainage boards are not statutory consultees for planning matter within internal drainage districts, flood risk is a material consideration and as such ADA would encourage all local planning authorities to consult IDBs as a local public body that manages water levels and flood risk on any planning decisions within their internal drainage district.

4. What are your top three priorities for planning in your local area?

~~[Building homes for young people / building homes for the homeless / Protection of green spaces / The environment, biodiversity and action on climate change / Increasing the affordability of housing / The design of new homes and places / Supporting the high street / Supporting the local economy / Protection of existing heritage buildings or areas / Other – please specify]~~

Other – Flood risk. Development and housing must always be balanced against the environmental capacity of an area, particularly its susceptibility to flood risk. The second and third highest natural environmental risks on the Government's National Risk Register are coastal and inland flooding and planning decisions not only impact on the flood risk of those properties built but neighbouring land and areas up and downstream. Management of flood risk must be a fundamental theme that should run through all parts of the new planning system - national planning policy, the sustainable development test, local plans, design guides, and significant planning applications for new development.

5. Do you agree that Local Plans should be simplified in line with our proposals?

~~[Not sure. Please provide supporting statement.]~~

ADA supports simplifying local plans, as well as making them more accessible and relevant to the local community with the proposal to introduce technological elements especially for feedback and mapping. ADA also agrees that a much greater emphasis should be placed on sustainable homes, especially in regard to mitigating flood risk.

There should be no diminution of control on proposals to build in areas of flood risk. When considering flood risk in relation to the three tier categorisation proposed in the consultation document, care should be taken to remember that flood risk is wider than just fluvial flood risk (from watercourses), but also coastal flooding, groundwater flooding, and surface water flooding.



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Indeed, ADA urges a strengthening of control over the present arrangements, in certain respects, specifically with regards to surface water management.

Within Local Plans we agree that where there is significant flood risk such areas should be 'Protected'. However, local context around such flood risk designations is critical, especially in extensive low-lying catchments where there are existing defences (e.g. the Fens). The maintenance of the defences may change over time and climate change will have an impact on the level of flood risk reduction they offer.

We agree that areas of flood risk should be excluded from 'Growth areas suitable for substantial development' unless any risk can be properly managed and fully mitigated.

Data from the MHCLG shows that the number of new houses built on land in Flood Zone 3 with a 1% or greater chance of flooding in any year has risen from 9,500 in 2013 to 20,000 in 2017-18, following a peak of nearly 24,000 the previous year.

In ADA's view any simplification of Local Plans must ensure surface water flood risks are understood early in the process to avoid a scenario where sites are allocated on unsuitable sites. This will require the strengthening of planning policy regarding surface water management within existing National Planning Policy Framework (NPPF) alongside existing provisions related to other flood risks (fluvial, coastal, groundwater).

Surface water management and sustainable drainage will need to be considered in relation to every development proposal, rather than as a zonal principle. The proposals, as drafted, strengthen the case for now bringing into effect Schedule 3 to the Flood & Water Management Act 2020, or some equivalent mandatory arrangements, so that there are distinct and focused arrangements in place to manage surface water flood risk from new development.

6. Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally?

[Not sure. Please provide supporting statement.]

ADA welcomes a consistent, streamlined approach to Local Plans, but recognises that there will be locally specific aspects that will require local or site-specific policies, such as for flood risk and drainage.

For example, local Surface Water Management Plans that deviate from the Defra Non-Statutory Standards for Sustainable drainage can, in specific circumstances, help to unlock further development potential and enable more appropriate surface water management. Such decisions should be taken in close consultation with lead local flood authorities and internal drainage boards (where relevant).



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7(a). Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of “sustainable development”, which would include consideration of environmental impact?

[Not sure. Please provide supporting statement.]

A locality's flood resilience, in the view of the local planning authority, the lead local flood authority and IDB (where relevant), should be an explicit part of the consolidated test of 'sustainable development'.

From a flood risk perspective, there remains a strong need to appraise Local Plans prior to allocation. This is something which is recognised as nationally difficult under the current process for Local Plans, particularly in areas with two-tier authorities. Any replacement must allow testing for nationally consistent issues and appraisal of locally specific flood risk issues.

ADA's concern is that national testing may omit certain flood risk criteria in order to make it easily functional for digital use, and as a consequence lack in nuance resulting in quite coarse judgements about the suitability for development.

7(b). How could strategic, cross-boundary issues be best planned for in the absence of a formal Duty to Cooperate?

ADA does not support the removal of a formal Duty to Cooperate, and considers that this should be retained.

Effective water and flood risk management cannot be conducted within local authority administrative boundaries alone. It requires liaison and cooperation between local planning authorities to address flood risk management across catchments are vital. The abolition of the duty to cooperate would be a seriously retrograde step in this respect, particularly if a planning system that places a greater reliance on local plans is adopted.

8(a). Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced?

NO COMMENT.

8(b). Do you agree that affordability and the extent of existing urban areas are appropriate indicators of the quantity of development to be accommodated?

NO COMMENT.



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9(a). Do you agree that there should be automatic outline permission for areas for substantial development (Growth areas) with faster routes for detailed consent?

[NO-Please provide supporting statement.]

Automatic outline permission would require the supporting design codes and/or (local and national) development management policies to be robust, with appropriate high-level screening of development sites and sustainability testing and appraisal.

ADA is particularly concerned that a reformed Reserved Matters process ensures that all local flood Risk Management Authorities (RMAs) remain part of the planning process regardless of whether they are statutory consultees. For example, there will remain a need for Lead Local Flood Authorities (LLFAs) to audit detailed design in relation to any design codes/development management policies covering flood risk. Similarly, engagement is needed to ensure that detailed designs comply with consents/byelaws issued by IDBs and LLFAs in relation to water discharges, watercourses, watercourse structures, and access for the maintenance of watercourses and structures that may be affected by a development.

A summary of consents and byelaws relating to IDBs can be found at:

<https://middlelevel.gov.uk/consents/>

9(b). Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas?

NO COMMENT

9(c). Do you think there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime?

NO COMMENT

10. Do you agree with our proposals to make decision-making faster and more certain?

[Not sure. Please provide supporting statement.]

ADA supports the use of technology to improve and streamline the process. However, the proposal for automatic determination and refunds if applications are not determined within the time limit is of concern. This is especially so where a detailed design needs consideration by a local Risk Management Authority alongside the Local Planning Authority. This may be the case where a development impacts upon a watercourse, a watercourse structure, or the access for maintenance of a watercourse or structure. Any proposal needs to ensure that delays are not



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exploited where a local flood Risk Management Authority has evidenceable concerns regarding a proposed development that may result in the planning process being delayed.

11. Do you agree with our proposals for accessible, web-based Local Plans?

[YES]

12. Do you agree with our proposals for a 30 month statutory timescale for the production of Local Plans?

NO COMMENT

13(a). Do you agree that Neighbourhood Plans should be retained in the reformed planning system?

NO COMMENT

13(b). How can the neighbourhood planning process be developed to meet our objectives, such as in the use of digital tools and reflecting community preferences about design?

NO COMMENT

14. Do you agree there should be a stronger emphasis on the build out of developments? And if so, what further measures would you support?

NO COMMENT

15. What do you think about the design of new development that has happened recently in your area?

NO COMMENT

16. Sustainability is at the heart of our proposals. What is your priority for sustainability in your area?

[Less reliance on cars / More green and open spaces / Energy efficiency of new buildings / More trees / Other – please specify]



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FLOOD RISK. Planning reforms must ensure that the vital importance of achieving sustainable drainage in all new development is prominent, clear, and unequivocal within national planning policy.

17. Do you agree with our proposals for improving the production and use of design guides and codes?

[Not sure. Please provide supporting statement.]

ADA is supportive of design guides and codes, particularly where these could further support the use of effective SuDS features by development and ensure developments are built in a way to mitigate against flood risk to the development and others. A key aspect of such flood risk management/SuDS features is ensuring that there long term management and maintenance to retain the required design capacity.

18. Do you agree that we should establish a new body to support design coding and building better places, and that each authority should have a chief officer for design and place-making?

[Not sure. Please provide supporting statement.]

Fundamentally it is important that functional elements in a development that are designed to manage or mitigate flood risk remain core to the building of better places. Whilst SuDS features can significantly enhance the amenity, beauty and environment of a development, these should not come at the cost of their flood risk management function. Therefore, consideration should always be given to how such features can be practically maintained in the future.

19. Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England?

NO COMMENT

20. Do you agree with our proposals for implementing a fast-track for beauty?

NO COMMENT

21. When new development happens in your area, what is your priority for what comes with it?



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~~[More affordable housing / More or better infrastructure (such as transport, schools, health provision) / Design of new buildings / More shops and/or employment space / Green space / Don't know / Other – please specify]~~

Other - The effective management of flood risk, specifically surface water management and SuDS.

22(a). Should the government replace the Community Infrastructure Levy and Section 106 planning obligations with a new consolidated Infrastructure Levy, which is charged as a fixed proportion of development value above a set threshold?

[Not sure. Please provide supporting statement.]

ADA seeks assurance that essential infrastructure to reduce flood risk must be included within the definition of 'infrastructure'. Such infrastructure should be an explicit component of any new consolidated infrastructure levy and funding via the levy should be accessible to all Risk Management Authorities managing infrastructure serving the area of a development.

Currently Section 106 does not provision for land drainage and as such IDBs are able to apply their byelaws and request funding from the developer, separate to councils, for necessary improvements to watercourses, water level management structures/systems. If a consolidated Infrastructure Levy creates a single pot controlled by the local authority this could potentially present funding problems for IDBs seeking to mitigate the impact of development on local flood risk and land drainage systems that they manage.

Therefore, a consolidated Infrastructure Levy must explicitly be accessible more widely to other local flood Risk Management Authorities, specifically IDBs, where development occurs within Internal Drainage Districts and impacts upon their systems.

22(b). Should the Infrastructure Levy rates be set nationally at a single rate, set nationally at an area-specific rate, or set locally?

~~[Nationally at a single rate / Nationally at an area-specific rate / Locally]~~

22(c). Should the Infrastructure Levy aim to capture the same amount of value overall, or more value, to support greater investment in infrastructure, affordable housing and local communities?

~~[Same amount overall / More value / Less value / Not sure. Please provide supporting statement.]~~



22(d). Should we allow local authorities to borrow against the Infrastructure Levy, to support infrastructure delivery in their area?

NO COMMENT

23. Do you agree that the scope of the reformed Infrastructure Levy should capture changes of use through permitted development rights?

[Yes. Please provide supporting statement.]

Many flood risk and drainage issues can result through permitted development, which could justify contributions and spending on flood and water management infrastructure that may be managed by an RMA, more specifically IDBs in low-lying catchments.

On a related matter ADA is aware that many infrastructure and flood risk management projects have to go through the planning system. ADA would encourage the Government to explore how such projects could be accelerated through the system, particularly where such schemes cover multiple local authority areas. This should avoid the need for multiple and duplicate permissions and make it easier to identify catchment wide solutions. Such a permitting regime for flood risk projects would boost the delivery of a green recovery.

24(a). Do you agree that we should aim to secure at least the same amount of affordable housing under the Infrastructure Levy, and as much on-site affordable provision, as at present?

NO COMMENT

24(b). Should affordable housing be secured as in-kind payment towards the Infrastructure Levy, or as a 'right to purchase' at discounted rates for local authorities?

NO COMMENT

24(c). If an in-kind delivery approach is taken, should we mitigate against local authority overpayment risk?

NO COMMENT

24(d). If an in-kind delivery approach is taken, are there additional steps that would need to be taken to support affordable housing quality?

NO COMMENT



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25. Should local authorities have fewer restrictions over how they spend the Infrastructure Levy?

[Yes– Please provide supporting statement.]

Funding via the levy should be accessible to all Risk Management Authorities managing flood and water management infrastructure serving the area of a development. There should be agreed and publicised accounts of how the money was/is spent.

For example, to enable water companies to fund foul drainage improvements to support where their plans (e.g. Drainage & Waste Water Management Action Plans) have identified required improvements to support development, or where development occurs within Internal Drainage Districts and impacts upon internal drainage board managed watercourses and assets.

25(a). If yes, should an affordable housing 'ring-fence' be developed?

[Not sure]

26. Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?

NO COMMENT