

## LLFA Scrutiny Draft Terms of Reference

### Background:

There is a view that that the LLFA is not providing DDDC with adequate advice regarding issues concerning water run-off and foul water drainage giving rise to a need to bring this issue to the Scrutiny Committee. The work done by Cllrs Wain with residents over the last four years and recently by Cllr Linthwaite demonstrate the poor quality of the work the LLFA undertakes.

There are four fundamental issues.

1. The LLFA does not understand the natural water flows and the soughs and drains used to carry water from springs, surface water runoff and foul water. Indeed it does not know where the springs are in many cases. The implication is that the LLFA cannot assess whether the post-development flows are in excess of greenfield site rates and hence whether the NPPF guidance has been followed. Their lack of knowledge and understanding is evident from the work that our councillors have undertaken and the briefings that they have given to LLFA officers. We would expect the LLFA to brief councillors, not the other way around.
2. The failure of the LLFA to adequately assess proposals from developers. This failure may have led to the flooding of properties below the Treetops development on Asker Lane, Matlock which started after the work on that development started and continues.
3. The failure to insist on drainage plans at application stage, with a reliance on post-application submission. This vests control of the process with the developers, since work frequently starts on a site before the drainage plans are approved. It should be with the LLFA or the LPA,
4. The failure to return to evaluate whether the plans have been followed, and perhaps more importantly, that the drainage plans are working.

These four issues are fundamental to the success or failure of the planning process. Hence, our role as the responsible authority for local development is undermined by the inadequate advice received from the LLFA.

Therefore, our performance as a Council is at risk, with potential financial consequences should any individual who has suffered harm decides to sue.

More importantly, children have become ill due to the failure of the foul water system below Treetops. Those children are still at risk.

### Overall aim:

To ensure that the recommendations provided and subsequent assessment activity undertaken by the LLFA is fit for purpose.

### Purpose:

1. To determine the role of the LLFA as per the law, LLFA officers, stakeholders (recipients of advice and recommendations), members of the public resolving any differences in view.
2. To determine whether the advice provided by the LLFA to Local Planning Authorities and to prospective developers meets the requirements of both parties.
3. To determine whether the processes followed by the LLFA in determining recommendations and other advice and resources available to the LLFA are fit for purpose.

4. To make recommendations to the LLFA regarding the processes followed, resources available, recommendations and advice offered by the LLFA to ensure that the recommendations and advice meet the requirements of LPAs and developers.
5. To make recommendations to DDDC and the Local Planning Authority about acceptable standards for LLFA recommendations.

Approach:

1. Fact-finding.
  1. Determine the legal responsibilities of the LLFA.
  2. Collect cases where post-development flooding has occurred in Derbyshire Dales.
  3. Interview officers in the LPA to determine their requirements for assessment of individual planning applications and other inputs (eg local plan).
  4. Interview selected developers to determine what advice they require from the LLFA and the sufficiency of the advice they receive currently.
  5. Interview other stakeholders: residents, Derbyshire Dales councillors, town and parish councillors about LLFA related issues. Consider approaching other Derbyshire LPAs regarding issues in their areas.
  6. Interview LLFA officers about the extent of their responsibilities, resources available to them, workload, processes followed; issues regarding understanding water sources and flows, existing infrastructure, assessment of strategic requirements, opportunities and constraints, assessment of individual sites and development plans, and audit of the installed infrastructure on a development site or as part of a wider scheme.
  7. Obtain current processes followed by the LLFA.
  8. Compile a fact-finding report.
2. Assessment
  1. Expert review. Request a suitably qualified engineer to assess and report on the fact-finding results to determine:
    - (i) Gaps in knowledge and understanding of flood issues in Derbyshire Dales
    - (ii) What actions should be undertaken to remove gaps in knowledge and understanding.
    - (iii) The quality of the recommendations and advice given by the LLFA.
    - (iv) Standards to be followed in providing recommendations and advice.
    - (v) The adequacy of the processes followed particularly in the assessment of flood risk, subsequent preparation of recommendations and follow up assessment of developments
    - (vi) How those processes should be revised.
    - (vii) The adequacy of the resources available to the LLFA.
    - (viii) What additional resources should be provided.
  2. Review of the expert's report by the scrutiny committee in a meeting with the expert.
3. Draft reporting
  1. Preparation of a draft report by the scrutiny committee.
  2. Provision of the draft report to the LLFA for comment.
  3. Scrutiny committee and expert review of the LLFA's comments on the report in conjunction with officers from the LLFA.
  4. Revised draft scrutiny report.

4. Final reporting

1. Legal review of the draft scrutiny report.
2. Preparation of the final report and issue to Council for approval noting actions required of DDDC and DCC.
3. Formal approval by Council and adoption of approved recommendations.
4. Formal notification of DCC of the scrutiny findings and recommended changes to the LLFA.