

Item No.	Classification: Open	Date: 14 July 2015	Decision Taker: Cabinet Member for Environment and the Public Realm
Report title:		Adoption of Local Flood Risk Management Strategy	
Ward(s) or groups affected:		Borough-Wide	
From:		Strategic Director for Environment and Leisure	

RECOMMENDATIONS

That the Cabinet Member for Environment and the Public Realm:

1. Notes the progress the Council has made in executing its roles and responsibilities as a Lead Local Flood Authority (“LLFA”) pursuant to the Flood and Water Management Act 2010 (“the Act”) and the Flood Risk Regulation 2009 (“the Regulations”).
2. Notes the Consultation Report, the Local Flood Risk Management Strategy (“LFRMS”), the Strategic Environmental Assessment (“SEA”) and the Adoption Statement attached as appendices 1-4 respectively.
3. Approves for adoption the LFRMS and the SEA for use across the borough in accordance with the Act and the Regulations.

BACKGROUND INFORMATION

4. The Regulations designates all local authorities including Southwark Council as Lead Local Flood Authorities. Among others, a Lead Local Flood Authority (“LLFA”) has duties to identify areas at risk of flooding, prepare flood hazard / risk maps, flood risk management plans and co-operate with other risk management authorities in managing flood risk. The Act came into effect in April 2011, requiring LLFAs to take on the responsibility of leading on the management and co-ordination of local flood risk.
5. The Council has taken notice of the new roles and responsibilities under the act and is one of very few Boroughs in London to have put in place a dedicated flood and drainage team. The team has been in place since April 2011.
6. The Council is the first borough in London to successfully secure significant Flood Defense Grant in Aid (FDGiA) funding of £1.745 million through the Environment Agency for a surface water flooding related scheme.
7. The Council has, in partnership with Thames Water Utilities Ltd. (TWUL) and the community, completed and officially launched the Herne Hill Flood Alleviation Scheme (HHFAS). The project reduces surface water flood risk to more than 400 properties and protects another 80 from sewer flooding.

8. The council's innovative approach to partnership and delivering Flood Alleviation works has been recognised by the Environment Agency and the Institute of Civil Engineers, London, with the project excellence (partnership category) and 'the special contribution to the community' awards respectively. The HHFAS scheme has also been shortlisted for the British Construction Industry award.
9. Under section 9 of the Act, Southwark Council is required to develop, maintain, apply and monitor a LFRMS for the borough. The LFRMS should provide strategic direction in proactively managing flood risk in Southwark to meet the requirements of the act.
10. The LFRMS outlines the general approach to managing flood risk across the borough consistent with the Act. The Council's primary purpose for this strategy is to ensure that, as far as is reasonably practicable, the risk of flooding to human health and life, the environment, economic activity, infrastructure and cultural heritage arising from surface water, groundwater and ordinary watercourses is minimised.
11. The key objectives of the strategy are to:
 - Ensure a clear understanding of local flood risks, so that investment in risk management can be prioritised and implemented most effectively.
 - Develop and maintain community and partnership based engagement in the management of flood risk and encourage beneficiaries to invest in the management of risk where possible.
 - Set out clear and consistent plans for risk management so that communities and businesses can make informed decisions about managing residual risks.
 - Encourage innovative management of flood risk, taking account of the needs of communities and the environment
 - Promote sustainable measures to reduce flood risk and provide multiple benefits to local communities.
 - Develop links between the local flood risk management strategy and local spatial planning.
 - Co-operate with neighbouring LLFAs to ensure effective risk management of flooding and compliance with the Water Framework Directive.
 - Increase environmental protection and integrate considerations into the preparation and implementation of policies and programmes that promote sustainable development.
 - Ensure that emergency plans and responses to flood incidents are effective and that communities are able to respond properly to flood warnings.
 - Help communities to recover more quickly and effectively from flooding incidents.

KEY ISSUES FOR CONSIDERATION

Strategy development process

12. Development of the first draft of the LFRMS was completed in 2013. The

document was then distributed internally for consultation. Comments received from internal partners were incorporated.

13. The revised draft strategy was then sent to external partners in May 2013 for the second stage of consultation. This was to ensure that the document fully complied with all requirements of the Act, and to draw on the experience and knowledge of the external partners. The external partners consulted included the Environment Agency, Thames Water, neighbouring London Boroughs and Transport for London. The comments received were used to further refine the strategy.
14. The draft strategy was subsequently sent out for public consultation in November 2014. This was to ensure that the needs of the community were fully understood and met.
15. The consultation process involved attendance and presentations at Community Council meetings. The draft strategy, the associated SEA and questionnaires were loaded on the Council's website for the public to review and comment. In addition, the aforementioned documents were placed in all local libraries, one stop shops and housing offices to make them readily accessible to the public.
16. The overall level of response was low. Given the technical nature of the document, this is not surprising. The low response level is consistent with those received by other London Boroughs for equivalent LFRMS.
17. Notice has been taken of relevant comments and responses have been provided in the Consultation Report. Key among them was the need to make the document available to tenants and resident associations and to simplify the language in the strategy. A simplified version of the strategy was already available and tenants and residents associations were notified of the consultation.
18. The consultation was undertaken in adherence with the Council' Statement of Community Involvement adopted on the 29 January 2008 which specifies a 12 week public consultation (6 weeks formal and 6 weeks informal) period for Local Development Documents. Although the LFRMS is not a development plan document the Council deemed it necessary to adopt a consistent approach towards the consultation arrangements for the LFRMS.
19. Table 1 below summarises the stages of the consultation process.

Table 1. Consultation Stages

Stage of consultation	When did it occur?
Consultation with internal partners on the draft Local Flood Risk Management Strategy, including further development based on the comments received.	November 2012 – March 2013

Consultation with external partners on the revised draft strategy including further development based on comments received.	May 2013 – April 2014
Consultation on the final draft Local Flood Risk Management Strategy and draft sustainability appraisal report.	November 2014 – February 2015
Consideration of the responses to the consultation on the Local Flood Risk Management Strategy and draft sustainability appraisal report.	February – April 2015
Preparation of the final strategy	April 2015
Adoption of the strategy	July 2015

Planning policy implications

20. The Council's roles and responsibilities under the Act and Regulations, which are now documented in the LFRMS, have implications particularly on the Council's development planning policy. Proposed developments in locations designated as critical drainage areas will require a drainage strategy that ensures flood risk to the development and the surrounding areas are minimised.
21. From 6 April 2015, the Council as a LLFA is a statutory consultee on all major planning applications. The requirements for developers to demonstrate that due consideration has been given to Sustainable Drainage Systems (SuDS) options in their drainage proposal has been incorporated in the LFRMS.
22. The LFRMS also highlights it will become increasingly important for new developments to demonstrate that climate change and its attended impacts such as changes in rainfall patterns are considered in planning development proposals.

Community impact statement

23. Recommendations set out in this report will have no particular impact on people with protected characteristics, namely age, disability, faith/religion, gender, race and ethnicity and sexual orientation.
24. The LFRMS has identified areas at a higher risk of flooding and recommends engagement with such communities to raise awareness and actions to reduce flood risk.

Resource implications

25. The LFRMS will have no additional resource implications for Southwark

Council. A team has been in place to execute the Council's duties and responsibilities under the Flood Risk Management Act 2010. This team will assume responsibility for implementing the LFRMS. The team is currently funded from the Council's allocation of a Government Grant.

Consultation (Community Engagement)

26. Extensive consultation was carried out in three stages
 - Consultation with internal partners
 - Consultation with external partners (e.g. Environment Agency, Thames Water, neighbouring London Boroughs)
 - Public consultation
27. The process has ensured that the views of internal and external stakeholders have been taken into consideration in the final strategy.
28. Members of the Flood and Drainage Team attended Community Council Meetings in November and December 2014 to raise awareness of the strategy. This was to ensure that as many people as possible were given the opportunity to contribute to the development of the strategy.
29. All available avenues were employed to ensure stakeholders were made aware of the document. These included the website, libraries, housing offices and one stop shops.

SUPPLEMENTARY ADVICE FROM OTHERS

Director of Legal Services

30. The recommendation of the report requests that the Cabinet Member for Environment and the Public Realm notes the LFRMS, Strategic Environmental Assessment and Consultation Report (Appendix1) and approves for adoption the LFRMS and the SEA for use across the Borough in accordance with the Council's responsibilities as LLFA pursuant to the Act and Regulations.
31. The management of flood risk falls within the portfolio of Councillor Darren Merrill, the Cabinet Member for Environment and the Public Realm. Under part 3D, paragraph 6, of the Southwark Constitution 2013/14, the agreement of statutory and other strategies, in relation to his area of responsibility, except where they relate to crosscutting issues, is reserved for Individual Cabinet Member decision. Paragraphs 7 and 13 of Part 3D also provides that the Cabinet Member can approve significant policy issues, in relation to his areas of responsibility and sign off any plan, strategy or programme when completed or take decisions where no further significant cabinet approval is required. The Cabinet Member therefore has authority to note and approve the recommendations of the report.
32. As advised at paragraph 4 of the report, the Council has been designated as a LLFA. In 2010 LLFA's were given overall responsibility for local flood risk management under the Act. This means the Council is responsible for managing local sources of flooding from surface water, groundwater and small

- (“ordinary”) watercourses. In relation to local flood risk, the Environment Agency has a strategic overview role, in addition to its operational responsibility for managing the risk of flooding from main rivers, reservoirs, estuaries and the sea.
33. As part of this responsibility, the Council as a LLFA for the borough has a statutory duty to establish, develop, maintain, apply, monitor and establish a Local Flood Risk Management Strategy LFRMS (S9 of the Act). The Regulations further direct the Council to assess and map flood risk and to draw up plans to manage the risk.
 34. The LFRMS must include surface water flooding, ground water flooding and non-river watercourse flooding. This must identify flood risk objectives and give details of plans for implementation. All proposals must be subject to consultation with both Risk Management Authorities (“RMAs”) and the public. The LFRMS should include the objectives contained in the Flood Risk Management Plan (“FRMP”) which is required to be prepared by the LLFA under Part 4, Regulation 26.
 35. Additionally, the LFRMS must detail how and when these measures will be implemented, how the measures will be reviewed and financed, details of the Risk Management Authorities and their functions. The Cabinet Member will note, that paragraph 11 of the report sets out the key objectives of the strategy in accordance with statutory requirements.
 36. Lastly, the LLFA must also publish a summary of its LFRMS (including guidance about the availability of relevant information) and have regard to any guidance issued by the Secretary of State about the LFRMS.
 37. Paragraphs 12-15 of the report and Table 1 (Consultation Stages) set out the consultations undertaken with internal clients, external partners and the public. Further, paragraph 18 of the report confirms that the LFRMS was consulted upon in accordance with the Council’s Statement of Community Involvement for a 12 week period. This document sets out how and when we will involve the community in the alteration and development of town planning documents and applications for planning permission. This is to ensure that the Council carries out effective community involvement in the planning process. This is a legal (statutory) document that must be complied with by all planning processes including the process of agreeing planning documents and making decisions on planning applications.
 38. Although the LFRMS is not a planning document in the pure sense it will have implications upon the determination of major planning applications and has therefore been treated consistently in this respect. The Council has therefore complied with its duty to publicise the LFRMS and the consultation responses received in respect of this document have been assessed and appended at (Appendix 1).
 39. The Cabinet member will note the planning policy implications of the recommendations set out at paragraphs 20-22. As explained at paragraph 21 of the report, from the 6 April the LLFA is now a statutory consultee in respect of all major planning applications (Schedule 4 The Town and Country Planning (Development Management Procedure) (England) Order 2015 SI No.595).

40. Statutory consultees are those organisations and bodies, defined by statute, which local planning authorities are legally required to consult before reaching a decision on relevant planning applications.
41. Schedule 3 of the Act establishes the creation of new national standards for a Sustainable Drainage Design Systems (“SuDs”), being a sequence of management practices, control structures and strategies designed to efficiently and sustainably drain surface water. The Cabinet Member will note that paragraph 20 of the report confirms that the requirement for developers to demonstrate that due consideration has been given to SuDS options in their drainage proposal have been incorporated in the LFRMS.
42. As a statutory consultee, the Lead Local Flood Authority would be expected to respond to the local planning authority within 21 days and under a duty to report to Government on their performance in providing a substantive response within that deadline.
43. The Cabinet Member will note, that the Equality Act 2010 introduced a single public sector equality duty (PSED) which requires the Council to have due regard in our decision making processes to the need to eliminate discrimination, advance equality of opportunity and foster good relations between those who share or may not share protected characteristics.
44. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. The PSED also applies to marriage and civil partnership.
45. A full equalities assessment has not been carried out at this stage which simply entails approval of internal decision making processes. This decision is not expected at this stage impact on those with protected characteristics.
46. The Council will support the preparation of a Equalities Analysis and Sustainability Appraisal of any resulting plans to ensure that the subsequent plans have a positive impact on local communities and those with protected characteristic in accordance with its statutory duties.
47. Flood Risk could potentially engage certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term ‘engage’ simply means that human rights may be affected or relevant.
48. The adoption of the LFRMS should not cause unlawful interference with human rights. However due consideration should be given in making individual decisions as to the potential flood risk or other related proposals could engage the following rights (among others): -
 - (i) The right to a fair hearing (Article 6) – giving rise to the need to ensure proper consultation and effective engagement of the public in the process;
 - (ii) The right to respect for private and family life (Article 8) –the right to and impacts on amenities or the quality of life of individuals may be impacted by details in plans or proposals;
 - (iii) Article 1, Protocol 1 (Protection of Property) – this right prohibits

interference with individuals' right to peaceful enjoyment of existing and future property / homes;

49. As advised at paragraph 10 of the report "the Council's primary purpose for this strategy is to ensure that, as far as is reasonably practicable, the risk of flooding to human health and life, the environment, economic activity, infrastructure and cultural heritage arising from surface water, groundwater and ordinary watercourses is minimised".
50. It is considered that the decision not to adopt the proposed LFRMS would not amount to a breach or interference with any of these rights and the Cabinet Member is invited to approve the recommendations.

Planning

51. The planning department is working jointly with the Flood and Drainage Team (FDT) to ensure that activities planned for the future management of flood risk in Southwark can be carried out effectively. This will help to ensure that the council can meet its responsibilities as required under the Flood and Water Management Act 2010. Two of the LFRMS's key objectives (as listed in paragraph 11) are:
 - (iv) To develop links between the local flood risk management strategy and local spatial planning.
 - (v) To increase environmental protection and integrate considerations into the preparation and implementation of policies and programmes that promote sustainable development.
52. The LFRMS, whilst not a development plan itself, will have two key functions in relation to planning policy. The LFRMS will form part of the evidence base needed to inform flood risk and surface water management policies in the emerging local plan (the New Southwark Plan). The LFRMS will also provide area-specific guidance in relation to flood risk and drainage management for new development proposals to help with the assessment of planning applications in the borough.
53. There are no resource implications, beyond the existing statutory functions for the planning department associated with the adoption of the LFRMS.
54. For the above reasons, the planning department supports the adoption of the LFRMS which is a necessary document in the evidence base required to support the preparation of the New Southwark Plan.

Finance and Resources

55. The Strategic Director of Finance and Corporate Services notes the recommendations in this report and the comments in the resources section on current funding of costs.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Preliminary Flood Risk Assessment	Copeland Road Depot	Mick Lucas 020 7525 1140
Surface Water Management Plan	Copeland Road Depot	Mick Lucas 020 7525 1140

APPENDICES

No.	Title
Appendix 1	Consultation Report
Appendix 2	Local Flood Risk Management Strategy
Appendix 3	Strategic Environmental Assessment
Appendix 4	Statement of Adoption

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director Environment and Leisure	
Report Author	Mick Lucas, Asset Manager	
Version	Final	
Dated	15 July 2015	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director Legal Services	Yes	Yes
Director of Finance & resources	Yes	Yes
Director of Planning	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	15 July 2015	