

LONDON BOROUGH OF WALTHAM FOREST

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| Meeting / Date | Cabinet 14 June 2011 | Agenda Item | 9 |
| Report Title | Responsibilities under the Flood and Water Management Act 2010 as Lead Local Flood Authority | | |
| Cabinet Portfolio | Environment | | |
| Report Author/ Contact details | K Valavan – Head of Highways and Infrastructure | | |
| Wards affected | All | | |
| Public Access | OPEN | | |
| Appendices | Appendix A: Surface Water Management Plan Action Plan Appendix B: Preliminary Flood Risk Assessment Appendix C: Equality Analysis Appendix D: Sustainability Impact Matrix | | |

1. SUMMARY

- 1.1.1 The report provides a summary of the Flood and Water Management Act 2010 and Flood Risk Regulations 2009, including the likely impact they may have on the Council as a Lead Local Flood Authority.
- 1.1.2 This report has been prepared in order to provide a position statement on where the Council is with its new legal responsibilities, approve the Preliminary Flood Risk Assessment attached, and consider the resource implications and potential sources of funding to cover these duties.

1.2 RECOMMENDATIONS

- 1.2.1 For the reasons given in this report, Cabinet is recommended to:
- 1.2.2 Agree to adopt and implement the new duties imposed by the Flood and Water Management Act 2010 on the Council as a Lead Local Flood Authority.
- 1.2.3 Approve the Preliminary Flood Risk Assessment (PRFA) for submission to the Environment Agency by 22nd June 2011 deadline.
- 1.2.4 Consider the financial and resources implications of the Flood and Water Management Act 2010 for Waltham Forest (WF) including the Department for Environment, Food and Rural Affairs' (Defra) proposal

to initially provide an Area Based Grant to assist with the carrying out of this new duties.

- 1.2.5 Approve to ring fence the use of Defra grant funding to provide revenue budgets to undertake the duties and set up to systems required by the Act.

2. BACKGROUND

- 2.1 Following the 2007 floods the Government commissioned a review known as the Pitt Review into drainage and flood risk management. As a consequence the Government published a Flood and Water Bill in April 2009, which subsequently became the Flood and Water Management Act 2010 and it is being implemented in phases.
- 2.2 The Flood and Water Management Act 2010 gives a new major flood risk management / drainage management role to the Council as a Lead Local Flood Authority. This role includes ensuring that flood risk from all sources, including main watercourses, ordinary watercourses, surface water runoff and ground water is suitably managed.
- 2.3 There are some implications for the Civil Contingencies and Spatial Planning, but the major new role is effectively one involving engineering, coordination, collaboration and leadership which the Government suggests should sit with local authorities' existing highways duties and responsibilities.
- 2.4 Partnership Working is key to complying with the Act. Although WF will be taking the role of Lead Local Flood Authority (LLFA), the Act aims to see local authorities working together with the Environment Agency, water companies and other stakeholders. The Act also aims to promote an integrated approach to planning and managing the environmental impact of all forms of flood risk.
- 2.5 The major implication for the water companies will be the duty to share information with local authorities, as they currently do not provide information from their databases on flooded properties or allow access to their hydraulic modelling.
- 2.6 Whilst the Environment Agency will retain a strategic overview role the local leadership role for flood risk management has been given to the Council and as Lead Local Flood Authority. Waltham Forest Council will be required to:
 - Develop local partnerships
 - Develop, maintain, apply and monitor a flood risk management strategy for Waltham Forest
 - Investigate and maintain a flood register
 - Assume additional permitting powers
 - Approve, adopt and maintain Sustainable Drainage Systems (SUDS)
 - Meet the requirement of the Flood Risk Regulations (2009) and identify and map areas of significant local flood risk and prepare a strategy for mitigation of this risk

- Review and scrutinise the exercise of flood risk management functions in Waltham Forest

3. PROPOSALS

- 3.1 The first parts of the Act commenced on 1 October 2010, which include the requirement to develop national and local flood risk management strategies and amendments to sewer adoption processes.
- 3.2 The second phase of the new responsibilities put on local boroughs have commenced in April 2011, which includes the implementation of part of the actions identified in the Surface Water Management Plan (SWMP).
- 3.3 The SWMP action plan in **Appendix A** gives an indication of some of the work needed, along with the latest timescales, to fully comply with the Council's duties under the Act. Given the funding available it is considered all the requirements are achievable over the coming years.
- 3.4 Alongside the Act, the Flood Risk Regulations 2009 have been made to implement the EU Flood Directive. These regulations require the production of a Preliminary Flood Risk Assessment (PFRA) in **Appendix B** by June 2011.
- 3.5 To help the London boroughs, the GLA has formed the Drain London Project and appointed Engineering Consultants to carry out the Preliminary Flood Risk Assessment (PFRA) by identifying those areas considered to be at significant risk of flooding. The consultants have produced an action plan as part of the SWMP for each London borough, with a prioritised list of areas needing attention.
- 3.6 Investigation of flooding incidents will continue to be done by the Highways Network Group as and when such incidents occur.
- 3.7 A register of any known structures will be prepared as part of the SWMP.
- 3.8 The Council will be required to set up a Sustainable Urban Drainage System (SUDS) approval body and adopt SUDS serving more than one property. Defra is currently producing national standards for the implementation of SUDS and are likely to be released later this year. The standards will address the ways in which drainage systems are to be designed, constructed and maintained and funded.

4. SUSTAINABLE COMMUNITY STRATEGY PRIORITIES (AND OTHER NATIONAL OR LOCAL POLICIES OR STRATEGIES)

- 4.1 Flooding has occurred in Waltham Forest in 1947, 2000 and 2009. Extensive flooding occurred in 1947, predominantly in the south of the Borough along the River Lee. The amount of water entering the river exceeded the capacity of the river which resulted in the floods. The flooding in 2000 was on a smaller scale and occurred at Walthamstow Marshes. In 2009 a small area in the northwest of the Borough flooded.

- 4.2 The management of flood risk will have a beneficial effect on both the sustainability of existing development and the planning and delivery of new developments in those areas with potential to suffer flooding. SUDS schemes have the potential to provide new, high quality open spaces.
- 4.3 Provide better, more sustainable management of flood risk for people, homes and businesses, help safeguard community groups from unaffordable rises in surface water drainage charges and protect water supplies to the consumer.

5. CONSULTATION

- 5.1 The Government has carried out an extensive consultation regarding the formation of the Act and its implications.
- 5.2 The SWMP is the result of a partnership between the Council, Water Authority and the Environment Agency and other stakeholders. Wider public consultation on the Plan has not been carried out.
- 5.3 Legal Services and the Councils Risk and Insurance Manager have been consulted on appropriate wording in the Plan to explicitly state the Councils responsibilities under the Plan.

6. IMPLICATIONS

6.1 Finance, Value for Money and Risk

- 6.1.1 As detailed in the Action Plan attached in the **Appendix A**, there is a significant amount of work to be undertaken to ensure WF complies with its duties as the Lead Local Flood Authority. However in approving the recommendations of this report sufficient capacity will be built into the highways service to manage the provisions in the Act that affect local authorities.
- 6.1.2 The task for Waltham Forest Council, as the LLFA, in undertaking these new roles is substantial and as they are new functions there is limited existing expertise within the Council.
- 6.1.3 WF need to use staff with experience in drainage engineering in order to fulfil its land drainage and SUDS responsibilities.
- 6.1.4 Failure to implement and deliver the statutory duties may cause high level of financial risk to the Council and also jeopardise the organisation's reputation for not adhering to social, moral, environmental and health and safety responsibilities.
- 6.1.5 There are likely to be significant financial implications which can be funded through Defra grant as detailed below.
- 6.1.6 Funding for the full implementation of the Act is still being determined by Defra. The SUDS functions will be funded separately through application, inspection and adoption fees; the Minister is currently

consulting on the mechanisms for funding SUDS and the appropriate fees. The other additional burdens will be met by Defra, funding for which has been announced after the spending review.

- 6.1.7 Defra grant funding of £127k has been received for 2011/12 financial year and it is understood this will rise to £154k in 2012/13 to cover the duties under the Act.
- 6.1.8 Expenditure on preventing floods and minimising the impact of flooding can be highly beneficial, compared with the cost of responding to incidents and repairing and reinstating damage. It has been estimated that the benefits of improved defences to control and manage flood risk, outweighs the cost of such works by a factor of 8 to 1. A cost – benefit approach to all flood risk management work by local authorities is positively encouraged to ensure that the cost of plans and investments are justified.
- 6.1.9 The report summarises the impact of new legislation and the effect that the various plans, to manage flood risk in the area, will have on WF. The new duties of LLFA will bring with them challenges and risks for the Council, but it is too early to scope and define these in any detail. It is proposed that the Executive Board be requested to consider a report on the financial and resource implications of the Act, which will include a risk analysis of these specific aspects.

6.2 Legal

- 6.2.1 The Act places many new statutory duties on WF as a LLFA and are briefly outlined in the body of the report above. These are in addition to existing powers and duties under the Land Drainage Act, the Public Health Act and Reservoirs Act.

6.3 Equalities and Diversity

- 6.3.1 There are no adverse Equality and Diversity issues associated with the report. However, the Act will increase the health and safety of the community which in turn offer the equal opportunities for the whole community. (Equality analysis in **Appendix C**)

6.4 Sustainability (including climate change, health, crime and disorder) (Appendix D)

- 6.4.1 The actions of the legislation should result in the reduction of risk to local communities and the Council.
- 6.4.2 By mimicking natural drainage patterns, SUDS benefit the environment by removing pollutants - including metals and hydrocarbons from roads and car parks, before reaching the watercourse. Water entering a local watercourse is cleaner as a result and does not harm wildlife habitats.

6.4.3 Sustainable drainage systems generally replace traditional underground piped systems that use grates or storm water drains at street level. This means any problems with the system are quicker and easier to identify than with a conventional system and are likely to be cheaper and more straightforward to rectify.

6.4.4 SUDS will become increasingly important to control surface water if rainfall increases because of climate change. They can also provide other benefits in developments such as passive cooling, which will again help mitigate any increase in temperatures due to climate change.

6.5 Council Infrastructure (e.g. Human Resources, Accommodation or IT issues)

6.5.1 It will be necessary to create the infrastructure to support the Council's new roles under the Act. This is envisaged, to be achieved in the early years by allocating the Defra grant to revenue budgets for:-

6.5.2 Initiate an asset register and record system (£20K). This will in the future need to hold flooding maps, detailed structural information on drainage features, location and maintenance regimes for all SUDS and generate annual reports to be published on specific areas on the LLFA's responsibilities. It is anticipated that this asset and register system will be designed collaboratively with our neighbouring boroughs to work alongside existing highway maintenance asset systems but with commonality to feed data into the Drain London project.

6.5.3 Carry out and record flood investigation including liaison with all stakeholders affected (£50K). This function is currently carried to a lesser degree by highway maintenance staff but the Act requires for detailed records to be compiled

6.5.4 Initiate feasibility investigations highlighted and prioritised in the SWMP action plan (£57K). As this work is of a specialist nature and WF currently has no staff expertise in this area, it is most likely that it will be carried out either by collaborative working with our neighbouring boroughs, or by access to the use of other framework agreements in place with other authorities.

BACKGROUND INFORMATION (as defined by Local Government (Access to Information) Act 1985)

What does the Flood and Water Management Act mean for Local Authorities - Defra

<http://www.defra.gov.uk/environment/flooding/documents/policy/fwmb/fwmalafactsheet.pdf>

The Flood Risk Regulations

<http://www.legislation.gov.uk/ukxi/2009/3042/contents/made>

SUDS-promoting good practice – a CIRIA initiative -
<http://www.ciria.org.uk/suds/publications.htm>

Approval by the Portfolio Holder

I have cleared this report for inclusion on the Cabinet agenda.

Signed



Date 1 June 2011

Portfolio Member for Environment