



Sustainable Development Select Committee

Lewisham Local Flood Risk Management Strategy Update

Date: 13 March 2024

Key decision: No

Class: Part 1

Ward(s) affected: All

Contributors: Flood Risk Manager

Outline and recommendations

1. Outline

- 1.1. This report provides an update on the Council's Local Flood Risk Management Strategy.
- 1.2. The report covers:
 - Updates on actions in the Local Flood Risk Management Strategy 2022-2027 action plan;
 - Proposals to refresh some of the current set of actions.

2. Recommendations

- 2.1. Sustainable Development Select Committee is invited to review the update provided on the Local Flood Risk Management Strategy 2022-2027.

Timeline of engagement and decision-making

Lewisham's Local Flood Risk Management Strategy was approved by Mayor and Cabinet on 21st September 2022

<https://councilmeetings.lewisham.gov.uk/ieListDocuments.aspx?CId=139&MID=7728>

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1. Summary

1.1. This report provides the Sustainable Development Select Committee with an update on the Council's Local Flood Risk Management Strategy 2022-2027:

- A review of the 33 actions proposed in the 2022 action plan;
- Proposals to refresh some of the current set of actions;
- An update on the risks and opportunities that could arise from the implementation of Schedule 3 of the Flood and Water Management Act – the SuDS Approval Body.

2. Background

2.1. Lewisham's Local Flood Risk Management Strategy has been developed with the involvement of services across the Council, with members, and in discussion with local community groups and the public including an open public consultation process. The Strategy is intended to be a 5-year programme that will continue to be developed in response to new risks and opportunities as they emerge and in open discussion with residents and other stakeholders.

2.2. The strategy focuses on 4 objectives:

- **Understanding risk and opportunity** – Risk Management Authorities in Lewisham have a clear understanding of local flood risk and management opportunities and this understanding is shared with partners to create an evidence base for flood risk and how it can be managed to target resources where they are most effective;
- **Reducing the risk of flooding** – protect the people and businesses of Lewisham from flooding through investment in flood risk management projects and programmes using new or innovative techniques where appropriate;
- **Resilient Planning** – development and spatial planning in Lewisham takes account of flood risk issues and plans to effectively manage any impacts and through the re-development of previously developed land, reduces overall flood risk;
- **Resilient Communities** – residents and businesses of Lewisham have access to appropriate data and information to understand flood risk in their area, how it is managed and by who. Communities are empowered to act to protect themselves from flooding through individual efforts, partnerships and joint working.

1..2. The Strategy Action Plan set out 33 actions across the 4 objectives. Progress against actions is reviewed periodically at Lewisham's Flood and Water Management Act Group – a cross-council working group with key stakeholders that hold a flood risk management responsibility.

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3. Update on the Local Flood Risk Management Strategy Actions

- 3.1. Annex A includes an update against the existing 33 actions in the Local Flood Risk Management Strategy 2022 to 2027 Action Plan and lists all recently proposed actions as New.
- 3.2. The Council's internal audit team has reviewed the Lead Local Flood Authority function following the publication of the Strategy in September 2022. The conclusion of the audit was that the controls offer Substantial assurance which is a positive rating, that reflects that our controls are effective in operation and design to help keep risk at acceptable levels. All of the recommendations from the auditor have been picked and added to the action plan as new actions.
- 3.3. The table in Annex A includes the original wording of the action and reference number, the team it was assigned to, the original indication of timing in the 2022 Strategy, and any newly proposed actions. The update includes a narrative description and an assessment of progress using the following terms consistent with the Council's Climate Emergency Action Plan:
- Action Achieved
 - Partly Achieved
 - Underway
 - Not Achieved

The table below shows the distribution of these assessments of progress across the action plan's four objectives following the first year since publication of the Strategy:

Objectives	Achieved	Partly Achieved	Underway	Not Achieved	Total
Understanding risk and opportunity	4	1	3	0	8
Reducing the risk of flooding	4	6	2	0	12
Resilient planning	3	3	0	1	7
Resilient communities	2	1	2	0	5
TOTAL	12	11	7	1	33

- 3.4 Key achievements since the 2022 Strategy was published include:
- Delivery of regeneration works at Beckenham Place Park East including a nature pond, river restoration and a flood storage that helps to protect over 822 properties from river flooding.
 - Retrofitted sustainable drainage systems at over 13 locations in the borough, these features drain about 3700m² (an area equivalent to 3 Olympic size swimming pools) of hardstanding impermeable surfacing

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through green infrastructure SuDS

- Drawn in over £3.3mil of funding to deliver natural flood risk mitigation schemes within parks, schools and the highway network.
- Progression of the first phase in developing a blue-green link between the Downham Woodland Walk and Beckenham Place Park East through the installation of three rain gardens along Old Bromley Road.
- Improved our understanding of the impact that paving over front drives in Lewisham has on the loss of biodiversity and surface water flood risk in the borough.
- The Council's sustainable drainage in schools project won the Trees for Nature and Climate Award at the London Tree and Woodland Awards 2023. Rain gardens and trees in the playgrounds of Rathfern, John Stainer and Deptford Park schools alongside engagement programmes with pupils and teachers have transformed the outdoor space of the schools while delivering 150m² new blue-green infrastructure and draining over 1,700m² hardstanding surfaces.
- At Thornville Road a new rain garden developed in partnership with the local community and funded through Thames Water's Surface Water Management Programme was installed on the highway in November 23.
- A newly constructed wetlands in Chinbrook Meadows has been created by the Council's work in partnership with Thames 21, the Friends of Chinbrook Meadows group and Bromley Council. The new wetlands area provides additional fluvial flood storage, helps to manage silts, and improves water quality in the River Quaggy.
- Creation of the Greener Adaptive Lewisham officer-level cross-service working group which focuses on developing new ways of working to facilitate the delivery of blue-green infrastructure within the public sphere – exemplified by the integration of SuDS within Highway's programme of works at Coulgate Street, Brockley Road Crossing, and Crossfield Street.

4. Forward Look

4.1. In addition to the original 33 actions set out in the Local Flood Risk Management Strategy Annex A proposes the following newly created draft actions:

- Secure funding to carry out a programme of flood risk modelling to identify key opportunities for the installation of natural flood management measures across the borough (1.10).
- Secure funding to conduct a borough-wide condition assessment survey of Ordinary Watercourses (1.11).
- Update the action and KPI tracker every six months with the Flood and Water Management Act Group (1.12).
- Secure additional funding to deliver SuDS and Pocket Parks in Lewisham including delivering projects where funding has already been secured at Staplehurst Road, Lewisham High Street and Clarendon Rise (2.13).

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- Restoration of the stream within Northbrook Park to reduce the risk of surface water flooding within the Verdant Lane Critical Drainage area (2.14).
- Evaluate local planning procedures in the context of the implementation of Schedule 3 of the Flood and Water Management Act (3.08).
- Increase youth engagement in the implementation of blue-green infrastructure within Lewisham (4.06).

5. SuDS Approval Body

- 5.1. Schedule 3 of the Flood and Water Management Act 2010 was not enacted along with the rest of the Act. This Schedule places a duty on the Lead Local Flood Authority to act as a Sustainable Drainage Systems (SuDS) Approval Body (SAB).
- 5.2. The SAB will be responsible for both approving and adopting SuDS in new development and other construction work where the drainage serves two or more properties.
- 5.3. The Government's latest advice is that they are looking to enact this Schedule in November 2024.

Role of the SAB

- 5.4. Schedule 3 introduces the new SuDS Approval Body. The SAB will be responsible for the approval, adoption, and maintenance of drainage systems in new developments and construction work. It is currently not known what size/category of development will require SAB approval (to be defined within the statutory instruments), with the original legislation stating:

S7 - Construction work that has drainage implications may not be commenced unless a drainage system for the work has been approved by the approving body.
- 5.5. This will be separate from the planning application process and is likely to include permitted development. Applications will be made either directly to the SAB or as a joint planning application (to the LPA and SAB), when the LPA must consult with the SAB to inform its determination of the planning permission.
- 5.6. Where the resulting SuDS serve two or more properties, and the drainage system has been constructed as approved, the SAB will have a duty to adopt and maintain those systems.

Impact

- 5.7. Whilst the introduction of Schedule 3 is to be welcomed, as it has the potential to reduce flood risk across the Borough, there are some implications that need to be considered.
- 5.8. The entire flood risk industry is currently struggling with resources; the industry is growing faster than specialists are being trained. This is being experienced within Local Authorities, the Environment Agency and consultancies. The current message from consultancies is that they are looking to increase their workforce to assist with the increased workload, however, they are concerned they won't have the resources to support all LLFAs. With consultancies actively recruiting flood risk specialists, this will make it even more difficult for the public

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sector to attract and retain those with the required skill set, as Local Authorities often can't match the pay and benefits. The SAB is going to require both extra people and extra skills; Lewisham LLFA currently has one full-time permanent member of staff (who also covers additional duties).

- 5.9. To ensure that SuDS are built as approved the Council will need inspectors who are fully trained in SuDS construction techniques and can inspect every site (both during and post construction) where SuDS serves two or more properties. This is to ensure that the Council is adopting well-built SuDS, constructed as designed/approved. There will also be changes to the building regulations to ensure that SuDS are fully covered within them.
- 5.10. As the legislation currently stands, the SAB will be responsible for adopting and maintaining all systems which serve two or more properties, unless it is part of a publicly maintained highway. This could mean that in a new development of 500 properties, where every two houses share a soakaway, the Council would be responsible for the maintenance of 250 separate soakaways.
- 5.11. Along with the volume of work, this would also mean that the Council would have to ensure there was suitable access for maintenance vehicles for every soakaway. Some SuDS are not as 'simple' as soakaways and would require more specialist maintenance teams and equipment to ensure they continue to function as designed. It is not yet clear who would be responsible for re-building these assets when they reach the end of their functional life, but this could also fall to the SAB. It is unclear at present for what period of time the Local Authority will be expected to adopt the drainage system for, but it is likely to be around 70 years.
- 5.12. The Local Authority would be able to take payments for the adoption of assets, which are likely to be in the form of commuted sums. This will require both financial and legal management input. The Council will also need to consider how it manages non-performance bonds to ensure that it is not left with assets that aren't built as approved. Commuted sums and non-performance bonds will be an additional cost to developers and were a key reason for Schedule 3 not having been enacted 10 years ago.
- 5.13. It is also important to consider what happens when the LPA approves an application, but the SAB is not able to (or vice versa). Construction will not be permitted until both have been granted, and this could result in some internal conflicts between the LPA and SAB and/or increased times for approving applications.
- 5.14. Whilst there are some significant implications for the Council to consider, Schedule 3 does have the potential to bring benefits. The management of surface-water will be increasingly important as climate change increases the regularity of intense rainfall events. Having well-designed, well-maintained SuDS will reduce flood risk across the Borough, and the SAB could ensure more consistency in developments. Whilst there is a variety of SuDS across the Borough at the moment, these are in a host of different ownerships, and it is not clear how well these are maintained (and thus they risk failure) – having the SAB adopt and maintain them should ensure they are well maintained and negates the risk of private adopters 'disappearing'. Schedule 3 also will remove the automatic right for developments to connect to the public sewerage system – this is vital, as the Local Planning Authority is now seeing many new

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developments connecting to a system that was designed for flows far smaller than they are now being challenged with, increasing flood risk along with significant disruption when the sewers fail.

6. Policy Context

- 6.1. Local authority roles and responsibilities on flooding are defined by the Flood Risk Regulations (2009), which transpose the European Union 'Floods Directive' into English and Welsh law, and the Flood and Water Management Act (2010) which implements a series of recommendations following a Government review of widespread flooding events in the first decade of the twenty-first century.
- 6.2. Under this legislation all top-tier local authorities (county councils and single-tier authorities including London Boroughs) became Lead Local Flood Authorities (LLFAs).
- 6.3. LLFAs were established to manage flood risk from localised sources in their local area, with a key responsibility to develop, maintain, apply, and monitor a strategy for local flood risk management. Other statutory duties and powers for LLFAs include:
 - Producing a Preliminary Flood Risk Assessment;
 - Producing a Surface Water Management Plan;
 - Co-operation with other relevant flood risk authorities;
 - Statutory consultee on planning applications;
 - Recording and investigating all 'significant' flooding incidents;
 - Establishing and maintaining a register of structures which may have a significant effect on flood risk; and
 - Administration and enforcement of consents regarding private changes to ordinary watercourses.
- 6.4. The Environment Agency has responsibility for flood risk concerning main rivers and tidal flooding.
- 6.5. In January 2022 the UK Climate Change Committee published its assessment of the risks faced by the UK from climate change¹. The Committee's recommendations to Government reaffirm that adaptation is needed alongside emission reductions to manage the risks and opportunities of climate change in the UK. The Committee reported that the UK's climate has already measurably changed and concludes that further change is inevitable. How much climate change the UK experiences after 2050 is uncertain and will depend on global emissions reductions, but the impacts will include sea level rise, more frequent and higher storm surges, increased winter rainfall, drier summers with periods of more intense summer rainfall. These impacts are likely to increase the frequency and magnitude of flooding events in Lewisham, London and the UK as a whole.

¹ <https://www.ukclimaterisk.org/>

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- 6.6. The National Planning Policy Framework and accompanying Planning Policy Guidance emphasise the responsibility of Local Planning Authorities to ensure that flood risk is understood and managed effectively and sustainably throughout all stages of the planning process.
- 6.7. The Draft Lewisham Local Plan sets the Borough's planning policy position which ensures that development does not increase flood risk to people, properties and infrastructure and that all proposals proactively seek to minimise and mitigate risk wherever possible. The draft local plan can be accessed [here](#).²
- 6.8. The Level 1 Strategic Flood Risk Assessment 2019 and Level 2 Strategic Flood Risk Assessment 2020³ help to effectively manage flood risk by identifying the spatial variation in risk across the London Borough of Lewisham (the 'Borough') thus allowing an area-wide comparison of future development sites concerning flood risk considerations. There are several sources of flood risk across the Borough, including fluvial, tidal, pluvial, groundwater, sewer and artificial.
- 6.9. Lewisham's Parks and Open Space Strategy 2020-25 includes priorities to enhance existing green spaces and deliver ecosystems services and flood storage within parks. This ambition is highly relevant to the Local Flood Risk Management Strategy and is highlighted both in the local context and action plan sections of the Flooding Strategy.
- 6.10. This draft Local Flood Risk Management Strategy is consistent with the 'Greener Future' strand of A Future Lewisham and is aligned with Lewisham's Climate Emergency Action Plan⁴.

7. Financial implications

- 7.1. There are no financial implications arising directly from this report but delivery of the programme to reduce flood risk across the borough as a whole has potentially significant cost implications with the proposed enactment of Schedule 3 of the Flood and Water Management Act 2010 a potentially new burden on local authorities
- 7.2. Agreement of funding for specific actions identified in this Strategy will be subject to the Council's existing delegations and decision-making processes.

8. Legal implications

- 8.1. The Flood Risk Regulations (2009) and The Flood and Water Management Act (2010) established the Lead Local Flood Authorities function in England and Wales, giving local authorities statutory duties and powers for local flood risk management in relation to ordinary watercourses, groundwater and surface water flooding.
- 8.2. Lead Local Flood Authority responsibilities include a duty to develop, maintain,

² <https://lewisham.gov.uk/myservices/planning/policy/planning/about-the-lewisham-local-plan>

³ <https://lewisham.gov.uk/myservices/planning/policy/adopted-local-plan/evidence-base/ldf-evidence-base--environment>

⁴ <https://councilmeetings.lewisham.gov.uk/documents/s81350/Climate%20Emergency%20Action%20Plan.pdf>

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apply and monitor a strategy for local flood risk management that sets out the objectives for managing local flood risk and outlines what actions are to be taken to meet those objectives.

- 8.3. As stated in the report and in the financial implications, this report does not commit to any specific actions. Future decisions about specific actions will need to take into consideration the specific local authority powers which are relevant to those actions, and be made in line with existing decision-making and legal requirements.
- 8.4. The Council has a public sector equality duty (the equality duty or the duty - The Equality Act 2010, or the Act). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - advance equality of opportunity between people who share a protected characteristic and those who do not;
 - foster good relations between people who share a protected characteristic and those who do not.
- 8.5. It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above. The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the decision-maker, bearing in mind the issues of relevance and proportionality. The decision maker must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 8.6. The Equality and Human Rights Commission (EHRC) has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance. The Council must have regard to the statutory code in so far as it relates to the duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found on the EHRC website.
- 8.7. The EHRC has issued five guides for public authorities in England giving advice on the equality duty. The 'Essential' guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice

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on good practice.

9. Equalities implications

- 9.1. There are no specific equality implications arising directly from this report but it should be noted that action on flood risk is action on social equality.

10. Climate change and environmental implications

- 10.1. There is substantial evidence that climate change as a result of human activity is linked to increasing frequency and intensity of extreme weather events such as flooding, heat waves, drought and storms. There is no safe level of global temperature rise, and temperatures are already 1°C above pre-industrial levels, and forecast to rise 0.2°C a decade. This evidence is, largely, uncontested. Adaptation to a changing climate, including flood risk management, needs to be a central priority in the response to the climate emergency. The Local Flood Risk Management Strategy is informed by and supports the wider aims of Lewisham's Climate Emergency Action Plan.

11. Crime and disorder implications

- 11.1. There are no specific crime and disorder implications arising directly from this report.

12. Health and wellbeing implications

- 12.1. Reducing the risk of flooding within Lewisham will deliver a wide range of health and wellbeing benefits to residents.

13. Background papers

- 13.1. Please include a list of papers, documents and reports that relate to the report's subject matter with hyperlinks if the documents are available on our website.

Surface Water Management Plan (April 2011)

<https://councilmeetings.lewisham.gov.uk/documents/s3731/Appendix%20%20Surface%20Water%20Management%20Plan.pdf>

Local Flood Risk Management Strategy (June 2015)

<https://lewisham.gov.uk/-/media/files/imported/lewisham-20lfrm-20strategy-20june-202015.ashx>

Strategic Flood Risk Assessment (January 2019)

<https://councilmeetings.lewisham.gov.uk/documents/s64908/Appendix%20%200-%20Strategic%20Flood%20Risk%20Assessment.pdf>

Local Flood Risk Management Strategy 2022-2027

<https://councilmeetings.lewisham.gov.uk/ieListDocuments.aspx?CId=139&MID=7728>

14. Report author and contact

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