

<b>Committee(s):</b>	<b>Dated:</b>
Planning & Transportation	24 02 2015
<b>Subject:</b>	<b>Public</b>
Implementation of Sustainable Drainage Systems	
<b>Report of:</b>	<b>For Decision</b>
Director of the Built Environment	

### Summary

On 18<sup>th</sup> December 2014 the Government announced its revised approach to Sustainable Drainage System (SuDS) approvals that will be operative from 6<sup>th</sup> April 2015. The Government has decided after long deliberation that SuDS approvals will not require a separate regulatory regime as they will be implemented as an additional consideration within the planning system. SuDS approvals will be required for housing developments of 10 units or more and for major commercial developments unless demonstrated to be inappropriate. Planning conditions or planning obligations are to be used to provide clear arrangements for their maintenance over the lifetime of the development.

The published size thresholds suggest that there will probably be 15 to 20 planning applications in the City each year where SuDS provision will be relevant. The City Corporation will also need to respond to consultation requests from neighbouring boroughs as SuDS provision elsewhere will impact on drainage within the City. Most additional work arising from this announcement will be managed by the Department of the Built Environment in its local planning authority role. The process requires the local planning authority to consult the Lead Local Flood Authority on relevant planning applications. There will need to be additional SuDS assessment expertise available to the City Corporation to enable it to fulfil its Lead Local Flood Authority role.

The Government has accepted that these new flood-related responsibilities will represent an additional financial burden on local authorities and has agreed to undertake a 'new burdens assessment'. To date this has not been produced and no changes in planning application fees have been allowed to cover the cost of this new responsibility. The Government grants already given or proposed will help with initial set up costs but are not sufficient to cover the longer term additional costs anticipated.

The City Corporation as Local Planning Authority will take account of the national approach to SuDS from April 2015 and will consult the City Corporation as Lead Local Flood Authority when required. Officers from the Dept. of the Built Environment will provide or coordinate the response from the Lead Local Flood Authority. The detailed implementation will be overseen by the existing inter-departmental officers' Flood Risk Steering Group.

## **Recommendations**

1. Members note that the provision of Sustainable Drainage Systems which meet SuDS National Standards will be a relevant planning consideration for some planning applications from April 2015.
2. Members agree the proposed approach that officers from the Dept. of the Built Environment will provide or coordinate the response of the Lead Local Flood Authority to consultations on planning applications from the Local Planning Authority.

## **Main Report**

### **Background**

1. The widespread national floods of 2007 led to the Pitt Review into flood management and the Flood and Water Management Act (2010) that made local authorities the Lead Local Flood Authority (LLFA) for their areas. Whilst LLFAs and local planning authorities are separate authorities in two-tier local government areas, within London the boroughs and the City have both responsibilities. Hence the City Corporation became the Lead Local Flood Authority for the City of London with additional responsibilities. It has prepared and adopted a Strategic Flood Risk Assessment (2012) and a Local Flood Risk Management Strategy (2014) in accordance with its responsibilities under the Act.
2. The Government is committed to better surface water flood risk management through the introduction of 'sustainable drainage systems' (SuDS) that can absorb rainfall and slow down surface water flows. It has decided to use the development process to require the creation of additional SuDS features in or on buildings or land.
3. Since 2011 there have been several Government proposals and consultation exercises regarding SuDS as the Government has revised its proposals to reduce their effect on development costs. DEFRA's original intention to introduce a new separate SuDS approval system met with opposition from the development industry and was out of step with the Government's wider de-regulatory and cost-cutting agenda. The subsequent introduction of size threshold exemptions and viability exemptions will reduce the practical effect of SuDS.

### **Government Announcement on Sustainable Drainage Systems (SuDS)**

4. On 18<sup>th</sup> December 2014 the Government announced its revised approach to SuDS, operative from 6<sup>th</sup> April 2015. The Government has decided after long deliberation that SuDS approvals will not require a separate regulatory regime

as they will be implemented as an additional consideration within the planning system. SuDS approval will be required for housing developments of 10 units or more and for major commercial developments unless demonstrated to be inappropriate. Planning conditions or planning obligations are to be used to provide clear arrangements for their maintenance over the lifetime of the development.

5. The Secretary of State has undertaken to issue revised planning guidance before the new system comes into force in April 2015 and to 'engage with local government on a capacity building programme'. He has consulted on technical consultation arrangements between the Lead Local Flood Authorities (LLFA) and the local planning authorities, and has invited comments on the need for additional funding to meet this new administrative burden.
6. The new guidance will incorporate advice on national standards to be applied to the design and delivery of SuDS. The Government is assuming that local authorities will develop suitable SuDS expertise within their local planning authority function or elsewhere or will buy in suitable skills. At the time of writing the new guidance had not been published though it is less than two months before implementation date.
7. The Government recognises that initial inspection and on-going maintenance of SuDS is essential to ensure they remain effective in reducing the risk of surface water and sewer flooding. Planning conditions and S106 agreements will be used to ensure that SuDS are constructed as designed and arrangements are put in place for on-going maintenance. The management and enforcement of these arrangements will be a planning function and will require additional resources.
8. The Government recently consulted on changes to statutory consultation requirements for planning applications requiring LLFAs and the Environment Agency to engage with local planning authorities on SuDS applications. The Government assumes the LLFAs will have or will acquire the necessary technical expertise to perform this role. Additional technical expertise will be required within the City Corporation to enable it to fulfil these roles.

### **Consequences of SuDS Implementation for the City**

9. Size thresholds and viability: The published size thresholds mean that there will probably be 15 to 20 planning applications in the City each year where SuDS approval will be a relevant consideration. The City Corporation may also be consulted by neighbouring boroughs on SuDS provision outside of the City which could impact on the City's drainage networks. Complying with SuDS requirements would be an additional cost for major developments but there remains scope for developers to argue that SuDS should not be provided where their cost would threaten scheme viability. The densely developed character of the City means that in some cases ground-level SuDS would not be practical though some SuDS might still be possible elsewhere, e.g., green roofs and upper level storage tanks.

10. Organisational implications: Most additional work arising from this announcement will be managed by the local planning authority. The procedure requires it to consult the Lead Local Flood Authority on relevant planning applications. There will need to be additional SuDS assessment expertise available to the City Corporation to enable it to fulfil its Lead Local Flood Authority role. Engineers in the Department of the Built Environment have some expertise but will need further training, especially in SuDS cost assessment to address viability arguments. Arrangements will to some extent depend on further Government announcements on funding and other details.
11. Funding: The Government has in the past provided some non-ring-fenced funds for additional flood risk related responsibilities. Most have been used to prepare flood risk documents previously approved by this Committee such as the Strategic Flood Risk Assessment (2012) and the Local Flood Risk Management Plan (2014) and to fund a flood resilience officer temporary post. The Government provided a ring-fenced grant of £24,000 in 2013/14 to help prepare for SuDS. A further similar grant proposed for 2014/15 has not yet been received. A non-ring-fenced addition to the Local Services Support Grant for 2014/15 of £15,000 was awarded to assist with duties as a Lead Local Flood Authority.
12. The Government has accepted that these new flood-related responsibilities will represent an additional financial burden on local authorities and has undertaken to carry out a 'new burdens assessment'. To date this has not been produced and no changes in planning application fees have been made to cover the cost of this new responsibility. Government grants given and proposed will help with initial set up costs but are not sufficient to cover the longer term additional costs anticipated.

### **Options**

13. The City Corporation has a range of statutory duties with regard to flood risk in its roles as Local Planning Authority, Lead Local Flood Authority and as a Category 1 Responder under the Civil Contingencies Act. From April 2015 it will have to implement the national approach to SuDS approvals in accordance with its Local Planning Authority and Lead Local Flood Authority duties.

### **Proposals**

14. It is proposed that the City Corporation as Local Planning Authority takes account of the national approach to Sustainable Drainage Systems (SuDS) from April 2015 and consults the City Corporation as Lead Local Flood Authority when required. Officers from within the Department of the Built Environment will provide or coordinate the response from the Lead Local Flood Authority. The detailed implementation will be overseen by the existing inter-departmental officers' Flood Risk Steering Group.

### **Corporate and Strategic Implications**

15. The proposed actions will fulfil the City Corporation's statutory duties as Lead Local Flood Authority and as Local Planning Authority and will contribute to the

delivery of its Climate Change Adaptation Strategy and its Local Flood Risk Management Strategy.

## **Conclusion**

16. The City Corporation's will implement the national approach to SuDS approvals from April 2015 as Local Planning Authority and Lead Local Flood Authority, which will help deliver its Local Flood Risk Management Strategy. However, further details are still awaited from the Government before the detailed implications and organisational consequences can be established.

**Appendices:** None

### **▪ Background Papers**

- Planning & Transportation Committee Report 2<sup>nd</sup> June 2011 – Flood Risk – New Duties under the Flood and Water Management Act 2010
- Planning & Transportation Committee Report 21<sup>st</sup> February 2012 - City Corporation's Response to the Government's Consultation on the Implementation of the Sustainable Drainage Provisions in Schedule 3 to the Flood and Water Management Act (2010)

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