

Item No.	Classification: Open	Date: 29 May 2013	Decision Taker: Cabinet Member for Regeneration and Corporate Strategy
Report title:		Neighbourhood Planning – Application for a Neighbourhood Forum by Bankside Neighbourhood Forum	
Ward(s) or groups affected:		Cathedrals, Chaucer, Riverside	
From:		Chief Executive	

RECOMMENDATION

That the Cabinet Member for Regeneration and Corporate Strategy

1. Notes the consultation responses received from the public, the Borough, Bankside and Walworth and Bermondsey and Rotherhithe Community Councils and Planning Committee, which closed on 20 December 2012, in respect of the application from the Bankside Neighbourhood Forum (BNF) to be designated with qualifying body status as a Neighbourhood Forum for the Bankside Neighbourhood Development Area (BNDA) and the Bankside Business Area (BBA); and
2. Approves the proposal for the designation of the BNF as a Neighbourhood Forum for the BNA, approved by the Cabinet Member of Regeneration and Corporate Strategy on 3 May 2013, in accordance with the application documents appended at Appendix A (Bankside Neighbourhood Development Boundary Plan), Appendix B (Constitution), Appendix C (Bankside Application Statement), Appendix D (Comments on consultations with officer responses), Appendix E (Minutes of community council and planning committee meetings) and Appendix F (Bankside – A partnership led Neighbourhood Plan) of the report pursuant to the Localism Act 2011 (“the Act”) and Neighbourhood Planning (General) Regulations 2012 No.537 (“the Regulations”).

BACKGROUND INFORMATION

3. The Act introduced new processes for communities to get involved in the planning of their areas through the preparation of Neighbourhood Plans (“NP’s”) and Neighbourhood Development Orders (“NDO’s”). The powers came into force on 1 April 2012 with the publication of associated neighbourhood planning Regulations. This provides local communities through parish councils or Neighbourhood Forums (“NF’s”) with the power to shape and encourage delivery of new development.
4. The Act introduces procedures for making NP’s and NDO’s. A NP may contain a range of policies or proposals for land use development that will be used as part of determining decisions on planning applications. It can also grant planning permission through NDO’s for a particular, defined type of development in an area or a specific site. We would expect NDO’s to be part of NPs.

Neighbourhood Plan preparation stages

5. Once a NA is proposed the council has to consider whether that area should be designated as such. In accordance with the s61G of the Town and Country Planning Act 1990 (as amended by the Localism Act 2011) the council may change the boundaries if the application is not valid, if there are overlapping proposals or if they consider the specified area is not an appropriate area to be designated as a NA BNDA was approved by the Cabinet Member for Regeneration and Corporate Strategy on 3 May 2013.
6. The South Bank Employers Group (“SBEG”) raised concerns over the BNDA boundary being located along the Southwark Borough boundary. They consider the natural boundary for the BNDA to be Blackfriars Road as opposed to the Southwark borough boundary. This is because they consider the area from the borough boundary over to the centre of Blackfriars Road to be part of the South Bank and Waterloo area and not to be part of Bankside. They consider their group to provide opportunities for cross borough working that could not be provided if the boundary is along the Southwark Council boundary. They consider their group to be more representative of neighbourhood communities and issues than the Bankside Neighbourhood Forum.
7. On the 30 April 2013, the South Bank and Waterloo Interim Neighbourhood Forum (“SBWINF”) submitted an application for an overlapping NDA boundary in conflict with the BNDA to the council. This application will now be considered by the council. There is scope for NDA boundaries to be amended by the council under the provisions of the Act if this is considered appropriate as set out in paragraph 5 of this report.
8. This report considers the application for a Nf submitted by the BNF on the 26 September 2012 for the approved BNDA. The consideration of the NDA and NF can take place at the same time. A Local Authority must agree to a NF being a ‘qualifying body’ for the purposes of the Act and must agree the area for which a NP or NDO is to be prepared. NF’s are intended to lead the process of preparing each NDP with the support of the local authority. Support means technical advice and expertise where necessary rather than providing a resource for the group.
9. The next stage in the neighbourhood planning process will be the production of a NP which can set out a plan for an area providing an additional level of detail and expressing the community’s wishes in relation to development sites. This can include identifying potential development that has not been identified through the normal planning process.
10. Once the NP is submitted to the council, the council is required to check that consultation procedures have been followed. The NP needs to be in general conformity with the strategic needs and priorities of the wider local area. To enable this to happen, the council must make sure that their strategic policies are up to date. These independent checks will look at how the plans/orders fit against the core strategy, Saved Southwark Plan policies and area action plans; London Plan, national policies, and any adjoining neighbourhood plans. If the plan passes the checks the council then needs to formally consult. The council then needs to arrange and pay for an independent examination. This would be similar to the process of examination in public and will often be carried out through written representations.

11. If the NP satisfies the requirements set out above in paragraph 10, the council needs to arrange (and pay for) a referendum on the plans or order. The referendum can go beyond the neighbourhood area if its impacts will be felt more widely. The consultation and voting zone will be identified after the area has been identified and before the neighbourhood forum carry out their informal 6 week consultation. This will ensure clarity about who must be consulted and who can vote from an early stage in the process.
12. At the designation of a NA, NF and NDP stage of the neighbourhood planning process the council must undertake 6 weeks of formal public consultation. As part of this requirement consideration of the proposals are sought by the respective community council or community councils covering the area. This is to ensure that the decision maker has all relevant views to feed into the process.
13. A NF may cover more than 1 borough. If an application is submitted for an area that covers Southwark and an adjoining borough such as Lambeth or Lewisham then the portfolio holders will meet to consider whether a joint response can be made to the forum. Both boroughs must designate the Forum for it to be able to operate within the area proposed. Both boroughs must agree each stage of the process before the area/group/plan can move to the next stage of the process.
14. The Bankside Neighbourhood Forum application relates to land only within the Southwark boundary, however the council has consulted with Lambeth Council, due to the fact that the BNDA runs along the Southwark boundary adjoining Lambeth Council.

KEY ISSUES FOR CONSIDERATION

Information required to meet the criteria to be a Neighbourhood Forum

15. An organisation submitting an application to the council for a Neighbourhood Forum must include the name of the proposed forum – this is Bankside Neighbourhood Forum.
16. Where a proposed neighbourhood forum submits an application to the local planning authority. It must include the name and a map identifying the area. The Bankside Neighbourhood Development Area is the area and the map for this proposed NF and a business area which has been agreed by the council is set out in Appendix A.
17. The contact details of one member of the forum must be made public. This is Tim Wood, tim@forgearchitects.co.uk, 02073787782.
18. There is no NF that has been designated with NF status by the council in this area.
19. The length of the designation is 5 years.

Qualifying body status

20. The BNF's constitution originally required some changes to ensure that it met standards set out by the Charity Commission. The updated constitution is set out in Appendix B.
21. There is a statement in Appendix C to explain how the BNF meets the conditions contained in the legislation. These should include whether it is established for the purpose of promoting or improving the social, economic and environmental well being of the neighbourhood area.
22. The BNF considered the resource implications of producing a Neighbourhood Plan. It has a considerable number of volunteers and also funding from businesses. The local knowledge and consultation will be gathered using the groups who are active in the neighbourhood as set out in Appendix C and F.

Reflecting the local community

23. A NF needs to be comprised of a minimum of 21 members. The group must make every possible effort to include a resident, a business and a ward member. The BNF currently consists of a minimum of 21 members made up of at least 7 residents, 7 businesses, and 7 community interest groups including 1 ward member. Membership must be open to everyone who lives, works or represents the electorate within the neighbourhood area. The membership contact details for the BNF have been provided to the council and the minimum of 21 members have either been present at the forum meetings or have been contacted and verified that they are members of the forum.
24. As BNDP will be voted on by both businesses and residents, the BNF includes business membership, the Business Improvement District 'Better Bankside', Network Rail, Kings College Hospital, Land Securities and is open to any business that resides in the NA. This was to ensure that they are able to capture all the issues of relevance to local businesses.
25. In accordance with the Regulations, the membership of a NF needs to be drawn from different places in the neighbourhood and from different sections of the community. The BNF have submitted a statement setting out how membership has been built up and how this reflects the community as set out in Appendix C and Appendix F of the report.
26. The recommendation is that the group is capable of being a qualifying body. It meets the statutory criteria required for the council to make a decision on whether the group could operate as a NF.

Involving Local Authorities

27. The BNF involved the director of planning and planning policy manager from the outset in early 2011. The officers have been invited to meetings of the Forum and officer working group. They have been asked for technical advice and expertise at each stage of the process. They have been kept informed.
28. Lambeth Council raised concerns regarding the involvement of SBEG in the neighbourhood area designation process following on from concerns raised by the SBEG in March 2013. As a result Lambeth requested that a meeting be held between all parties to see whether an agreement/resolution could be reached.

Southwark arranged this meeting. Unfortunately the meeting did not result in SBEG and BNF reaching a mutually agreeable solution regarding the proposed boundary; however an offer was made from BNF for SBEG to join their forum. BNF and the SBWINF have also provided further evidence of supporters within the contested area. Clearly, any objection to a boundary or Forum such as that SBEG poses a risk in terms of future acceptability of any subsequent neighbourhood plan. However it is possible that this can be managed through positive engagement and collaborative working between the parties.

29. BNF have been made aware that they need to consult Southwark and neighbouring authorities on their draft NP. The recommendation of the report is that the group can be a qualifying body as they have met the requirements to involve local authorities.

Consultation

Comments from the public

30. The BNF proposal was consulted on for 6 weeks closing on 20 December 2012. This consultation comprised of a letter to the mailing list for SE1, a press notice and information on the council's website. There were also a number of late consultation responses.
31. There have been responses from a range of local people, statutory organisations, partners, businesses, community groups, residents, councillors and other stakeholders. Their responses are set out in Appendix D. Many responses were provided together with the response on the boundaries so the entire set of responses have been included.
32. There were many supportive comments including those from Bankside Open Spaces Trust, Borough Market, the Tate, Blackfriars Settlement, Better Bankside, Christ church Southwark, Southwark Cathedral, Bankside Residents Forum, Network Rail and Mini Mints.
33. The SBEG have raised concerns about involvement and inclusion of businesses in the BNF as set out in Appendix D. SBEG have set up the SBWINF and will be a member of this group once it becomes established. The SBWINF has held the first meeting on 24 April 2013. They now have around 90 members. The council has received a number of comments from SBEG, businesses and residents supporting the setting up of a South Bank forum and expressing concern that they have not been consulted by the BNF. The council has passed the concerns on to the BNF.
34. Advice from the Department of Communities and Local Government states that the council should attempt to find a compromise or a position where both groups can work together through a Memorandum of Agreement. This issue has been discussed with both groups and they are aware that they need to work together to prepare effective NPs. BNF have stated that they will continue to work closely with all the stakeholders within and outside the boundary and have drafted a Memorandum of Agreement. The SBWINF have also been set up to work on Neighbourhood Planning. They have started to prepare an MOU. They have stated that they would like to work with Bankside Neighbourhood Forum. In circumstances where an application is received by a competing Forum for a NA that overlaps with an approved NA and the council considers there is a particular reason to change the boundary at a later stage then this is procedurally possible.

Comments from Members

35. Local and ward members Councillors Morris, Noakes, Thornton and McNally wrote to support the BNF. Their detailed comments are set out in Appendix D.
36. Planning committee were consulted and provided general comments on 29 January 2013 as set out in Appendix E.
37. The respective community councils where the neighbourhood forum would operate were asked to comment on the appropriateness of the Forum. The item was considered by Borough, Bankside and Walworth on 10 October 2012, 8 December 2012 and 26 February 2013. Bermondsey and Rotherhithe also considered the boundary and the forum proposal on 30 January 2013. The members resolved to support the proposed BBNF proposal. The minutes are set out in Appendix E.

Financial implications

38. There may be financial implications however these are uncertain at present. Each NP may require a referendum which would spend considerable funds. A ward election would cost around £25,000 per referendum. These costs could be similar to a ward election. They are unavoidable and there is no budget for them. Furthermore, at this stage it is not possible to predict if, when or how this/these referendum/s could take place.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

39. The recommendation of report requests that the Cabinet Member for Regeneration and Corporate Strategy notes the consultation responses received from the public, the Borough, Bankside and Walworth and Bermondsey and Rotherhithe community council's in regards to the proposal from the BNF to be designated with 'qualifying body' status as the Neighbourhood Forum for the BNDA and BBA. It also seeks the cabinet Member's approval to designate the BNF as the as Neighbourhood Forum for the BNDA in accordance with the Appendices A-F of the report pursuant to the Act and associated Regulations.
40. Paragraphs 5-12 of the report set out the various Neighbourhood Plan preparation stages. On the 26 September 2012, the applicant, BNF, submitted an application to the council for the designation of the land identified on the boundary plan titled 'Bankside Neighbourhood Plan Area Boundary' as an Neighbourhood Area and for the designation of NF status. The cabinet Member will note that the application for the designation of the BNDA and BBA was determined and agreed by the council as meeting the relevant statutory requirements on 3 May 2013. This report addresses the application for the BNF's application for designation as the NF for the BNDA and BBA only.
41. As stated in the Report, neighbourhood planning is intended to provide communities with a greater influence over the development of their local area by enabling them to draw up NDP's and NDO's. The function of a NF is to act as the vehicle for progressing NDP's in respect of a particular, geographically defined NA.

42. As advised in the recommendation, the legislative provisions concerning Neighbourhood Planning are set out in the Localism Act 2011 and the Town and Country Planning Act 1990 (TCPA) Neighbourhood Planning (General) Regulations 2012 No.537 (“the Regulations”). The referendum stage of the Neighbourhood Planning process is additionally governed by the Neighbourhood Planning (Referendum) Regulations 2012 No.2031.
43. Regulations 8-12 (Part 3) sets out the requirements that must be satisfied by the applicant body/organisation in making an application for designation of a NF as set under paragraph 6 of the report. The documents submitted to the Council in support of the application satisfy the qualifying criteria, attached at Appendices (A-F) of the report. Further, the BNF fully accords with the requirements of Section 61F(5) of the Act, which provides that the applicant body or organisation must be a community group or organisation established with the express purpose of promoting the social, economic and environmental well-being of a particular area. In addition to these requirements, there is a statutory requirement that such applications are consulted upon for the period of 6 weeks.
44. In accordance with the report presented to the Leader of the Council, Councillor Peter John, on 24 September 2012, it is agreed that the cabinet Member for Regeneration and Corporate Strategy will determine applications for proposed NF’s to be designated as a ‘qualifying body’ in accordance with the statutory provisions. This can only take place following the closure of the statutory period. During the consultation period comments are sought from the public, Planning Committee and the respective community council’s. These comments are fully considered by the Cabinet Member in accordance with this part of the decision making process, being a requirement that has been satisfied in this instance.
45. As set out in paragraphs 36-37 of the report, Planning Committee and the respective community council’s were consulted upon the proposals to designate the BNF as the NF for the BNDA and BBA, on 10 October 2012, 8 December 2012, 29 and 30 January and 26 February 2013, in accordance with the usual consultative functions of the Planning Committee and Community Council’s in respect of policy /plan related documents. The comments received as a result of this requirement are appended at Appendix D and E of the report.
46. The Cabinet Member will note, from Appendix D and E that a number of consultation responses were received from various groups including the SBEG. Paragraphs 5 and 33 of the report advises that the SBEG have objected to the application by the BNF for Neighbourhood Forum status and the extent of the western boundary for the BNA of the approved BNDA on the basis of concerns regarding the level of business involvement and consultation as part of the BNF’s application for NF designation. Paragraph 33 of the report advises that the SBWINF, incorporating the SBEG and various other local groups, was recently formed and held their first meeting on 24 April 2013. The cabinet Member will note the council has not received an application for designation of the SBEG as a NF as of the date of this report.
47. On the 30 April 2013, a formal application was submitted to the council by SBWINF for the designation of a NA with an overlapping area boundary to the approved BNDA. This application is currently being considered by the council in accordance with the criteria set out in the Act and associated Regulations. The Cabinet Member is further advised that the council has been put on notice by

- the SBWINF that they will imminently be submitting an application seeking designation status for a Southbank and Waterloo Neighbourhood Forum in replacement of the interim (SBWINF), for the area comprising the BNDA .
48. The Department of Communities and Local Government have advised officers in regards to the approach to be adopted in circumstances where competing applications are submitted to the council as set out at paragraph 34 of the report. This advice encourages competing groups to draft and adopt a Memorandum of Agreement to facilitate the preparation of effective and inclusive NP's and NA's. The council is hopeful that all parties will be able to work collaboratively to prepare a NP for the Bankside area in the future.
 49. Paragraph 28 of the report advises that the council officer's attended a meeting following concerns raised by the neighbouring Lambeth council in regards to the involvement of the SBEG in the NA designation process. The purpose of the meeting was to establish whether any consensus could be reached in regards to the boundary for the Bankside area. Agreement has not been reached on this issue to date. However, the BNF have evidenced their commitment to collaborative working and have subsequently drafted a Memorandum of Agreement to be agreed between the parties as advised in the report.
 - 50.. Section 61G(7) of the Act provides that areas designated as NA's must not overlap with each other. Further, Section 61(G)(4) provides that the council must have regard to the desirability of maintaining the existing boundaries of areas already designated as NA's. However, in assessing competing application for the designation of NA's the council will full consider each application on its own merits and has broad discretionary powers under s61G (6) of the Act to modify any designations, already made at a future date, should another application should come forward for the same area and it is considered appropriate to make any amendments to the respective boundary for a NA. Therefore, in the event that an application is submitted by the SBWINF, such an application can and should, be considered on its own merits, subject of course to the other statutory considerations that the council must have regard to when determining such an application.
 51. Paragraph 7 (*Part 3 (D)*) of the Southwark Constitution 2012/13 provides that it is the role and function of the Cabinet Member to agree to significant policy issues in relation to their area of responsibility. Further, paragraph 16 of this part delegates to the Cabinet Member for Regeneration and Corporate Strategy responsibility for the approval of responses to consultation documents from bodies relating to significant changes affecting her portfolio area. It is considered that the designation of the consideration of the consultation responses Bankside Neighbourhood Forum as a qualifying body and to facilitate the engagement. The recommendation therefore falls within the Cabinet Member's decision making remit.

Strategic Director of Finance and Corporate Services (CE/13/009)

52. The strategic director of finance and corporate services notes the proposal set out in this report and confirms that there are no direct financial implications arising. Officer time to implement this decision can be contained within existing resources.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
The Localism Act	http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted	planpolall@southwark.gov.uk
The Neighbourhood Planning Regulations	http://www.legislation.gov.uk/uksi/2012/637/contents/made	planpolall@southwark.gov.uk
Neighbourhood Planning – Application for a neighbourhood development area and a business area by Bankside Neighbourhood Forum	www.southwark.gov.uk	planpolall@southwark.gov.uk

APPENDICES

No.	Title
Appendix A	The Bankside Neighbourhood Development Area
Appendix B	Constitution
Appendix C	Bankside application statement
Appendix D	Comments on the consultations with officer responses
Appendix E	Minutes of community council and planning committee meetings
Appendix F	Bankside – A partnership led neighbourhood plan

AUDIT TRAIL

Lead Officer	Eleanor Kelly, Chief Executive	
Report Author	Juliet Seymour, Planning Policy Manager	
Version	Final	
Dated	29 May 2013	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Cabinet Member	Yes	No
Date final report sent to Constitutional Team		28 May 2013