

Item No. 17.1	Classification: Open	Date: 2 October 2013	Decision Taker: Bankside, Borough and Walworth Community Council
Report title:		Neighbourhood Planning – Applications for a Neighbourhood Development Area and also for qualifying body status as a Neighbourhood Forum by Bermondsey Neighbourhood Forum	
Ward(s) or groups affected:		Cathedrals, Chaucer	
From:		Chief Executive	

RECOMMENDATION

1. That the community council note and comment upon the consultation responses received in respect of the applications from the Bermondsey Neighbourhood Forum (“BNF”) for the Bermondsey Neighbourhood Development Area (“BNDA”) and Bermondsey Neighbourhood Forum (BNF) in accordance with the criteria set out in Council’s Neighbourhood Planning Decision Making Report of 13 September 2012, following the closure of the 6-week consultation period, prescribed under Regulations (6 and 9) of the Neighbourhood Planning Regulations 2012.

BACKGROUND INFORMATION

2. The Localism Act 2011 (by amending the Town and Country Planning Act 1990) introduced new provisions which empower parish councils and designated Neighbourhood Forums (‘NFs’) to initiate the process for making Neighbourhood Development Orders and Neighbourhood Development Plans in relation to designated Neighbourhood Areas (‘NA’s’). The powers came into force on 6 April 2012 when the Neighbourhood Planning (General) Regulations 2012 came into force.
3. A Neighbourhood Plan is a plan which sets out policies in relation to the development and use of land in the whole, or part of, a NA. It may contain a range of policies or proposals for land use development that will carry weight in the determination of planning applications. Neighbourhood Development Orders grant planning permission in relation to a particular NA for development specified in the Order or for a class of development specified in the Order. Both Neighbourhood Plans and Neighbourhood Development Orders must be in general conformity with the strategic policies in the development plan for the relevant area.

Neighbourhood Plan preparation stages

4. Section 61F of the Town and Country Planning Act provides that a local planning authority may designate an organisation or body as a NF if the conditions in subsection (5) are satisfied. In deciding whether to designate an organisation/body, it must have regard to the matters set out in subsection (7). Subsections (5) and (7) are considered further below.

5. Section 61G of the 1990 Act sets out the powers and duties of local planning authorities in relation to the designation of NA's. Sub-section (4) sets out a number of considerations which the local planning authority must have regard to in determining an application for the designation of a specified area as a NA. The local planning authority is not obliged to designate the entire area specified in the application, but if it refuses to do so, it must give its reasons for that decision and must use its powers to secure that some or all of the specified area forms part of one of more designated NA's.
6. If a body or organisation is designated as a NF for a particular NA, it is authorised to act in relation to that Area for the purposes of promoting a Neighbourhood Plan/Order.
7. Once a NA and NF have been designated, the NF may submit a proposal to the local planning authority for the making of a Neighbourhood Plan or Neighbourhood Development Order, which will be submitted to independent examination. If, following that examination, the Council is satisfied that the draft Plan/Order meets the requisite conditions, the Council must hold (and pay for) a referendum on the making of the Plan/Order.
8. The area in which the referendum takes place must, as a minimum, be the NA to which the proposed Plan/Order relates. The independent examiner considering the proposal must also consider whether the area for any referendum should extend beyond the Neighbourhood Area to which the draft Plan/Order relates.
9. If more than 50% of people voting in the referendum support the Plan or Order, then the local planning authority must bring it into force.
10. The BNF has submitted an application for designation as a Neighbourhood Forum in respect of the BNDA, which is shown on the map accompanying the application (Appendix A and B).
11. This proposed NA overlaps with part of the boundary of an application of a NA and NF submitted to the Council by the Bermondsey Village Action Group (BVAG). These applications have been consulted upon pursuant to the Regulations and are currently being considered the Council.
12. The Council can only designate one organisation or body as a NF in respect of each NA (s.61F(7)(b)).
13. Areas designated as Neighbourhood Areas must not overlap with each other (s.61G(7)).
14. The Council may, in determining an application for a NA, modify designations already made (s.61G(6)), but it must have regard to the desirability of maintaining the existing boundaries of areas already designated as NA's (s.61G(4)(b)).
15. Regulations 6 and 9 of the Neighbourhood Planning (General) Regulations 2012 requires local planning authorities, as soon as possible after receiving an application for a NA and/or NF application, to publish details of the application(s) and of how to make representations in respect of the applications, on its website and in such other manner as they consider is likely to bring the application(s) to the attention of people who live, work and carry on business in the area to which the application relates. A period of at least six weeks (from the date on which the

application was first publicised) must be allowed for the receipt of representations in relation to the application(s).

16. The Council has determined that applications for NA's and NF's and should be considered at the community council or community councils covering the area. The Council considers that such consultation is likely to bring the application to the attention of people who live, work and carry on business in the area.

KEY ISSUES FOR CONSIDERATION

The requirements of Section 61F(5)

17. Section 61F(5) of the 1990 Act provides that local authorities may designate an organisation or body as a NF if the following conditions are satisfied:
 - a) It is established for the express purpose of promoting or improving the social, economic and environmental wellbeing of the area;
 - b) Its membership is open to individuals who live or work in the Neighbourhood Area or are elected members of the a London borough council any of whose area falls in the Neighbourhood Area concerned;
 - c) Its membership includes a minimum of 21 individuals, each of whom live or work in the Neighbourhood Area or are elected members of the a London borough council any of whose area falls in the Neighbourhood Area concerned;
 - d) It has a written constitution
18. The Council considers that these conditions are satisfied in relation to this application, such that it has the power to designate the NF, should it consider it appropriate to do so.
19. Regulation 8 of the Neighbourhood Planning (General) Regulations 2012 contains a number of requirements in respect of the application, which the Council considers have been satisfied in the present case. The application must include:
 - a) The name of the proposed neighbourhood forum;
 - b) A copy of the written constitution of the proposed neighbourhood forum;
 - c) The name of the neighbourhood area to which the application relates and a map which identifies the area;
 - d) The contact details of at least one member of the proposed neighbourhood forum
 - e) A statement which explains how the proposed neighbourhood forum meets the conditions contained in section 61F(5) of the 1990 Act
20. Section 61F(5) does not require a local planning authority to designate an organisation as a NF in the event that the conditions in subsection (5) are satisfied. It simply provides that if those conditions are satisfied, the local planning authority 'may' designate such an organisation as a Neighbourhood Forum.
21. Section 61F(7) provides that in determining whether to designate an organisation/body under subsection (5), the local planning authority must have regard to the desirability of designating an organisation or body:
 - i) Which has secured (or taken reasonable steps to attempt to secure) that its membership includes at least one individual falling within each of

- sub-paragraphs (i) to (iii) of subsection (5)(b) (i.e. a person who lives in the area, a person who works in the area and a person who has been elected in respect of the area);
- ii) Whose membership is drawn from different places in the neighbourhood area concerned and from different sections of the community in that area; and
 - iii) Whose purpose reflects (in general terms) the character of that area.
22. Where the local planning authority refuses to designate an organisation as a Neighbourhood Forum, it must give reasons for its decision (section 61F(7)(d)).

The requirements of Section 61G

23. S61G(1) of the 1990 Act provides that a NA is an area within the area of the Local Planning Authority which has been designated by the authority as a NA. The power to designate a NA is only exercisable where a 'relevant body' has applied to the authority for the area to be designated and the authority are determining the application.
24. s61G(2)(b) defines a 'relevant body' as an organisation or body, which is capable of being, designated as a NF (on the assumption that, for this purpose, the specified area is designated as a NA).
25. Regulation 5 of the Neighbourhood Planning (General) Regulations 2012 contains a number of requirements in respect of the NA application, which the Council considers have been satisfied in the present case. The application must include:
- (a) A map which identifies the area to which the application relates.
 - (b) A statement explaining why this area is considered appropriate to be designated as a Neighbourhood Area; and
 - (c) A statement that the organisation or body making the area application is a relevant body for the purpose of section 61G of the 1990 Act.
26. Section 61G(4) of the 1990 Act provides that in determining an application for a Neighbourhood Area the authority must have regard to -:
- (a) the desirability of designating the whole of the area of a parish council as a Neighbourhood Area, and
 - (b) the desirability of maintaining the existing boundaries of areas already designated as Neighbourhood Areas.
27. Where the local planning authority refuses to designate an organisation as a Neighbourhood Forum, it must give reasons for its decision (s61G(9)).
28. Section 61G(5) provides that if
- (a) a valid application is made to the authority,
 - (b) some or all of the specified area has not been designated because they consider that the specified area is not an appropriate area to be designated as a neighbourhood area,
- the authority must exercise their power of designation so as to secure that some or all of the specified area forms part of one or more areas designated (or to be designated) as neighbourhood areas.
29. Section 61G(6) provides that the authority may, in determining any application, modify designations already made.

30. In regards to the designation of a Business Area, section 61H of the 1990 Act provides that:
- (3) The power of a local planning authority to designate an area as a Business Area is exercisable by the authority only if, having regard to such matters as may be prescribed, they consider that the area is wholly or predominately business in nature. Further, section 61H(4) states that the map published by a local planning authority under s61H(8) must state which Neighbourhood Areas (if any) are for the time being designated as Business Area.
31. The Council considers that these formalities are satisfied in relation to this application, such that it has the power to designate the Neighbourhood Business Area should it consider it appropriate to do so.

Reflecting the local community

32. The Council must have regard to the desirability of designating an organisation whose membership is drawn from different places in the NA and from different sections of the community in that area. The BNF has submitted a statement setting out how membership has been built up and how this reflects the community as set out in Appendix (B) and (C) of the application.
33. The BNF is capable of being a 'qualifying body' in that it satisfies the requirements of section 61F(5) of the 1990 Act. The Council has publicised the application in accordance with Regulations 5 and 9 of the Neighbourhood Planning (General) Regulations 2012.

CONSULTATION

34. Consultation on the BNF applications for a Neighbourhood Forum and Area was carried out from 30 January to 5 March 2013. The Bermondsey Neighbourhood Forum consulted with a wide range of organisations, local groups and residents. On behalf of the forum, LB Southwark wrote to around 3000 consultees on our database. In all, the application for the area and forum was available for comments over a period of 6 weeks.
35. The applications to designate the NA and NF in Bermondsey were available to view at:
- The Council's website:
www.southwark.gov.uk/info/200413/neighbourhood_planning
 - The Bermondsey Neighbourhood Forum website:
<http://yourbermondsey.org>
 - At John Harvard Library - 211 Borough High Street, SE1 1JA
(Monday - Friday 9am to 7pm, Saturday 9am to 5pm)
 - Documents were available on request at the Council's offices at 160 Tooley Street, SE1 2QH (Monday – Friday, 9am-5pm)
36. Ward members were also consulted on the application at Bermondsey and Rotherhithe Community Council on Wednesday 30 January. The application was also presented to the Planning Committee on 29 January.
37. The Council received comments from 41 respondents and a petition with 18 signatories. A number of the comments were made in support of the principle of

a Neighbourhood Plan, the majority of comments received were in support of the Bermondsey Neighbourhood Forum area.

38. There are competing proposals at present for the boundary of the Bankside Neighbourhood Area. A rival proposal has been submitted to the Council for part of the boundary, which overlaps with the BNDA proposed by Bermondsey Neighbourhood Forum. The Council also consulted on the Forum and Area application submitted by Bermondsey Village Action Group (BVAG). 20 objectors out of the 41 who submitted comments were in support of BNF as compared to 5 objectors in support of BVAG.

Bermondsey Neighbourhood Forum

39. The main comments in support of the application are summarised below;
- BNF's approach seems to be more collaborative and constructive than that proposed by BVAG.
 - The BNF area includes subareas much more in need of help than the smaller northern area which will receive investment anyway.
 - The BNF's proposed boundary is large enough to bring opportunities for improvement which will benefit significant numbers of residents as well as those who work, spend leisure time or just walk through the area compared with BVAGs smaller boundary.
 - The area identified by the BNF for their Neighbourhood Plan has been carefully considered and justified.
 - The BNF includes the Thames and many more open spaces which allows for an integrated approach to spatial planning.
 - The BNF keeps all the estates of Leathermarket JMB together.
 - The boundary proposed by the BNF is more appropriate than the BVAG boundary because it forms a reasonable spread of retail, residential and business types, and has a more substantial footprint.
 - The area set out by BNF is the correct one as it reflects the bigger picture and a neighbourhood with a rich heritage, known for its history, the antiques market, and now the vibrant mixture of businesses and homes that have developed and hopefully will continue to develop.
 - The BNF plan will be more inclusive for a greater number of people. It will include and encourage people from the estates as well as more people in private accommodation.
 - The boundary proposed by BNF better covers the areas in which the implications from any new development focused at London Bridge are likely to be felt and hence it is in the interests of proper planning, that it is appropriate that any Neighbourhood Planning boundary should take in both the focus for major development activity and the wider area in which the development will extend its influence.
 - The NA proposed by the BNF extends further south and is far broader in its coverage. Neighbourhood planning will be most successful where a holistic approach is taken.
 - This part of the borough should be covered by one Neighbourhood Plan, rather than a number of separate plans. The latter approach could result in a disjointed set of policy documents and guidance making it difficult to apply a consistent approach to development management in the area.
 - Support for the application of the BNF over the Bermondsey Village Action Group ('BVAG') because the BVAG geographical zone ends halfway down

Bermondsey Street which could lead to a disjointed approach to development of the street.

40. The main comments objecting to the application are summarised below;

- The BNA cuts across too many Wards and it does not lend itself to the concept of “neighbourhood”; it slices through the Riverside Ward where there has been a history of active forums between the East and West areas of Tower Bridge Road.
- The area south of Great Dover Street should be removed from the proposed area. This would make the area more logical, and avoid the problem of the community south of the road falling into two schemes should one emerge for this southern area.
- Currently, the BNF’s Plan is counterintuitive to the Neighbourhood Planning Act which elongates the boundary from Hays Galleria/More London down to New Kent Road therefore incorporating the already developed areas alongside the Thames to the area down below Grange Road which are in need of thoughtful localised improvements.
- The large area proposed by the BNF was too large to be manageable
- The neighbourhood area proposed by Bermondsey Neighbourhood Forum seems too large and varied to create a real sense of belonging, it risks failing to create any sense of place, and failing to make residents and businesses identify and feel connected to their neighbourhood.
- The BNF appears to cover too vast an area, as it sprawls from the river down to the New Kent Road, to truly represent the area that I live in. In that, it does not relate to the concept of a 'natural neighbourhood'.
- The BNF leadership lacks hearty input. Therefore, I strongly object to the boundary proposed by the BNF on the grounds that the forum will continue to be unproductive as it has been in the past and that the boundary is too excessive to be effectual.

KEY ISSUES FOR CONSIDERATION

Decision making

41. The Neighbourhood Planning Decision Making Report of 13 September 2013 sets out the Council’s agreed criteria for decision making. The proposal for BNA and BNF by Bermondsey Neighbourhood Forum and Area needs to be considered against this criteria. An extract of the report is set out in Table A below.
42. There are competing proposals at present for the boundary of the BNA. As discussed in the consultation responses, a rival proposal has been submitted to the Council for part of the boundary, which overlaps with the BNDA from the Bermondsey Village Action Group (‘BVAG’). This rival application is currently pending determination by the Council. The Community Council’s are being asked to comment on the appropriateness of the proposed boundary of the BNA by the Bermondsey Neighbourhood Forum.

[The Area boundaries overlap with proposals put forward by other Neighbourhood Forums. These are set out in the Bermondsey Village Action Group report.]

43. The community council's are being asked to comment on the appropriateness of the area and the boundary.

TABLE A

<p>Decision 1 Forum application Application for designation of a Neighbourhood Area</p>
<p>Process</p> <p>Where a neighbourhood forum submits an application to the local Planning authority. It must include:</p> <ul style="list-style-type: none"> A map identifying the area See appendix A A statement explaining why this area is considered appropriate to be designated See appendix B A statement that the organisation or qualifying body is relevant for the purposes of the 1990 Act (as applied by section 38A of the 2004 Act) See appendix C
<p>Criteria for decision making</p> <ul style="list-style-type: none"> • Has the map been submitted identifying the area? Yes • Has the statement explaining why this area is considered appropriate to be designated been submitted? Yes • Has the statement that the organisation or body is relevant for the purposes of the 1990 Act been submitted? Yes • Is there already a neighbourhood plan covering this area? No • How do the boundaries relate to current and proposed planning designations? The boundary is along the borough boundary to the north and west. The western boundary is along a main road Borough High street and the southern boundary has been determined by the level of development likely to take place. This area is within the Bankside, Borough and London Bridge Opportunity Area and the Central Activities Zone. It also covers part of the Thames Policy Area. • Is the proposed area appropriate? This is being determined by this consultation. • Should the area be a business area? Yes • Would a business referendum be required? Yes

Financial implications

44. There may be financial implications however these are uncertain at present. Each Neighbourhood Plan 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

45. It is recommended that the Bankside, Borough and Walworth Community Council and Bermondsey and Rotherhithe Community Council note and comment upon the consultation responses received in respect of the applications from the Bermondsey Neighbourhood Forum ("BNF") for the Bermondsey Neighbourhood Development Area ("BNDA") and Bermondsey Neighbourhood Forum (BNF) in accordance with the criteria set out in Council's Neighbourhood Planning Decision Making Report of 13 September 2012, following the closure of the 6 week consultation period prescribed under Regulations (6 and 9) of the Neighbourhood Planning Regulations 2012.
46. In accordance with the report presented to the Leader of the Council, Councillor Peter John, on 24 September 2012, community council's must be consulted upon applications to designate a NA and for qualifying body status as a Neighbourhood Forum. The recommendation is also consistent with the usual consultative functions of community council's in respect of policy /plan related documents.
47. In September 2012 the applicant, BNF submitted an application to the Council for the designation of the land identified on the plan titled 'Bermondsey Neighbourhood Plan Area Boundary' as an NA and to be designated as a NF (Appendices A-C) of the Report. This was accepted by the Council as valid and consulted upon between the 30 January to the 5 March 2013 as advised in paragraph 34 of the report.
48. As stated in the Report, Neighbourhood Planning is intended to empower local communities and local groups to draw up Neighbourhood Development Plans NDP's and Neighbourhood Development Orders 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.
49. The legislative provisions concerning Neighbourhood Planning are set out in the Neighbourhood Planning (General) Regulations 2012 No.537 ("the Regulations"), Neighbourhood Planning (Referendum) Regulations 2012 No.2031, the Localism Act 2011 and the Town and Country Planning Act 1990 (TCPA).
50. Regulations 5-12 (Part 3) set out the requirements that must be satisfied by the applicant body/organisation in making an application for the designation of a NA or NF. The documents submitted to the Council in support of the application satisfied the initial qualifying criteria for acceptance of the application for consultation. Following this stage, there is a statutory

requirement for applications for NA's and NF's to be publicised for a period of at least 6 weeks (Regulations 6 and 9). It is only after the publicity period that the Local Planning Authority will be in a position to consider the representations received and determine the applications.

51. In order to progress the Neighbourhood Planning process the comments of the respective community council's are sought in respect of the applications. These comments, alongside those received from the public, will then be fully considered by Cabinet or the relevant Cabinet Member to assist in making a final determination upon the applications.
52. Members' will note from the report that a rival proposal has been submitted to the Council for part of the boundary of the Bermondsey Neighbourhood Plan Area and Forum from the Bermondsey Village Action Group. This rival application is currently pending determination by the Council. This report requests that the community council's comment on the appropriateness of the proposed boundary of the BNA by the Bermondsey Neighbourhood Forum.
53. Section 61G(7) of the TCPA 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 NAs. It has power under s61G(6) of the Act to modify designations already made and to this extent it could modify the boundary of the BNDA, in the event that such an amendment is considered necessary and appropriate.
54. Paragraph 4 (*Part 3H:Community Councils*) of the Southwark Constitution 2012/13 provides that it is the role and function of community councils '*to be a focal point for discussion and consultation on matters that affects the area*'.
55. Neighbourhood planning is a new legal process, which the Council has a statutory duty to facilitate and administer. The Constitution is therefore silent as to the express reservation of consultative decisions in respect of decisions concerning this area. Consideration has been given to the appropriate level at which comments upon any proposals to designate a NA and/or NF may be made and it is considered that this function is analogous with community council's usual consultative functions in respect of policy /plan related documents and therefore falls within the role and functions delegated to it.
56. The recommendation sought in this report therefore falls within the Bankside, Borough and Walworth, and Bermondsey and Rotherhithe Community Council's decision-making remit.

Strategic Director of Finance and Corporate Services (SDFCS) (NR/FCS/22/8/12)

57. The SDFCS notes the financial implications contained within the report. Officer time to effect the recommendation will be contained within the existing budgeted revenue 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

APPENDICES

No.	Title
Appendix A	Map of the proposed area
Appendix B	Area Statement
Appendix C	Constitution

AUDIT TRAIL

Lead Officer	Eleanor Kelly, Chief Executive	
Report Author	Juliet Seymour, Planning Policy Manager	
Version	Final	
Dated	23 September 2013	
Key Decision?	Yes	
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	23 September 2013	