

Item No. 17.2	Classification: Open	Date: 2 October 2013	Decision Taker: Bankside, Borough and Walworth Community Council
Report title:		Neighbourhood Planning – Application for a Neighbourhood Development Area and also for qualifying body status as a Neighbourhood Forum by the Bermondsey Village Action Group	
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 from the Bermondsey Village Action Group ('BVAG') for the Bermondsey Neighbourhood Development Area ("BNDA") and Bermondsey Neighbourhood Forum (BVAGNF) 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 BVAG 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. The NA proposed by BVAG overlaps with part of the boundary of an application of a NA submitted to the Council by the Bermondsey Neighbourhood Forum ('BNF'). 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 BVAG have 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 BVAG 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 BVAG applications for a NA and NF was carried out by the Council from 30 January to 5 March 2013. BVAG consulted with a wide range of organisations, local groups and residents. On behalf of BVAG, 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 BVAG websites: <http://bvag.net/st-thomas-st-plan-stp>
 - 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 present to the Planning Committee on 29 January.
37. The Council received comments from 41 respondents as well as a petition with 18 signatories. A number of the comments were made querying the effectiveness of a neighbourhood planning approach generally, the majority of comments

received were in support of the principle of a Bermondsey Neighbourhood Forum Area.

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

Bermondsey Village Action Group

39. The main comments in support of the application are summarised below;

- The character of the areas and the amount of work involved in including as many residents as possible in creating the community plans and gaining involvement in the referenda necessitates there being two areas - with the BVAG taking the northern part and the BNF the southern part.
- With regard to the proposed areas the BVAG, which has been running for a long time should be allocated the designated area.
- BVAG take the time and effort to send out regular updates on developments in the area where BNF have not contacted enough people regarding their application.
- The area to the north of Tooley Street and up to the river is well enough developed and is suitably demarcated enough by the line of that street so as to be considered an entirely different neighbourhood
- The BVAG has always remained active and inclusive over the years. The group has been in the forefront of campaigns aimed to preserve the local architectural heritage by staging peaceful protests, collecting petitions, running exhibitions in addition to holding regular meetings with its followers.

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

- The aspirations of BVAG that have been published do not conform with the statutory development plan.
- The St Thomas Street Area proposed by BVAG is too tightly drawn to represent the Bermondsey neighbourhood or to be able to spread the benefits of investment in the London Bridge area to the rest of Bermondsey.
- The BVAG, is a single-issue campaign concerned with height restrictions to possible future developments around London Bridge Station and the extension of the Bermondsey Street Conservation Area to include the car-park site on St. Thomas Street.
- the BVAG appears from its website to be more of an action group defending the character and heritage of the area.
- it is not easy to see how representative the BVAG is of local people, communities, businesses and others in the area.
- the BVAG application is too narrow, their focus seems to be to prevent the construction of tall buildings along St. Thomas's Street.

KEY ISSUES FOR CONSIDERATION

Decision making

42. 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 BVAG needs to be considered against this criteria. An extract of the report is set out in Table A below.
41. 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 proposed by BVAG from the Bermondsey Neighbourhood Area. 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 BVAG.
42. The Community Council's are being asked to comment on the appropriateness of the NA and the boundary.

TABLE A

Decision 1 Forum application Application for designation of a Neighbourhood Area
Process Where a neighbourhood forum submits an application to the local Planning authority. It must include: <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
Criteria for decision making <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

43. 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/this Referendum/s could take place.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

44. It is recommended that the Bankside, Borough and Walworth Community Council note and comment upon the applications from the Bermondsey Village Action Group ('BVAG') for the Bermondsey Neighbourhood Development Area ("BNDA") and Bermondsey Neighbourhood Forum (BVAGNF) 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.
45. 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.
46. In September 2012 the applicant 'Bermondsey Village Action Group' submitted an application to the Council for the designation of the land identified on the plan titled 'Bermondsey Neighbourhood Plan Area Boundary' (Appendix A) as an NA and for the designation of NF status (Appendix B and C). 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.
47. 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.

48. 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).
49. 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.
50. 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.
51. 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 from the Bermondsey Neighbourhood Forum. This rival application is currently pending determination by the Council. This report requests Community Council's to comment on the appropriateness of the proposed boundary of the BNA by the Bermondsey Village Action Group.
52. 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.
53. 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*'.
54. Neighborhood 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.
55. The recommendation sought in this report therefore falls within the Bankside, Borough and Walworth Community Council's decision-making remit.

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

56. 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	Forum Application
Appendix C	BVAG 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	