

Item No. 17.1	Classification: Open	Date: 1 February 2014	Decision Taker: Bankside, Borough and Walworth Community Council
Report title:		Neighbourhood Planning – Application for a Neighbourhood Development Area and Business Area by the South Bank and Waterloo Neighbourhood Forum	
Ward(s) or groups affected:		Cathedrals	
From:		Chief Executive	

RECOMMENDATION

1. That the community council comment on the application from the South Bank and Waterloo Neighbourhood Forum for the designation of the South Bank and Waterloo Development Area and Business Area (Appendices A-C of the report) with reference to the criteria set out in the council's Neighbourhood Planning Decision Making Report dated 13 September 2012 in accordance with Regulation 6 of the Neighbourhood Planning Regulations 2012 No.637.

BACKGROUND INFORMATION

2. The Localism Act 2011 (by amending the Town and Country Planning Act 1990) ("the 1990 Act") introduced new provisions which empower parish councils and designated Neighbourhood Forums to initiate a process for making Neighbourhood Development Plans and Neighbourhood Development Orders in relation to designated Neighbourhood Areas. The powers came into force on 6 April 2012 when the Neighbourhood Planning (General) Regulations 2012 came into force.
3. A Neighbourhood Development Plan is a plan which sets out policies in relation to the development and use of land in the whole or part of a Neighbourhood Area. 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 Neighbourhood Area for development (or for a class of development) specified in the Order. Both neighbourhood development plans and neighbourhood development orders must be in general conformity with the strategic policies in the development plan for the relevant area.

Neighbourhood Planning Preparation Stages

4. Section 61F of the Town and Country Planning Act 1990 ('the 1990 Act') provides that a local planning authority may designate an organisation or body as a Neighbourhood Forum if certain conditions are satisfied. These conditions are considered in a separate report.
5. Section 61G of the 1990 Act sets out the powers and duties of local planning authorities in relation to the designation of Neighbourhood Areas. 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 Neighbourhood Area. 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 or more designated Neighbourhood Areas.

6. If a body or organisation is designated as a Neighbourhood Forum for a particular Neighbourhood Area, it is authorised to act in relation to that area for the purposes of promoting a Neighbourhood Development Plan/Order.
7. Once a Neighbourhood Area and Neighbourhood Forum have been designated, the Neighbourhood Forum may submit a proposal to the local planning authority for the making of a Neighbourhood Development Plan or Neighbourhood Development Order which will then 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 Neighbourhood Area 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 council can only designate one organisation or body as a neighbourhood forum in respect of each neighbourhood area (Section 61F (7)(b)).
11. Areas designated as neighbourhood areas must not overlap with each other (Section 61G (7)).
12. The council may, in determining an application for a neighbourhood area, modify designations already made (Section 61G (6)), but it must have regard to the desirability of maintaining the existing boundaries of areas already designated as Neighbourhood Areas (Section 61G (4) (b)).
13. Regulation 6 of the Neighbourhood Planning (General) Regulations 2012 requires local planning authorities, as soon as possible after receiving an application for a neighbourhood area to publish details of the application 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 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.

Consultation

14. Consultation on the South Bank and Waterloo application for a Neighbourhood Area was carried out from 18 October 2013 and 29 November 2013. The South Bank and Waterloo Neighbourhood Forum consulted with a wide range of organisations, local groups and residents. On behalf of the forum, the London Borough of Southwark wrote to around 1,000 consultees on our database. In all,

the application for the area and forum was available for comments over a period of 6 weeks.

15. The application to designate the NA in South Bank and Waterloo were available to view at:
 - The Council's website:
www.southwark.gov.uk/info/200413/neighbourhood_planning
 - 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)
16. The application was also presented to the planning committee on 5 November 2013. The planning committee made the following comments;
 - The Bankside neighbourhood forum was agreed in June 2013, the boundaries of which overlap with the proposed South Bank and Waterloo neighbourhood forum. It is felt that this will prove ineffective for decision-making. The committee also expressed concerns that the new proposal will undermine the existing forum.
 - The proposed South Bank and Waterloo neighbourhood forum cuts down the middle of Blackfriars Road. The area action plan has a cohesive view for the whole of the road, and having a forum dealing solely with one side of it will be inappropriate.
 - The proposed South Bank and Waterloo neighbourhood forum covers land in both Southwark and Lambeth. It is not considered advisable to have a cross-boundary area.
17. The council received comments from 104 respondents and a further 11 responses were sent to Lambeth council directly. The majority of comments received were in support of the South Bank and Waterloo Neighbourhood Area.
18. Only one neighbourhood forum can be designated in respect of a single neighbourhood area. Southwark already has an agreed neighbourhood area and neighbourhood forum for Bankside, which would overlap with the proposed South Bank and Waterloo neighbourhood area boundary.
19. The neighbourhood planning regulations do not permit different neighbourhood areas to overlap. Therefore, the council will determine which neighbourhood area(s) are most appropriate for neighbourhood planning following the closure of the consultation period and the consideration of the responses received.

South Bank and Waterloo neighbourhood area

20. The main comments in support of the application are summarised below;
 - The application is regarded as the appropriate boundary setting out the area generally accepted as South Bank and Waterloo
 - The area has been covered by numerous local organisations, business and community, in many years of neighbourhood-based working and collaboration
 - The area respects the traditional boundary of the community at Blackfriars Road
 - St John's with St Andrew's Churches cover both Lambeth and Southwark councils

- The Bankside plan will add to existing complexities around area management, particularly along The Cut
 - Waterloo Quarter is one of only two cross-borough Business Improvement Districts (BID) in the country and has a particular remit to work on a cross-borough basis to address inconsistencies in terms of planning and area management. The South Bank and Waterloo NA will avoid reinforcing existing divisions
21. The main comments objecting to the application are summarised below;
- There is no history of the area to the east of the borough boundary being planned by anything other than Southwark council.
 - Drawing a boundary line down the middle of any road demonstrates an administrative and shallow approach to an area. Blackfriars Road requires a consistent and coherent approach if development is to be properly steered and initiatives are to be properly coordinated
 - The proposal ignores the historic parish structure of Bankside
 - There is a very long history of its residents shaping and changing the very nature of this ancient neighbourhood

KEY ISSUES FOR CONSIDERATION

The requirements of Section 61G

22. Section 61G (1) of the 1990 Act provides that a Neighbourhood Area is an area within the area of the local planning authority which has been designated by the authority as a Neighbourhood Area. The power to designate a neighbourhood area 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.
23. Section 61G (2) (b) defines a 'relevant body' as an organisation or body which is capable of being designated as a neighbourhood forum (on the assumption that, for this purpose, the specified area is designated as a neighbourhood area).
24. Regulation 5 of the Neighbourhood Planning (General) Regulations 2012 contains a number of requirements in respect of the Neighbourhood Area 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;
 - (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;
 - (d) A map which identifies the area to which the application relates;
 - (e) A statement explaining why this area is considered appropriate to be designated as a Neighbourhood Area; and
 - (f) 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.
25. 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.

26. Where the local planning authority refuses to designate an organisation as a Neighbourhood Forum, it must give reasons for its decision. Section 61G(9)) and Section 61G(5) provides that if (a) a valid application is made to the authority and (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.
27. Section 61G (6) provides that the authority may, in determining any application, modify designations already made.
28. In regards to the designation of a Business Area, Section 61H of the 1990 Act provides that 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 Section 61H(8) must state which Neighbourhood Areas (if any) are for the time being designated as Business Area.
29. The Council considers that these formalities are satisfied in relation to this application, such that it has the power to designate the proposed area as a Neighbourhood Area should it consider it appropriate to do so.

Decision making

30. The Neighbourhood Planning Decision Making Report of 13 September 2013 sets out the Council's agreed criteria for decision making. The proposed area and boundary of the South Bank and Waterloo Neighbourhood Development and Business Area needs to be considered against this criteria. An extract of the report is set out in Table A below.

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 <i>See Appendix A</i> • A statement explaining why this area is considered appropriate to be designated <i>See Appendix B</i>

- 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

- 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?

Yes

- How do the boundaries relate to current and proposed planning designations?
The proposed South Bank and Waterloo Neighbourhood area is predominantly in the London Borough of Lambeth however, the eastern boundary runs along Blackfriars Road in Southwark down to St George's Circus in the south. This area is within the Bankside, Borough and London Bridge Opportunity Area and the Central Activities Zone. It also falls within the Strategic Cultural area and 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

31. The proposed South Bank and Waterloo Neighbourhood Development and Business Area overlaps with an area which has already been designated as a neighbourhood area. The Bankside Neighbourhood and Business Area was designated as a neighbourhood area by the council on 3 May 2013 and the Bankside Neighbourhood Forum confirmed as the appropriate Neighbourhood Forum on 6 June 2013.

32. The South Bank and Waterloo Neighbourhood Forum submitted an application for an overlapping boundary on 30 April 2013. The Council can only designate one organisation or body as a neighbourhood forum in respect of each neighbourhood area. As mentioned above areas designated as neighbourhood areas must not overlap with each other.

33. The community council is by this report being asked to comment on the application for the proposed South Bank and Waterloo Neighbourhood Area and

Business Area in accordance with Regulation 6 of the Neighbourhood Planning Regulations.

34. A separate report has been prepared in relation to a proposed application for a Neighbourhood Forum by the South Bank and Waterloo Neighbourhood Forum.

Financial implications

35. There are no immediate new financial implications arising from this report. Each neighbourhood plan may require a referendum, which is estimated to cost approximately £25,000 per referendum. This estimate is based on the known cost of a ward election and assumes a similar level of funding would be required.
36. If required a referendum would be an unavoidable cost to the council and would be funded from existing revenue budgets, where possible. If revenue funding is not available the costs would be met from the financial risk reserve.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS (RMK)

Director of legal services

37. The recommendation of the report requests that the Bankside, Borough and Walworth Community Council comment upon the application for the proposed designation of South Bank and Waterloo Development and Business Area as a Neighbourhood Area in line with the criteria set out in paragraph 17 (decision 1) of the Council's Neighbourhood Planning Decision Making Report dated 13 September 2012 pursuant to Regulation 6 of the Neighbourhood Planning Regulations 2012.
38. 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 both upon applications to designate an area as a Neighbourhood Area and a Neighbourhood Forum. The recommendation is also consistent with the usual consultative functions of community councils in respect of policy/plan related documents.
39. On 28 April 2013 the applicant, the South Bank and Waterloo Neighbourhood Forum, submitted an application to the Council for the designation of the land identified on the plan annexed to this report and titled 'Neighbourhood Area' as an Neighbourhood Area.
40. As stated in this report, neighbourhood planning is intended to empower local communities and local groups to draw up neighbourhood development plans and neighbourhood development orders. The function of a neighbourhood forum is to act as the vehicle for progressing such plans in respect of a particular geographically defined neighbourhood area.
41. 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 1990 Act).
42. Regulations 5 to 12 (Part 3) set out the requirements that must be satisfied by the applicant body/organisation in making an application for designation of a Neighbourhood Area or Neighbourhood Forum. The documents submitted to the

Council in support of the application satisfy the initial qualifying criteria for the acceptance of the application for consultation. Following this initial qualifying stage, there is a statutory requirement for applications for Neighbourhood Areas to be publicised for a period of at least six weeks (Regulation 6). 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 application.

43. In order to progress the neighbourhood planning process the comments of the respective Community Council's are sought in respect of the proposed Neighbourhood Area and Business Area applications. These comments, alongside those received from the public as part of statutory consultation process, will then be fully considered by Cabinet or the relevant Cabinet Member to assist in making a final determination upon the application following the closure of the statutory consultation period.
44. Members will note from the report that part of the proposed area overlaps with an existing Neighbourhood Planning area. Section 61G (7) of the 1990 Act provides that areas designated as neighbourhood areas must not overlap with each other. Further, Section 61 (G) (4) provides that a local planning authority must have regard to the desirability of maintaining the existing boundaries of areas already designated as neighbourhood areas. A local planning authority does however have powers under Section 61G (6) of the 1990 Act to modify designations already made and to this extent it could modify the boundary of the existing Neighbourhood Area in the event that such an amendment was considered necessary and appropriate at the relevant stage of the Neighbourhood Planning process.
45. Paragraph 17 of the report advises that the council considers that the statutory criteria which a Neighbourhood Forum must adhere to pursuant to Regulation 5 of the Neighbourhood Planning (General) Regulations 2012 in respect of the application have been satisfied in the present case.
46. Paragraph 4 (Part 3H: Community Councils) of the Southwark constitution 2012/13 provides that it is the role and function of community council's 'to be a focal point for discussion and consultation on matters that affects the area'.
47. 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 neighbourhood area may be made and it is considered that this function is analogous with community councils' usual consultative functions in respect of policy/plan related documents and therefore falls within the role and functions delegated to it.
48. 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

49. This report seeks planning committee comment on an application from the South Bank and Waterloo Neighbourhood Forum. The financial implications are shown in paragraphs 35 and 36.

50. The strategic director of finance and corporate services notes the potential costs, which cannot be fully established at this stage. In the event that costs arise and cannot be contained within revenue budgets then the financial risk reserve is a suitable funding source. Subject to approval, it contains sufficient capacity and can be used for revenue costs of this nature.
51. 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	Kate Johnson 0207 525 5345
The Neighbourhood Planning Regulations	http://www.legislation.gov.uk/uksi/2012/637/contents/made	Kate Johnson 0207 525 5345

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	22 January 2014	
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		22 January 2014