

Item No. 13.	Classification: Open	Date: 29 January 2014	Meeting Name: Bermondsey and Rotherhithe Community Council
Report title:		Neighbourhood Planning – Application for a Neighbourhood Area for Rotherhithe and Surrey Docks	
Ward(s) or groups affected:		Rotherhithe and Surrey Docks	
From:		Chief Executive	

RECOMMENDATION

1. That the community council comment on the application for the designation of the Rotherhithe and Surrey Docks neighbourhood area (Appendix 1 and Appendix 2 of the report) with reference to the criteria set out in the council's neighbourhood planning decision making report dated 13 September 2012.

BACKGROUND INFORMATION

2. The Localism Act 2011, by amending the Town and Country Planning Act 1990, "the act" introduced new provisions which empower parish councils and designated neighbourhood forums to initiate the process for making neighbourhood development orders and neighbourhood development plans in relation to designated neighbourhood areas. The powers came into force on 6 April 2012 through the commencement of the Neighbourhood Planning (General) Regulations 2012 ("the regulations").
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 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 act provides that a local planning authority may designate an organisation or body as a neighbourhood forum if the conditions in sub-section (5) are satisfied. In deciding whether to designate an organisation/body, it must have regard to the matters set out in sub-section (7). This report relates to the proposed neighbourhood area and the proposed forum will be considered separately.
5. Section 61G of the 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 area.

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 plan or neighbourhood development 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 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 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 Rotherhithe and Surrey Docks neighbourhood forum submitted an application for the designation of Rotherhithe and Surrey Docks as a neighbourhood area on 7 July 2013. The extent of the proposed neighbourhood area is shown on the map accompanying the application (Appendix 2).
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 a neighbourhood area application, to publish details of the application and of how to make representations in respect of the application, 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 6 weeks (from the date on which the application was first publicised) must be allowed for the receipt of representations in relation to the application.
14. The council has determined that applications for neighbourhood areas should be considered by 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 61G

15. A local planning authority may only consider an application for designation as a neighbourhood area if the application has been made by an organisation or body which is, or is capable of being, designated as a neighbourhood forum in respect of the area specified in the application.
16. Whilst no decision has yet been made as to whether the Rotherhithe and Surrey Docks neighbourhood forum should be designated as a neighbourhood forum, the council considers that the Rotherhithe and Surrey Docks neighbourhood forum is capable of being designated as neighbourhood forum in that it satisfies the requirements of section 61f(5) of the act.
17. The application for designation is accompanied by a map which identifies the area to which the application relates and a statement explaining why that area is considered to be appropriate to be designated as a neighbourhood area. The application is also accompanied by a statement from the Rotherhithe and Surrey Docks neighbourhood forum explaining that it constitutes a 'relevant body' (i.e. one that is or is capable of being designated as a neighbourhood forum). As such, the council considers that the requirements of regulation 5 have been satisfied in relation to this application.
18. The council does not propose to make a decision as to whether to designate the area as neighbourhood area until the period for making representations has expired and any representations received have been considered.

Designating the neighbourhood area as a business area

19. When a local planning authority designates an area as a neighbourhood area pursuant to section 61G, it must consider whether to designate that area as a business area (section 61H).
20. The local planning authority can only designate an area as a business area if they consider that the area is wholly or predominantly business in nature.
21. Any decision as to whether to designate the area specified in this application for as a business area will be taken following the time period for making representations in respect of the application for neighbourhood as a neighbourhood area, so that any such representations can be taken into account.

Decision making

22. The neighbourhood planning decision making report of 13 September 2013 sets out the council's agreed criteria for decision making. The proposed Rotherhithe and Surrey Docks neighbourhood area needs to be considered against this criteria. An extract of the report is set out in the table below.

TABLE A

Decision 1 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• A statement explaining why this area is considered appropriate to be designated• A statement that the organisation or qualifying body is relevant for the purposes of the Act (as applied by Section 38A of the 2004 Act)
Criteria for decision making <ul style="list-style-type: none">• Has the map been submitted identifying the area?• Has the statement explaining why this area is considered appropriate to be designated been submitted?• Has the statement that the organisation or body is relevant for the purposes of the Act been submitted?• Is there already a neighbourhood plan covering this area?• How do the boundaries relate to current and proposed planning designations?• Is the proposed area appropriate?• Should the area be a business area?• Would a business referendum be required?

Consultation

23. The application to make Rotherhithe and Surrey Docks a neighbourhood area will be publicised on the Council's website for a period of 6 weeks. The council will also consult its planning committee, statutory consultees and those on the planning policy mailing list. In addition, the council will advertise the application in a local newspaper.
24. The proposed forum shall be considered and consulted upon separately.

Financial implications

25. There will be no financial implications arising from the consultation.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of legal services

26. The recommendation of the report requests that the Bermondsey and Rotherhithe community council comment upon the application for the proposed designation of Rotherhithe and Surrey Docks 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.
27. In accordance with the report presented to the leader of the council, Councillor Peter John, on 24 September 2012, the community council for the area must be consulted both upon applications to designate an area as a neighbourhood area and the proposed neighbourhood forum. The recommendation is also consistent with the usual consultative functions of a community council in respect of policy / plan related documents.
28. On 7 July 2013 the applicant, the Rotherhithe and Surrey Docks neighbourhood forum, submitted an application to the council for the designation of the land identified on the plan annexed to this report as a neighbourhood area.
29. 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.
30. The legislative provisions concerning neighbourhood planning are set out in the Neighbourhood Planning (General) Regulations 2012, the Neighbourhood Planning (Referendum) Regulations 2012, the Localism Act 2011 and the Town and Country Planning Act 1990.
31. Regulations 5 to 12 (part 3) of the Neighbourhood Planning (General) Regulations 2012 set out the requirements that must be satisfied by the applicant body/organisation in making an application for designation of a neighbourhood area. 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 6 weeks. 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.
32. In order to progress the neighbourhood planning process the comments of the community council are sought in respect of the proposed neighbourhood area. These comments, alongside those received from the public as part of statutory consultation process, will then be 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.
33. Paragraph 16 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.

34. Paragraph 4 (Part 3H: community councils) of the council's 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'.
35. 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 council's usual consultative functions in respect of policy / plan related documents and therefore this falls within the role and functions delegated to it.
36. The recommendation sought in this report therefore falls within the community council's decision-making remit.

Strategic director of finance and corporate services

37. It is noted that there are no financial implications directly associated with this report, as stated in paragraph 24 above, and that any financial implications arising from the consultation will be contained in future reports.

Reasons for urgency

38. The council has received an application for designation of a neighbourhood area. In accordance with Regulations 5 to 12 (Part 3) of the Neighbourhood Planning (General) Regulations 2012, the council has accepted that the application meets the statutory requirements of the Regulations and the council must therefore publicise the application for a period of 6 weeks. The 6 week consultation period runs from 17 January 2014 to 28 February 2014.
39. Consistent with the report presented to the leader of the council, Councillor Peter John, on 24 September 2012, the community council for the area must be consulted upon applications to designate an area as a neighbourhood area.
40. It is good practice to seek comments of the community council within the statutory consultation period. This will maximise publicity around the application, avoid the need to extend the consultation period which would impact on council resources (officer time and costs involved in republicising the application) and expedite the council's duty to publicise the plan in accordance with the Regulations.

Reasons for lateness

41. This document is late due to the necessity of having to finalise the report in a short timescale from the date on which the decision to consult on the application for a Neighbourhood Area for Rotherhithe and Surrey Docks became implementable (on 15 January 2014), the commencement of consultation (17 January 2014) and deadlines for submission of reports for circulation with the community council agenda.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
The Localism Act http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted	Southwark Council 160 Tooley Street London SE1 2QH	Kate Johnson 0207 525 5345
The Neighbourhood Planning Regulations http://www.legislation.gov.uk/uksi/2012/637/contents/made		

APPENDICES

No.	Title
Appendix 1	The RSD neighbourhood development area application
Appendix 2	Map of the RSD neighbourhood development area

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	No	No
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