

Item No. 10.	Classification: Open	Date: 2 April 2014	Decision Taker: Bankside, Borough and Walworth Community Council
Report title:		Neighbourhood Planning – application for a Neighbourhood Area for Elephant and Walworth.	
Ward(s) or groups affected:		Chaucer, Newington, East Walworth and Faraday	
From:		Director of Planning	

RECOMMENDATION

1. That the community council comment on the application from the Elephant and Walworth Neighbourhood Forum for the designation of the Elephant and Walworth Neighbourhood Development Area (Appendices A and B 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 order's grant planning permission in relation to a particular neighbourhood area for development specified in the order or for a class of development specified in the order. Both neighbourhood development plan's and neighbourhood development order's 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 subsection (5) are satisfied. In deciding whether to designate an organisation/body, it must have regard to the matters set out in subsection (7).
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 of 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 plan / 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 development plan or neighbourhood development order, which will be submitted to an 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 Elephant and Walworth Neighbourhood Forum submitted two neighbourhood planning applications to Southwark on 29 January 2014. The applications were to obtain legal status as a neighbourhood planning forum in accordance with section 61F and to legally designate their proposed neighbourhood area in accordance with section 61G. Both applications were submitted at the same time with the expectation that the applications would be consulted on concurrently.
11. The council has decided that it is more appropriate to consult on and designate the neighbourhood area, prior to, commencing consultation and subsequently designating the neighbourhood forum. This approach is set out on the council's website and was adopted following the consultation process in respect of the neighbourhood planning applications in the Bankside and Bermondsey area. The council considers this will ensure that the neighbourhood forum is the most appropriate and representative neighbourhood forum for the neighbourhood area.
12. Neighbourhood groups from Bankside and Bermondsey were the first groups to submit proposals for neighbourhood forum and neighbourhood area designations. These groups were also appointed as 'front runners' for the neighbourhood planning process. When these neighbourhood forum and neighbourhood area applications were submitted, both applications were published for consultation concurrently and this resulted in considerable delays in the decision making process. The council has therefore, learnt from this experience and formulated best practice to assist with the timely determination of these applications by way of the separate consideration of both applications.

13. The neighbourhood area proposed by the Elephant and Walworth Neighbourhood Forum, which is shown on the map accompanying the application (Appendix B).
14. Areas designated as neighbourhood areas must not overlap with each other (s.61G(7)).
15. The council may, in determining an application for a neighbourhood area, 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 Neighbourhood Areas (s.61G(4)(b)).
16. 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.
17. The council has determined that applications for neighbourhood areas 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 61G

18. 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.
19. Whilst no decision has yet been made as to whether the Elephant and Walworth Neighbourhood Forum should be designated as a neighbourhood forum, the council considers that the Elephant and Walworth Neighbourhood Forum is capable of being designated as a neighbourhood forum in that it satisfies the requirements of section 61F(5) of the 1990 Act.
20. 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 Elephant and Walworth 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 of the Regulations have been satisfied in relation to this application.
21. The council does not propose to make a decision as to whether to designate the area as a 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

22. 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 (s.61H).
23. 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.
24. 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. The council will consider whether this application triggers the designation of a business area as part of the consultation process.

Consultation

25. The application to agree the neighbourhood area for the Elephant and Walworth area will be publicised on Southwark website for a period of 6 weeks. Southwark Council's Planning Committee and Borough, Bankside and Walworth Community Council will be consulted. The council will also publish an advertisement in Southwark News and we will consult all of the planning policy mailing list in addition to statutory consultees.
26. The area designation will be considered by local ward councillors at the community council.
27. Approval to publicise the application for proposals for the neighbourhood forum for Elephant and Walworth will be the subject of a separate report.

Financial implications

28. 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.
29. 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

Director of Legal Services

30. The recommendation of the report requests that the Bankside, Borough and Walworth Community Council comment upon the application for the proposed designation of Elephant and Walworth Neighbourhood Development 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.

31. In accordance with the report presented to the leader of the council, Councillor Peter John, on 24 September 2012, community councils 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 council's in respect of policy/plan related documents.
32. On 29 January 2014, the applicant, Elephant and Walworth 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 a neighbourhood area for Elephant and Walworth.
33. 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.
34. 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).
35. 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 6 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.
36. 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 application. 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.
37. 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.
38. Paragraph 19 of the report advises that the council considers that the statutory criteria which a neighbourhood area 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.

39. 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'*.
40. 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 falls within the role and functions delegated to it.
41. 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

42. This report seeks planning committee comment on an application from the Elephant and Walworth neighbourhood forum. The financial implications are shown in paragraphs 28 and 29.
43. 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.
44. 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	The Elephant and Walworth Neighbourhood Development Area application
Appendix B	The Elephant and Walworth Neighbourhood Development Area Map

AUDIT TRAIL

Lead Officer	Simon Bevan, Director of Planning	
Report Author	Juliet Seymour, Planning Policy Manager	
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Dated	21 February 2014	
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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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