

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 12 May 2015	<b>Decision Taker:</b> Cabinet Member for Regeneration, Planning and Transport
<b>Report title:</b>		Neighbourhood Planning – Application for designation as a neighbourhood forum by Old Bermondsey Village Neighbourhood Forum	
<b>Ward(s) or groups affected:</b>		Cathedrals, Chaucer, Riverside, Grange key groups affected	
<b>From:</b>		Chief Executive	

## RECOMMENDATIONS

1. Notes the consultation responses received from the public in respect of the application from the Old Bermondsey Village Neighbourhood Forum (“OBVNF”) to be designated as a Neighbourhood Forum; and
2. Declines to designate the Old Bermondsey Village Neighbourhood Forum as a Neighbourhood Forum for the designated Neighbourhood Area known as Area A (designated on 20 October 2014 and shown on the map in Appendix A).

## LEGAL FRAMEWORK

3. 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 when the Neighbourhood Planning (General) Regulations 2012 came into force. The 2012 Regulations have subsequently been amended by the Neighbourhood Planning (General) Regulations 2015.
4. 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 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 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.
5. Where an organisation or body submits a Neighbourhood Forum application to the local planning authority, pursuant to Regulation 8 of the Neighbourhood

Planning (General) Regulations 2012 (as amended), it must include the following:

- 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 identifying the area;
  - d) The contact details of at least one member of the proposed Neighbourhood Forum; and
  - e) A statement which explains how the proposed Neighbourhood Forum meets the conditions contained in section 61F(5) of the 1990 Act.
6. 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) to s.61F are satisfied. Section 61F(5) requires the Forum application to demonstrate that the organisation:
- (a) is established for the express purpose of promoting or improving the social, economic and environmental well-being of an area that consists of or includes the neighbourhood area concerned (whether or not it is also established for the express purpose of promoting the carrying on of trades, professions or other businesses in such an area),
  - (b) its membership is open to—
    - (i) individuals who live in the neighbourhood area concerned,
    - (ii) individuals who work there (whether for businesses carried on there or otherwise), and
    - (iii) individuals who are elected members of a county council, district council or London borough council any of whose area falls within the neighbourhood area concerned,
  - (c) its membership includes a minimum of 21 individuals each of whom—
    - (i) lives in the neighbourhood area concerned,
    - (ii) works there (whether for a business carried on there or otherwise), or
    - (iii) is an elected member of a county council, district council or London borough council any of whose area falls within the neighbourhood area concerned,
  - (d) it has a written constitution, and
  - (e) such other conditions as may be prescribed.
7. Pursuant to s.61F(7), in determining whether to designate an organisation or body as a Neighbourhood Forum for a Neighbourhood Area, a 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 subparagraphs (i) to (iii) of subsection (5)(b),

(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.

8. 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.
9. In accordance with the Neighbourhood Planning (General)(Amendment) Regulations 2015 which came into force on 9 February 2015, the application for the designation of a Neighbourhood Forum must be determined 13 weeks from the date immediately following that on which the application is first publicised. In respect of the present application, the application must be determined by 25 May 2015.

#### **BACKGROUND INFORMATION**

10. In 2012 the Council received two applications to designate overlapping Neighbourhood Areas in Bermondsey; one of which was from the Saint Thomas Street Plan and the other from Bermondsey Neighbourhood Forum (BNF). The Council did not designate either of the areas proposed by the groups but instead designated a different Neighbourhood Area, which included parts of both of the areas proposed by the two different groups in October 2014. The Neighbourhood Area designated by the Council was known as Area A. The Council declined to designate either of the two organisations as Neighbourhood Forums in respect of Area A.
11. In November 2014 the Saint Thomas Street Plan group indicated to the Council that it wished its application for designation as Neighbourhood Forum to stand in respect of the newly designated Area A. The group relied on the same application form, constitution, list of members, and objectives as those submitted in respect of the Saint Thomas Street area application. The Council considered that further information was required in order to satisfy itself that the

criteria for the designation of a Neighbourhood Forum were satisfied in respect of the wider Area A.

12. The council wrote to the group on 29 January 2015, recommending that a statement should be included with the application to set out how the group reflected the local community. The letter posed the following questions:

- *Who are the local community in Old Bermondsey?*
- *How have the different groups of people been included? It would be useful to include a member of each T&RA as they cover such a large area within Old Bermondsey.*
- *What meetings have been attended and with whom?*
- *What was the nature of discussions held and what were the outcomes?*
- *How are the different needs of local people reflected in Old Bermondsey Village Forum?*
- *How has the redefined group demonstrated that its membership includes at least one individual falling within each sub-paragraph (i) to (iii) of subsection (5)(b) of 61(F)7 of the Localism Act 2011?*
- *Similarly, how has the redefined group ensured that its membership is drawn from different places in the neighbourhood area concerned and from different sections of the community in that area?*
- *How does the group resolve conflict and ensure that everyone feels comfortable and welcome at meetings?*

13. There were email responses from the group suggesting that these in their view criteria had been met.

14. Given that there had been two distinct groups seeking to exercise neighbourhood planning powers in respect of two overlapping areas, the Council was keen to facilitate discussion and joint working between the groups, and to reach consensus between them if possible. To this end, the Council set up a meeting on 11 February 2015 chaired by Councillor Seaton with Councillor Williams in attendance to encourage the different groups within Bermondsey to work together.

15. The OBVNF applied to be designated as the Neighbourhood Forum in respect of Area A on 23 February 2015. The Council considered that further information was necessary in order to satisfy itself that the criteria for the designating the OBVNF as the Neighbourhood Forum in respect of Area A were satisfied. The Council wrote to the group on March 10 asking for more information:

*Whilst the application is considered to the Council to be valid, there are a number of areas which we suggest you might want to consider in order to elaborate on certain issues which currently are not entirely clear and it is evidently in your interests to provide as full a submission as possible at the present stage.*

*Your statement sets out that the BVAG and OBV mailing list includes 35 registered members and that these include those who live in the area, work in the area, and at least one elected member. You may wish to explain how the group has tried to engage with people and is now reflective of the community. Please include a section in your statement to respond to the following:*

- *Who are the local community in Old Bermondsey?*
- *How have the different groups of people been included? It would be useful to include a member of each T&RA as they cover such a large area within Old Bermondsey.*
- *What meetings have been attended and with whom?*
- *What was the nature of discussions held and what were the outcomes?*
- *How are the different needs of local people reflected in Old Bermondsey Village Forum?*
- *How has the redefined group demonstrated that its membership includes at least one individual falling within each sub-paragraph (i) to (iii) of subsection (5)(b) of 61(F)7 of the Localism Act 2011?*
- *Similarly, how has the redefined group ensured that its membership is drawn from different places in the neighbourhood area concerned and from different sections of the community in that area?*
- *How does the group resolve conflict and ensure that everyone feels comfortable and welcome at meetings?*

*For the group to be considered welcoming to all the website and constitution need to be reviewed to ensure that information encourages inclusion of all of all local people (residents, businesses, councillors). There should not be personal or negative articles as this may discourage people who do not like conflict or who have different viewpoints from being welcome by the Forum.*

*At the meeting on 11 February we discussed that attendees would engage with different viewpoints held by individuals within the area, and work through issues together. There seemed to be a consensus that the various groups represented at the meeting would endeavour to work together and in the circumstances a more robust statement setting out the group's efforts in this regard might be expected.*

*You may also consider that the Constitution ("Preamble") should be worded more positively and to omit reference to past decisions and perceived conflict which could come across as unwelcoming for new members.*

16. The group requested a meeting to clarify the requirements. The Cabinet Member and Director of Planning attended an OBVNF meeting on Wednesday 22 April 2015 to discuss the matters raised in the letter. The group were advised that their submission would benefit from further information explaining how they group was reflective of the community within the wider Area A (as compared to the area which the group had originally sought to have designated

as a Neighbourhood Area) and whether the group was established for the express purpose of promoting and improving the social, economic and environmental well-being of Area A (rather than just the area within Area A which had been subject to the original Neighbourhood Area application). It was agreed that a further meeting would be held the following day between the Council and representatives of the group to discuss these issues in more detail.

17. At the meeting there was a discussion as to whether the group's meetings were generally held in an open, friendly and welcoming manner. Concerns were raised at the meeting that this was not generally the case by the Council and by members of the group.

## **CONSULTATION**

18. An application comprising of an application form (Appendix A), constitution (Appendix B) and list of members (Appendix C) was received from OBVNF on 23 February 2015 and the application was publicised on the Council's website. Consultation took place for 6 weeks, from 13 March 2015 to 24 April 2015.
19. An advertisement was placed in the Southwark News on 19 March 2015, a mail-out letter dated 11 March 2015 was sent to all addresses within Neighbourhood Area A, and an email was sent, also on 11 March, to all those who had responded to the consultation in respect of the previous designation of the Neighbourhood Area.
20. A total of 53 responses were received. A matrix scheduling the responses is attached at Appendix D of this report. Of the responses, 14 were objections urging the council to reject the application for Forum designation. The reasons for objecting to the designation are summarised below:
  - Concern about the tactics and style of operation of the group.
  - Concern that the group is not representative of local residents but instead representative of certain individuals living in the immediate area surrounding Bermondsey Street.
  - Alleged falsified statements within the neighbourhood forum application.
  - Alleged statements that record keeping and voting process of the group is highly suspect.
  - Concerns that the group and application is primarily concerned with, and puts overemphasis on, preservation of character and heritage, to the neglect of other areas included in neighbourhood planning's remit.
  - Concerns the group holds views that are too extreme and do not represent the majority of opinion in the area, with no evidence of understanding or engagement within the wider Area A and a low level of awareness amongst residents and stakeholders within the wider Area A boundary. Meetings have mainly been in BVAG HQ, and should instead

be in a more geographically central location to ensure the designated Area A is fully represented.

- Concern that the group is BVAG, whose priorities lay with the proposed St Thomas St Plan rather than OBVF
- The group's constitution gives rise for concern, being criticized as weak and open to exploitation.
- Councillor(s) claimed to be supporting the group were not named in the application.

21. There were also 36 letters of support for the application. The issues raised in the representations are summarised below:

- The group has an open-door policy and is inclusive.
- The group is committed and has worked hard to stir up local interest over the past 5 years, including stalls at Bermondsey Street Festival, opening a community café, local advertising, email and facebook and regular open meetings.
- Stakeholders feel that they are engaged in dialogue with the group, even if opinions may differ and that they work in the area's best interest.
- That the management structure is coherent and competent.
- The group has a strong focus on heritage and preservation of character.
- Some of the respondents are supportive of neighbourhood planning as a concept and so of the OBVNF, albeit without explicit reference as to why they support OBVNF specifically.

22. There were 3 neutral responses that neither endorsed nor objected to the application made by OBVNF. These responses asked that certain aspects of planning be taken into account or stated they had no comments to make.

## KEY ISSUES FOR CONSIDERATION

### The Criteria in S.61F(5)

23. The council is only authorised to designate a group or body that satisfies the criteria in s.61F(5). These criteria are considered below:

***[The organisation or body] is established for the express purpose of promoting or improving the social, economic and environmental well-being of an area that consists of or includes the neighbourhood area concerned (whether or not it is also established for the express purpose of promoting the carrying on of trades, professions or other businesses in such an area)***

24. The OBVNF constitution says that the Group was established to help local residents and businesses achieve genuine influence over planning policy and states that its primary objective is to promote and improve the social, economic and environmental well being of the Neighbourhood Area designated by the Council as Area A in October 2014 (which OBVNF proposes to call the 'Old Bermondsey Village' area). The OBVNF application form explains how the organisation grew from the original Bermondsey Village Action Group ("BVAG")

which coordinated a neighbourhood plan initiative focused on St Thomas Street in 2012. It states that BVAG was “formed by local residents and businesses in March 2010 in response to what they considered was a failure of Southwark Council to engage with local people in the formulation of planning policy”.

25. The OBVNF application explains that “In the face of the Council’s less-than-supportive attitude to local planning in our area it is unrealistic to expect a community group to raise the necessary resources to increase levels of awareness and participation in the very substantially extended area now determined by the Council to the levels that prevail in the original STP area. Once the application is approved and we know it is not in vain a major awareness and participation drive can be undertaken in the enlarged area. This will include direct leafleting of all residents, businesses and non-commercial organisations in the Old Bermondsey Village area informing them of the opportunities for participation that the Council recognition of the NF presents and how they may participate”.
26. In February 2015, the group – still under the name BVAG – submitted as part of the application for designation as a Neighbourhood Forum, a constitution which said that its objective was to defend the character of the area designated by the Council as Bermondsey Village in the Bankside, Borough and London Bridge SPD rather than to promote the social, economic or environmental wellbeing of Area A. After a meeting with Council officers on 23 April 2015 the OBVNF submitted a revised constitution (dated February 2015 but received on 29 April 2015) which referred specifically to Area A.

**(b) its membership is open to—**

- (i) individuals who live in the neighbourhood area concerned,**
- (ii) individuals who work there (whether for businesses carried on there or otherwise), and**
- (iii) individuals who are elected members of a county council, district council or London borough council any of whose area falls within the neighbourhood area concerned,**

27. The constitution confirms membership is open to individuals who meet these characteristics.

**(c) its membership includes a minimum of 21 individuals each of whom—**

- (i) lives in the neighbourhood area concerned,**
- (ii) works there (whether for a business carried on there or otherwise), or**
- (iii) is an elected member of a county council, district council or London borough council any of whose area falls within the neighbourhood area concerned,**

28. The list of members contains a list of 35 names, the majority of whom have addresses within Neighbourhood Area A.

**(d) it has a written constitution**

29. The application includes a written constitution. This has been amended as requested by the Council to: refer to OBVNF rather than BVAG, to remove the negative and somewhat aggressive language, to clarify the mechanics of how the group works and commit to approaching everyone who resides in the area through a leaflet and door knock.

**(e) such other conditions as may be prescribed.**

30. As yet, no other conditions have been prescribed by statute.

**The Criteria in S.61F(7)**

31. Pursuant to s.61F(7), in determining under subsection (5) whether to designate an organisation or body as a Neighbourhood Forum for a Neighbourhood Area, a 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),**

**(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.**

32. 61F(7i and ii) are considered to have been met as set out in the previous section under 61F(5).

33. The Council is concerned about whether convincing information has been provided to satisfy 61F (7ii). Despite an invitation by the Council to do so, the group has not demonstrated whether its membership is drawn from different places in the neighbourhood area or from different sections of the community. Most of the group are from the Saint Thomas Street area rather than the wider Area A. Groups that represent the large housing areas and businesses on Bermondsey Street raise concerns about the group in response to the consultation. To overcome this, the OBVNF has added to their constitution that they will leaflet and door knock everyone who resides in the area if the group is designated as a Neighbourhood Forum. Whilst the Council appreciates this gesture it does raise concerns as it is far less desirable to designate a Forum

on the basis that it will subsequently seek to canvass opinion from different places and different sections of the community of the Neighbourhood Area,

34. Given the concerns raised in the consultation process regarding the group's style of operation, the Council has invited OBVNF to demonstrate that they it is open and has a style of operation focused on consensus building. The Council considers that the group's style of operation does not encourage the expression of different viewpoints or to find consensus and productive ways of working.. This concern is based both on consultation responses which the council has received in Appendix D and observations made by Council officers at meetings with the group.

### **Conclusion**

35. The council has concerns as to whether OBVNF was genuinely established for the express purpose of promoting or improving the social, economic and environmental well being of an area that consists of or includes Area A. Furthermore the Council is concerned about whether the group's membership is drawn from different places in the neighbourhood area or from different sections of the community.
36. The council does not consider it appropriate to designate as a Neighbourhood Forum an organisation which is aggressively intolerant to differences of opinion and which does not demonstrate the capacity to bring people together from throughout the community to find a consensus..For these reasons, it is recommended that the application for designation as a Neighbourhood Forum be declined.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Director of Legal Services**

37. The recommendations of this report request that the Cabinet Member for Regeneration, Planning and Transport:
38. Notes the consultation responses received from the public in respect of the application from the Old Bermondsey Village Neighbourhood Forum ("OBVNF") to be designated as a Neighbourhood Forum; and declines the proposal for the designation of the OBVNF as a Neighbourhood Forum for the Neighbourhood Area designated as Area A - Neighbourhood Area on 20 October 2014 and shown on the in Appendix A pursuant to the Localism Act 2011 and associated Regulations.
39. Paragraphs 18 -22 of the report sets out the public consultation undertaken by the Council in respect of the proposal to designate the OBVNF as a Neighbourhood Forum for the Area A – Neighbourhood Area. This was undertaken for a 6 period between the 13 March 2015 to the 24 April 2015, pursuant to Regulation 9 of the Neighbourhood Planning (General) Regulations

2012 (“2012 Regulations”) and the Council’s Decision Making Process - Neighbourhood Planning approved by the Cabinet Member for Regeneration, Planning and Transport on the 18 March 2015.

40. Regulation 9 of the 2012 Regulations stipulate that that local planning authorities should publish both details of the Neighbourhood Forum application and how the public can make representations in respect of the Neighbourhood Forum application, as soon as possible after receipt, 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. The report confirms the consultation undertaken therefore satisfies both the statutory requirements and the Council’s internal policy processes.
41. Appendix D to the report appends a schedule of the consultation responses received in respect of the application. These responses are summarised at paragraphs 20-22 of the report.
42. The report advises that officers have fully considered the information submitted as part of the application documentation and the consultation responses received in respect of the OBVNF to date against the statutory criteria set out in Sub -sections 61F(5) and 61F(7) of the Act.
43. The Cabinet Member will note from paragraph 32 of the report, that the application has satisfied sub-sections 61F(7) (i) and (iii) of the Act, concerning the requirement to demonstrate the steps taken by the OBVNF to secure that its membership includes a member within each of the categories set out in sub-paragraphs 61F(5) (b) (i) – (iii) and that their purpose reflects (in general terms) the character of the area (s61F(7)(iii)).
44. However, the Council is concerned that it has not been provided with sufficient information to demonstrate how the application satisfies the requirement specified in s61F (7) (ii). This is because the application fails to demonstrate that the OBVNF’s membership is drawn from different places in the neighbourhood area and from different sections of the community in that area. Presently, the majority of the OBVNF’s membership is drawn from the Saint Thomas Street area as opposed to the wider Area A – Neighbourhood Area.
45. Further, paragraphs 33 and 34 of the report set out further concerns that have been raised in the consultation responses set out in Appendix D, regarding the conduct of the OBVNF’s public meetings in respect of open public participation and the fostering of community cohesion and consensus.
46. In light of these concerns, the Cabinet Member will note that the conclusions of the report sets out Officers’ concerns as to whether the OBVNF were genuinely established to promote the social, economic or environmental well-being of the Area A – Neighbourhood Area and whether it has the capacity to represent the community for the Area A – Neighbourhood Area in a cohesive and inclusive manner.

47. As advised in paragraphs 6 and 7 of the report, Section 61F of the Act sets out a number of considerations which the local planning authority must have regard to in the determination of an application for the designation of a Neighbourhood Forum.
48. 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) of the Regulations are satisfied. In deciding whether to designate an organisation/body, the local planning authority must have regard to the matters set out in subsection (7).
49. Subsection (5)(a) provides that a local planning authority may designate an organisation or body as a Neighbourhood Forum if it is satisfied that it was established for the express purpose of promoting or improving the social, economic and environmental well-being of an area (whether or not it is also established for the express purpose of promoting the carrying on of trades, professions or other businesses in such an area).
50. Further, Section 5(b) provides that its membership is open to individuals who live in the neighbourhood area, individuals who work there and individuals who are elected members of a county council, district council or London borough council whose area falls within the Neighbourhood Area. Lastly, Section 5(c) states that the membership of the proposed Neighbourhood Forum must include a minimum of 21 individuals, each of whom fall within those categories. The organisation or body must also have a written constitution to be capable of designation and must satisfy such other conditions as may be prescribed.
51. When deciding whether to designate an organisation or body which meets those criteria, the local planning authority must have regard to the desirability of designating an organisation or body which has secured, or taken reasonable steps to secure that its membership includes at least one individual falling within the categories set out in subsection (5)(b), whose membership is drawn from different places in the neighbourhood area and from different sections of the community in that area and whose purpose reflects (in general terms) the character of the neighbourhood area.
52. For the reasons set out in paragraphs 33 to 36 of the report, the Cabinet Member is requested to approve the recommendation and to decline the OBVNF's application to be the Neighbourhood Forum for the Area A - Neighbourhood Area as it fails to fully satisfy the statutory criteria.
53. In accordance with *Part 3D: Individual Cabinet Members – Matters Reserved for Decision paras 6, 7, 17 and 18 of the Southwark Constitution 2013/14* the Cabinet Member has authority to agree statutory and other strategies, significant policy issues, broad consultation arrangements and the promotion of effective partnerships, between the Council and other agencies and bodies affecting the community in relation to his area of responsibility.
54. Further, the final decision to designate a Neighborhood Forum must be made using the IDM (Internal Decision Maker) process, and signed off by the relevant

portfolio holder pursuant to the Council's Neighbourhood Planning - Decision Making Process adopted on the 18 March 2015. Therefore, the recommendations fall within the Cabinet Member for Regeneration, Planning and Transport's individual decision making remit and he is advised to approve the recommendations.

55. Following the introduction by the Localism Act 2011 of neighbourhood plans and neighbourhood development orders, an amendment to the 2012 Regulations was introduced on 9 February 2015 ("2015 Regulations"). The new 2015 Regulations amend the former 2012 Regulations in respect of various discrete areas including the introduction of a prescribed period within which a Neighbourhood Area application must be determined by a Local Planning Authority.
56. The new procedures set out in the 2015 Regulations state that where a local planning authority receive an area application from a relevant body the authority must determine the application by the date prescribed in the following instances:
  - 6A.—(1) Where a local planning authority receive an area application from a relevant body the authority must determine the application by the date prescribed in paragraph (2).
  - (2) The date prescribed in this paragraph is—
    - (a) in a case where the area to which the application relates falls within the areas of two or more local planning authorities, the date 20 weeks from the date immediately following that on which the application is first publicised;
    - (b) in other cases, where the relevant body is a parish council and the area to which the application relates is the whole of the area of the parish council, the date eight weeks from the date immediately following that on which the application is first publicised;
    - (c) in all other cases, the date 13 weeks from the date immediately following that on which the application is first publicised."
57. The new Regulations relate to Neighbourhood Area applications only, however, the Council's Neighbourhood Planning process applies the new procedure consistently to applications for Neighbourhood Forums. In this instance, the proposal falls within sub-section 6A (c ) and must be determined within the period of 13 weeks. Further, due to the short timescale now prescribed by the new Regulations, applications for Neighbourhood Areas and Forums are no longer considered at Planning Committee or Community Council(s).
58. The Cabinet Member will note, that the Equality Act 2010 introduced a single public sector equality duty (PSED) which requires the Council to have due regard in our decision making processes to the need to eliminate

- discrimination, advance equality of opportunity and foster good relations between those who share or may not share protected characteristics.
59. The relevant protected characteristics are age, disability, gender reassignment, Pregnancy and maternity, race, religion or belief, sex, sexual orientation. The PSED also applies to marriage and civil partnership.
  60. A full equalities assessment has not been carried out at this stage which simply entails approval of internal decision making processes. This decision is not expected at this stage impact on those with protected characteristics. The council will support the preparation of a Equalities Analysis and Sustainability Appraisal of any forthcoming Neighbourhood Plan following the designation of a Neighbourhood Forum for the Area A - Neighbourhood Area to ensure that the Neighbourhood Plan has positive impact on local communities and those with protected characteristic in accordance with its statutory duties.
  61. Neighbourhood planning processes could potentially engage certain human right under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant.
  62. The refusal of the proposed application for the OBVNF should not cause unlawful interference with human rights. However due consideration should be given in making individual decisions as to the potential of neighbourhood plans or other proposals could engage the following rights (among others): -
    - (1) The right to a fair hearing (Article 6) – giving rise to the need to ensure proper consultation and effective engagement of the public in the process;
    - (ii) The right to respect for private and family life (Article 8) –the right to and impacts on amenities or the quality of life of individuals may be impacted by details in plans or proposals;
    - (iii) Article 1, Protocol 1 (Protection of Property) – this right prohibits interference with individuals' right to peaceful enjoyment of existing and future property / homes;
    - (iv) Part II Protocol 1 Article 2 Right to Education.
  63. It is considered that the decision not to the designate the proposed OBVNF would not amount to a breach or interference with any of these rights and the Cabinet Member is invited to approve the recommendations.

**Strategic Director of Finance and Corporate Services**

64. There may be some financial implications for the Council, however these are uncertain at present. Each Neighbourhood Plan will require a referendum which may require the expenditure of considerable funds. A ward election would cost

around £25,000 per referendum. These costs could be similar to a ward election. Incurring costs in relation to referendums on Neighbourhood Plans/Orders is inevitable. At this stage, however, it is not possible to predict if, when or how such referendums will take place.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Localism Act 2011, s.61(F)5 and s.61(F)7 <a href="http://www.legislation.gov.uk/ukpga/2011/20/schedule/9/enacted">http://www.legislation.gov.uk/ukpga/2011/20/schedule/9/enacted</a>	N/A	N/A

## APPENDICES

No.	Title
Appendix A	OBVNF Application
Appendix B	OBVNF Constitution
Appendix C	OBVNF list of members
Appendix D	Consultation response matrix

## AUDIT TRAIL

<b>Lead Officer</b>	Eleanor Kelly, Chief Executive	
<b>Report Author</b>	Juliet Seymour, Planning Policy Manager	
<b>Version</b>	Final	
<b>Dated</b>	12 May 2015	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
<b>Cabinet Member</b>	Yes	No
<b>Date final report sent to Constitutional Team</b>		12 May 2015