RECOMMENDATION

That the Cabinet Member for Regeneration and New Homes:

1. Notes the application (Appendix A) from the Elephant and Walworth Neighbourhood Forum (“EWNF”) for the designation of the Walworth Neighbourhood Area identified on the map at Appendix B of this report; and

2. Agrees to publicise the Neighbourhood Area application in accordance with Regulation 6 of the Neighbourhood Planning (General) Regulations 2012 (as amended) and the Council’s Neighbourhood Planning Decision Making report of 4 September 2012.

BACKGROUND INFORMATION

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 (“NF’s”) to initiate the process for making Neighbourhood Development Orders (NDO’s) and Neighbourhood Development Plans (“NDP’s”) in relation to designated Neighbourhood Areas (“NA’s”). The powers came into force on 6 April 2012 through the commencement of the Neighbourhood Planning (General) Regulations 2012 (“the Regulations”).

4. A NDP is a plan which sets out policies in relation to the development and use of land in the whole, or part of, a NA. It may contain a range of policies or proposals for land use development that will carry weight in the determination of planning applications. NDO’s grant planning permission in relation to a particular NA for development specified in the Order or for a class of development specified in the Order. Both NDP’s and NDO’s must be in general conformity with the strategic policies in the development plan for the relevant area.

Neighbourhood Plan preparation stages

5. Section 61F of the Act provides that a local planning authority may designate an organisation or body as a NF if the conditions in subsection (5) are satisfied. In deciding whether to designate an organisation/body, it must have regard to the matters set out in subsection (7).

6. Section 61G of the Act sets out the powers and duties of local planning authorities in relation to the designation of NA’s. Sub-section (4) sets out a number of considerations which the local planning authority must have regard to.
in determining an application for the designation of a specified area as a NA. The local planning authority is not obliged to designate the entire area specified in the application, but if it refuses to do so, it must give its reasons for that decision and must use its powers to secure that some or all of the specified area forms part of one of more designated NA’s.

7. If a body or organisation is designated as a NF for a particular NA, it is authorised to act in relation to that area for the purposes of promoting an NDP/NDO.

8. Once a NA and NF have been designated, the NF may submit a proposal to the local planning authority for the making of a NDP or NDO, which will be submitted for 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. The area in which the referendum takes place must, as a minimum, be the NA to which the proposed Plan/Order relates. The independent examiner considering the proposal must also consider whether the area for any referendum should extend beyond the NA to which the draft Plan/Order relates.

10. 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.

11. The EWNF 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. Following further discussion with the EWNF it was agreed that a revised boundary should be submitted for the NA.

12. The original boundary proposed in 2014 included 5 wards, part of the Elephant and Castle Opportunity Area and part of the Aylesbury Action Area. The area was considered to be too large, covering different types of areas which would not meet the NPPG criteria for designating a neighbourhood area. The Opportunity Area and Action Area already had detailed guidance prepared with proposals either permitted or coming forward. It had not been demonstrated the additional value a neighbourhood plan would provide to these adopted documents. In addition, the area included the centre of Elephant and Castle which contains many businesses, therefore a business area in this location would be more appropriate enabling businesses to have a vote. It was agreed the area should be reduced to cover residential parts of East Walworth, Faraday and Newington wards centring on Walworth Road to the south of the town centre. This provided a more contained area which excludes major permitted sites in the Opportunity and Action Areas and provides a focus for the future neighbourhood plan.

13. The council received a revised application on 14 December 2015 for the designation of a neighbourhood forum and the designation of a neighbourhood area. Officers have liaised with the EWNF following the submission to clarify elements of the application which will enable the applications to be validated and proceed to consultation stages. The council was unable to start consultation on the applications upon receipt of the information due to entering the pre-election period prior to the Mayoral elections on 5 May. The applications are now being progressed to consultation as soon as possible after this period has ended.
14. The council has decided that it is more appropriate to consider the applications for the designation of the area and the forum separately to ensure the neighbourhood forum is the most appropriate and representative forum for the neighbourhood area. This is why two reports have been prepared; one in relation to the forum and another in relation to the area.

15. The neighbourhood area proposed by the EWNF is shown on the map accompanying the application (Appendix B). The proposed neighbourhood area is designed with the intention to create a “Walworth Neighbourhood Plan”.

16. Areas designated as Neighbourhood Areas must not overlap with each other (s.61G(7)).

17. The Council may, in determining an application for a NA, modify designations already made (s.61G(6)), but it must have regard to the desirability of maintaining the existing boundaries of areas already designated as NA’s (s.61G(4)(b)).

18. Regulation 6 of the Neighbourhood Planning (General) Regulations 2012 (as amended) requires local planning authorities, as soon as possible after receiving a NA 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.

19. The Council has determined that applications for NA’s should be considered at the community council or community councils covering the area. The council considers that such consultation, in addition to the publication of the application on its website, 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

20. A local planning authority may only consider an application for designation as a NA if the application has been made by an organisation or body which is, or is capable of being, designated as a NF in respect of the area specified in the application.

21. Whilst no decision has yet been made as to whether the EWNF should be designated as a NF, the Council considers that the EWNF is capable of being designated as a NF in that it satisfies the requirements of section 61F(5) of the 1990 Act.

22. 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 NA. The application is also accompanied by a statement from the EWNF 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.
23. The council does not propose to make a decision as to whether to designate the area as a NA/NF until the period for making representations has expired and any representations received have been considered.

Designating the neighbourhood area as a Business Area

24. When a local planning authority designates an area as a NA pursuant to section 61G, it must consider whether to designate that area as a Business Area (s.61H).

25. 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.

26. Any decision as to whether to designate the area specified in this application for as a Business Area will be taken after the consultation period has come to an end to enable any relevant representations to be made in this respect.

Consultation

27. The proposal to create the NA/NF will be publicised on the council’s website for a period of 6 weeks. The council’s Planning Committee and Borough, Bankside and Walworth Community Council will be consulted as part of the application. Notification of the application and details of how to send representations will be sent to all those on the planning policy email database.

28. The area designation will be considered by local Ward councillors at the Community Council.

Decision making

29. The council’s Neighbourhood Planning Decision Making report of 4 September 2012 outlines at paragraph 17 the decision making process. The report is contained at Appendix C of this report. Decision one requires an IDM (relevant portfolio holder) to approve the application for consultation. This is consistent with Regulation 6 of the neighbourhood planning regulations. The neighbourhood forum must submit an application to include:

- A map identifying the area
- A statement explaining why this area is important to be designated
- 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).

30. The EWNF have submitted the following information to accompany the neighbourhood area application:

- A map identifying the area
- Application form which includes the statements required above
- Appendices and reports on consultation and meetings to accompany the application.

31. Following consultation a further IDM decision will be required to consider the consultation responses and decide whether to designate the area as a NA. This
decision should take place within 13 weeks from the date the application is first publicised.

**Equalities/human rights**

32. The Equality Act 2010 introduced the public sector equality duty, which merged existing race, sex and disability equality duties and extended them to include other protected characteristics; namely age, gender reassignment, pregnancy and maternity, religion and belief and sex and sexual orientation, including marriage and civil partnership. In summary those subject to the equality duty, which includes the council, must in the exercise of their functions: (i) have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; and (ii) foster good relations between people who share a protected characteristic and those who do not.

33. The consultation that this report will permit is intended to be accessible. The application shall be publicised on the council’s website and representations shall be invited from the council’s Planning Committee and the community council’s for Borough, Bankside and Walworth. Furthermore notification of the application and details of how to send representations will also be sent to all those on the planning policy email database.

33. The Human Rights Act 1998 imposed a duty on the council as a public authority to apply the European Convention on Human Rights; as a result the council must not act in a way which is incompatible with these rights. The consultation that this report will permit is not considered to be contrary to the Act.

**Financial implications**

34. There will be some financial implications in terms of internal resourcing for supporting neighbourhood planning and the handling of applications. Later stages of the neighbourhood planning process, including the determination of a neighbourhood plan will include a local referendum. However the council are eligible to claim for central Government grant funding up to a total cost of £30,000 per scheme.

**SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

**Director of Law and Democracy**

35. The recommendation requests that the Cabinet Member for Regeneration and New Homes notes the application to designate the area identified on the plan at Appendix A as a neighbourhood area and that the Cabinet Member agrees to publicise the application in accordance with Regulation 6 of the Neighbourhood Planning (General) Regulations 2012 and the Council’s Neighbourhood Planning Decision Making report of 13 September 2012.

36. On 14 December 2015 EWNF submitted a revised application to the council for the designation of a NA/NF for Elephant and Walworth.

37. In order to progress the neighbourhood planning process (and subject to the Cabinet Member’s approval of the recommendation) this application is to be publicised in accordance with Regulation 9 of the Neighbourhood Planning (General) Regulations 2012. A period of at least 6 weeks (from the date of first publication) must be allowed for representations to be made.
38. During the consultation period comments will be sought from the public, Planning Committee and the respective Community Council’s. Any comments will then be fully considered by the Cabinet Member before a decision is made.

39. It is only after the period of publicity that the local planning authority will be in a position to consider the representations received and determine the application for designation of the NA/NF.

40. Paragraph 7 (Part 3 (D)) of the Southwark Constitution 2012/13 provides that it is the role and function of the Cabinet Member to agree to significant policy issues in relation to their area of responsibility. Paragraph 16 of this part delegates to the Cabinet Member for Regeneration and New Homes responsibility for the approval of responses to consultation documents from bodies relating to significant changes affecting their portfolio area.

41. Further, decisions 1 and 2 of (Table A), paragraph 17, of the “Neighbourhood Planning – Council Decision Making Report” clearly states that the decision to accept an application for an NA/NF and consult upon such applications can be taken at Individual Cabinet Member Decision level. It is therefore considered that the recommendation sought in this report fall within the Cabinet Member’s decision-making remit.

**Strategic Director of Finance and Governance**

42. This report is seeking approval from the cabinet member for regeneration and new homes to note the application (Appendix A) from the Elephant and Walworth Neighbourhood Forum “EWNF” for the designation of the Walworth Neighbourhood Plan Area and to publicise the Neighbourhood Area application, as detailed in the report.

43. The strategic director of finance and governance notes the financial implication that all staff related costs will be contained within the grant funding of £30k.

44. Any other costs connected with this recommendation to be contained within existing departmental revenue budgets.
BACKGROUND DOCUMENTS

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<th>Background Papers</th>
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<tr>
<td>The Localism Act</td>
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<td>The Neighbourhood Planning Regulations</td>
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APPENDICES

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<tr>
<td>Appendix A</td>
<td>The EWNF Neighbourhood Area application</td>
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<td>Appendix B</td>
<td>The Neighbourhood Area Map</td>
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<td>Appendix C</td>
<td>Council’s Neighbourhood Planning Decision Making report of 4 September 2012 - available online at: [link]</td>
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AUDIT TRAIL

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<tr>
<th>Lead Officer</th>
<th>Simon Bevan, Director of Planning</th>
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<tr>
<td>Report Author</td>
<td>Laura Hills, Senior Planning Policy Officer</td>
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CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER

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Date final report sent to Constitutional Team 10 May 2016