

<b>Item No.</b> 7.	<b>Classification:</b> Open	<b>Date:</b> 5 July 2016	<b>Decision Taker:</b> Planning Committee
<b>Report title:</b>		Neighbourhood Planning – Applications to designate the Elephant and Walworth Neighbourhood Forum and a Neighbourhood Area for Walworth	
<b>Ward(s) or groups affected:</b>		Newington, East Walworth and Faraday	
<b>From:</b>		Director of Planning	

## RECOMMENDATION

The Planning Committee is asked to:

1. Note and comment on the two applications (Appendices A and B) for the designation of the Elephant and Walworth Neighbourhood Forum “EWNF” and the designation of the Walworth Neighbourhood Area (Appendix C), with reference to the criteria set out in the council’s neighbourhood planning decision making report dated 4 September 2012.
2. Note that the consultation on the forum and area applications is open from 15 June 2016 to 27 July 2016.

## 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 (“NFs”) to initiate the process for making Neighbourhood Development Orders (NDOs”) and Neighbourhood Development Plans (“NDPs”) in relation to designated Neighbourhood Areas (“NAs”). The powers came into force on 6 April 2012 through the commencement of the Neighbourhood Planning (General) Regulations 2012 (“the Regulations”).
4. An NDP is a plan which sets out policies in relation to the development and use of land in the whole, or part of, an NA. It may contain a range of policies or proposals for land use development that will carry weight in the determination of planning applications. NDOs 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 NDPs and NDOs 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 NAs. 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 NAs.

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 a 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 the council 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 have enabled the applications to be validated and proceed to consultation stages.
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.

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

#### **Neighbourhood area application**

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 NAs (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.

#### **Neighbourhood forum application**

19. The council may, in determining an application for a NF, consider whether the organisation or body meets a number of conditions outlined in Section 61(F) of the Localism Act 2011. This includes whether it is established for the express purpose of promoting or improving the social, economic and environmental wellbeing of an area; its membership is open to individuals who live, work or have been elected to represent the area and its membership includes a minimum of 21 individuals each of whom live, work or have been elected to represent the area. The forum must also have a written constitution (this submission is attached as Appendix D of the report). Furthermore, the council 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 from each of the categories set out within this paragraph, whose membership is drawn from different places in the neighbourhood area concerned and from different sections of the community in that area whose purpose reflects (in general terms) the character of that area.
20. Regulation 9 of the Neighbourhood Planning (General) Regulations 2012 requires local planning authorities, as soon as possible after receiving an NF 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. The council's Neighbourhood Planning Decision Making report of 4 September 2012 sets a period of at least 6 weeks (from the date on which the application was first publicised) to be allowed for the receipt of representations in relation to the application.

21. The council has determined that applications for NAs and NFs should be considered at the community council 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 61F and 61G**

22. 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.
23. 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.
24. The application for designation is accompanied by a map which identifies the neighbourhood area to which the application relates and a statement by the applicant(s) explaining why that area is considered appropriate for designation. 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.
25. 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**

26. 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).
27. 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.
28. Any decision as to whether to designate the area specified in this application 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**

29. The proposal to create the NA/NF is open for consultation from 15 June to 27 July 2016 and is publicised on the council's website. The council's Planning Committee and Borough, Bankside and Walworth Community Council are being consulted as part of the applications. Notification of the applications and details of how to send representations has also been sent to all those on the planning policy email database.

## Decision-making

30. 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 E of this report. Decision one requires an IDM (relevant portfolio holder) to approve the applications for consultation. This is consistent with Regulation 6 of the neighbourhood planning regulations. The neighbourhood forum must submit applications to include:

### Area application

- 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).

### Forum application

- The name of the proposed forum
- A copy of the written constitution of the proposed forum
- The name of the neighbourhood area to which the application relates and a map identifying the area
- The contact details of one member of the forum to be made public
- A statement to explain how the forum meets the conditions contained in the Act (as applied by section 38A of the 2004 Act).

31. The EWNF have submitted the following information to accompany the neighbourhood area and forum applications:

### 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.

### Forum application

- A map identifying the area
- Application form which includes the statements required above and the name of the proposed forum
- Appendices and reports on consultation and meetings to accompany the application
- The written constitution of the forum
- The contact details of one member of the forum to be made public
- A list of 21 members.

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

## **Financial implications**

33. 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**

34. The recommendation requests that the council's planning committee note and comment on the applications for the designation of the Elephant and Walworth Neighbourhood Forum and Walworth Neighbourhood Area with reference to the criteria set out in the council's neighbourhood planning decision making report dated 4 September 2012.
35. As part of the neighbourhood planning process, the applications have been publicised in accordance with the Neighbourhood Planning (General) Regulations 2012, which require a consultation period of at least 6 weeks. As part of this consultation process, the council's planning committee has been asked to provide their comments on the application for both the neighbourhood forum and the neighbourhood area. Any comments will be fully considered by the Cabinet Member for Regeneration and New Homes before a decision to approve the forum and/or the area is made.
36. 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.
37. 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. This consultation is not considered to be contrary to the Act.
38. The consultation exercise being undertaken by the council is intended to be inclusive and requesting representations from the council's planning committee is intended to further this objective.

### **Strategic Director of Finance and Governance (CE16/012)**

39. The report is requesting Planning Committee to note and comment on the two applications (Appendix A and B) for the designation of the Elephant and

Walworth Neighbourhood Forum “EWNF” and the designation of Walworth Neighbourhood Area (Appendix C) as detailed in the report.

40. The strategic director of finance and governance notes the financial implication that all staff related costs will be contained within current resources and the available grant funding of £30k.
41. Any other costs connected with this recommendation to be contained within existing departmental revenue budgets.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
The Localism Act	<a href="http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted">http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted</a>	Laura Hills 020 725 0043
The Neighbourhood Planning Regulations	<a href="http://www.legislation.gov.uk/uksi/2012/637/contents/made">http://www.legislation.gov.uk/uksi/2012/637/contents/made</a>	Laura Hills 020 725 0043

## APPENDICES

No.	Title
Appendix A	The EWNF Neighbourhood Forum application
Appendix B	The EWNF Neighbourhood Area application
Appendix C	The Neighbourhood Area Map
Appendix D	The written constitution of the forum
Appendix E	Council’s Neighbourhood Planning Decision Making report of 4 September 2012. Available online at: <a href="http://www.southwark.gov.uk/downloads/download/3356/neighbourhood_planning">http://www.southwark.gov.uk/downloads/download/3356/neighbourhood_planning</a>

## AUDIT TRAIL

<b>Lead Officer</b>	Simon Bevan, Director of Planning	
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<b>Version</b>	Final	
<b>Dated</b>	16 June 2016	
<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 Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	No	No
<b>Date final report sent to Constitutional Team</b>		16 June 2016