

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date</b> 6 March 2015	<b>Decision Taker:</b> Cabinet Member for Planning, Regeneration and Transport:
<b>Report title:</b>		Neighbourhood Planning – Council Decision Making.	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Director of Planning	

**RECOMMENDATIONS**

1. The recommendation of the report requests that the Cabinet Member for Planning, Regeneration and Transport:
2. Agrees the proposed timetable processes for determining applications for a Neighbourhood Area or Neighbourhood Forum set out in the New Table A at paragraph 19 of the report pursuant to the Neighbourhood Planning (General)(Amendment) Regulations 2015 ; and
3. Agrees the consequential amendments to the original Table A set out in paragraph 17 of the Neighbourhood Planning – Council Decision Making Report approved by the Leader of the Council on 13 September 2012 pursuant to the Neighbourhood Planning Regulations 2012 (see Appendix A of the report) now comprised in the New Table A at paragraph 15.

**BACKGROUND INFORMATION**

4. 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.
5. 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.

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. In deciding whether to designate an organization/body, it must have regard to certain prescribed matters set out in subsection (7).
7. Section 61G of the 1990 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 when 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 if it does not consider it appropriate to do so, but if it refuses to designate the entire area for this reason, 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 Areas. 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/Order.
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. On 9 February 2015 the Neighbourhood Planning (General)(Amendment) Regulations 2015 came into force. The 2015 Regulations amend the 2012 Regulations in certain ways. In particular, the 2015 Regulations insert a new provision – Regulation 6A - into the 2012 Regulations, which requires local authorities to determine applications for the designation of Neighbourhood Areas within certain prescribed timescales. It should be noted that the amendments set out in paragraphs 2(2) and 2(3) of the 2015 Regulations do not apply to area applications which were first publicised by the local planning authority under regulation 6 of the 2012 Regulations prior to 9 February 2015. This means that the new Regulation 6A will only apply to area applications which have not already been publicised prior to 9 February 2015.
10. Regulation 6A provides as follows:
  - (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.”

## **KEY ISSUES FOR CONSIDERATION**

11. In light of the timescales introduced by the 2015 Regulations, the Council proposes the introduction of procedures to ensure that applications for Neighbourhood Areas and Neighbourhood Forums can be determined within the prescribed timescales. While the new Regulations relate to Neighbourhood Area applications only, the Council proposes to apply the new procedure to applications for Neighbourhood Forums as well to ensure consistency. It is considered that the most relevant timescale in Southwark is likely to be that set out in Regulation 6A(c): 13 weeks, albeit there may be some cross-borough applications that fall under Regulation 6A(a) and require determination within 20 weeks.
12. As a result of the short timescales now prescribed by the Regulations, applications for Neighbourhood Areas and Forums will not be considered at Planning Committee or Community Council(s) as had previously been the case. During the 6-week consultation period, consultation will take place with local residents, stakeholders in the area, statutory bodies and elected members. The final decision to designate an Area or Forum (or both) will be made using the IDM (Individual Decision Maker) process, and signed off by the relevant portfolio holder.
13. Where a Neighbourhood Area application falls within the areas of two or more local planning authorities (i.e. Southwark and one of its adjoining boroughs), the portfolio holders from the relevant boroughs will meet to consider whether a joint response can be made to the Forum. Both boroughs must designate the Forum for it to be able to operate within the area proposed. Paragraph 5(a) of the new Regulations allows 20 weeks for applications determined in this scenario.
14. The processes for neighbourhood planning and timetable for processing an application for a Neighbourhood Area or Forum are set out in the new Table A below along with the type of decision required by the local authority and the relevant decision maker.
15. The original Neighbourhood Planning – Council Decision Making Report approved by the Leader of the Council on 13 September 2012 (which set out the neighbourhood planning process agreed in 2012) is attached at Appendix A.

## **APPLICATION FOR DESIGNATION OF A NEIGHBOURHOOD AREA OR FORUM**

16. Timetable for an application for a neighbourhood area or forum:

		<b>Previous procedure</b>	<b>Amended process under new Regulations</b>
Decision 1	<p><b>Application for designation of a Neighbourhood Area</b></p> <p><b>Process</b> Where a relevant body submits an application to the local planning authority. It must include:</p> <ul style="list-style-type: none"> <li>• A map identifying the area</li> <li>• A statement explaining why this area is considered appropriate to be designated</li> <li>• 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)</li> </ul> <p>As soon as possible after receiving an area application from a relevant body a local planning authority must publicise on their website and any other ways considered relevant: a copy of the application, details of how to make representations and the date by which they must be received,</p> <p><b>Criteria for decision making</b></p> <ul style="list-style-type: none"> <li>• Has the map been submitted identifying the area?</li> <li>• Has the statement explaining why this area is considered appropriate to be designated been submitted?</li> <li>• Has the statement that the organisation or body is relevant for the purposes of the 1990 Act been submitted?</li> <li>• Is there already a neighbourhood plan covering this area?</li> <li>• How do the boundaries relate to current and proposed planning designations?</li> </ul>	<p>An IDM (relevant portfolio holder) to agree the application for 6 weeks consultation</p> <p>Planning committee and community council need to be consulted as part of the consultation.</p> <p>An IDM (relevant portfolio holder) decision to consider the consultation responses and decide whether to designate an area.</p>	<p><b>Week 0</b> The LPA checks the application against the criteria in 61(G) of the Town and Country Planning Act 1990 and Regulation 5 of the Neighbourhood Planning (General) Regulations 2012. The 13 weeks does not start until the application has first been publicised in accordance with Regulation 6 of the 2012 Regulations.</p> <p><b>Week 1</b> The valid application will be published on the Council's website.</p> <p><b>Week 2</b> Delegated report recommending consultation</p> <p><b>Week 3</b> <b>Commence 6 week consultation</b> Consultation is undertaken with local residents, elected members, statutory bodies and key stakeholders.</p> <p><b>Week 9</b> Collate feedback</p> <p><b>Week 10</b> Consider feedback LPA prepares a report for sign-off by the Individual</p>

	<ul style="list-style-type: none"> <li>• Is the proposed area appropriate?</li> <li>• Should the area be a business area?</li> </ul> <p>Would a business referendum be required?</p> <p><b>Publicising the application</b> As soon as possible the council must publicise on the website and in any other ways considered relevant the name of the neighbourhood area, a map, the name of the body who applied for the designation.</p> <p><b>Publicising designation</b> As soon as possible after designating a neighbourhood area, a local planning authority must publish the following on their website and in such other manner as they consider is likely to bring the designation to the attention of people who live, work or carry on business in the neighbourhood area— (a) the name of the neighbourhood area; (b) a map which identifies the area; and (c) The name of the relevant body who applied for the designation.</p> <p><b>Publicising refusal to designate</b> As soon as possible after deciding to refuse to designate a neighbourhood area a local planning authority must publicise on their website and in any other way considered relevant a document setting out the decision and a statement of their reasons for making that decision (“the Decision Document”) along with details of where and when the Decision Document may be</p>		<p>Decision Maker (IDM).</p> <p>This takes 3 weeks</p> <p><b>Week 13</b> Cabinet Member for Regeneration, Planning and Transport signs off final IDM report and the decision is taken to designate or not to designate the area subject to the application.</p>
--	---	--	---

	inspected		
Decision 2	<p><b>Application for designation of a Neighbourhood Forum Application</b></p> <p>Where an organisation or body submits an application to the local planning authority it must include</p> <ul style="list-style-type: none"> <li>• The name of the proposed forum</li> <li>• A copy of the written constitution of the proposed forum</li> <li>• The name of the neighbourhood area to which the application relates and a map identifying the area</li> <li>• The contact details of one member of the forum to be made public</li> <li>• A statement to explain how the forum meets the conditions contained in the 1990 Act</li> </ul> <p><b>Criteria for decision making</b></p> <ul style="list-style-type: none"> <li>• Has the name of the proposed forum been submitted?</li> <li>• Has a copy of the written constitution of the proposed forum been submitted?</li> <li>• Has the name of the neighbourhood area to which the application relates and a map identifying the area been submitted?</li> <li>• Have the contact details of one member of the forum to be made public been submitted?</li> <li>• Is there a statement to explain how the forum meets the conditions contained in the 1990 Act. These should include whether it is established for the purpose of promoting or improving the social, economic and environmental wellbeing of the neighbourhood area. Whether its membership is</li> </ul>	<p>An IDM (relevant portfolio holder) to agree the application for 6 weeks consultation</p> <p>An IDM (relevant portfolio holder) decision to consider the consultation responses and decide whether to designate the organisation or body as a Neighbourhood Forum.</p>	<p><b>Week 0</b> The LPA checks the application against the criteria in 61(F) of the Town and Country Planning Act 1990 and Regulation 8 of the Neighbourhood Planning (General) Regulations 2012.</p> <p>The 13 weeks does not start until the application has first been publicised in accordance with Regulation 6 of the 2012 Regulations.</p> <p><b>Week 1</b> The valid application will be published on the Council's website.</p> <p><b>Week 2</b> Delegated report recommending consultation</p> <p><b>Week 3</b> <b>Commence 6 week consultation</b> Consultation is undertaken with local residents, elected members, statutory bodies and key stakeholders.</p> <p><b>Week 9</b> Collate feedback</p> <p><b>Week 10</b> Consider feedback LPA prepares a report for sign-off by the Individual</p>

	<p>open to individuals who live, work, and/or are elected to the area?</p> <ul style="list-style-type: none"> <li>• Does membership include a minimum of 21 individuals who live or work in the area or are an elected member?</li> <li>• Does it have a written constitution?</li> <li>• Is membership drawn from different places in the neighbourhood and from different sections of the community?</li> <li>• Does the purpose reflect the character of the area?</li> <li>• Is there already a neighbourhood forum for that area?</li> </ul> <p>A local planning authority may withdraw an organisation's designation if they consider that it is no longer meeting the criteria above or other criteria that the authority are required to have regard in making a designation. If this were to be the case the local planning authority has to give reasons.</p> <p><b>Publicising the application</b> As soon as possible after receiving a neighbourhood forum application, which the LPA do not decline to consider under Regulation 11, a local planning authority must publish on the website and in any other way it considers appropriate:</p> <ul style="list-style-type: none"> <li>• A copy of the application</li> <li>• A statement that if a designation is made no other organisation or body may be designated for that neighbourhood until it expires or is withdrawn</li> <li>• Details of how to make representation</li> <li>• The date by which those representations must be received not being less than 6</li> </ul>		<p>Decision Maker (IDM).</p> <p>This takes 3 weeks</p> <p><b>Week 13</b> Cabinet Member for Regeneration, Planning and Transport signs off final IDM report and the forum subject of the application is designated, or designation is refused.</p>
--	--	--	--

	<p>weeks from the date the application is first publicised.</p> <p><b>Publicising the designation</b>  As soon as possible after designating a neighbourhood forum a local planning authority must publish the following on the website and in any other way it considers appropriate:</p> <ul style="list-style-type: none"> <li>• The name of the neighbourhood forum</li> <li>• A copy of the written constitution</li> <li>• The name of the area</li> <li>• Contact details for at least 1 member</li> <li>• A statement setting out the decision and the reasons</li> <li>• Details of where and when the decision statement/refusal statement may be inspected</li> </ul> <p><b>Publicising refusal to designate</b>  As soon as possible after deciding to refuse to designate a neighbourhood forum a local planning authority must publicise on their website and in any other way considered relevant a document setting out the decision and a statement of their reasons for making that decision (“the Decision Document”) along with details of where and when the Decision Document may be inspected</p>		
	The following section is identical to that approved on 13 September 2012		
Decision		Type of Decision	
Decision 3	<p><b>Subsequent applications</b>  Where a Neighbourhood Forum has been designated in relation to a Neighbourhood Area and that designation has not expired or been withdrawn, a local planning authority may decline to consider any other Neighbourhood Forum</p>	IDM (relevant portfolio holder)	



	applications made in relation to that Neighbourhood Area.	
Decision 4	<p><b>Voluntary withdrawal of designation</b></p> <p>Where a Neighbourhood Forum gives notice to a local planning authority that it no longer wishes to operate the local planning authority must withdraw the designation as soon as possible and publish the following on the website and in any other way it considers appropriate</p> <ul style="list-style-type: none"> <li>• A Withdrawal Statement, setting out the reasons for withdrawal</li> <li>• Details of where withdrawal statement can be inspected</li> </ul>	IDM (relevant portfolio holder)
Decision 5	<p><b>Neighbourhood development plans - Pre-submission consultation and Publicity</b></p> <p>Before submitting a plan proposal to the local planning authority a Neighbourhood Forum must publicise to people who live, work or use the area the following</p> <ul style="list-style-type: none"> <li>• Details of the proposals</li> <li>• Details of where and when the proposals may be inspected</li> <li>• Details of how to make representations</li> <li>• The date by which those representations must be received (at least 6 weeks)</li> <li>• Consult consultation bodies in schedule 1 paragraph 1 of the regulations</li> <li>• Send a copy of the proposals to the local planning authority</li> </ul> <p><b>Neighbourhood development plans - publicising plan proposals</b></p> <p>As soon as possible after receiving a plan proposal which includes each of the documents referred to in Regulation 15(1) of the Neighbourhood Planning (General) Regulations, the local planning authority must publicise the proposal on its website and in such other manner as they consider is likely to bring the proposal to the attention of people who live, work or carry on business in the neighbourhood area.</p> <p><b>Criteria for decision making</b></p> <p>Does the proposal include</p> <ul style="list-style-type: none"> <li>• A map or statement which identifies the area?</li> <li>• A consultation statement which must contain details of who was consulted, how and the main issues and concerns along with how they have been addressed in the Plans?</li> </ul>	IDM (relevant portfolio holder) Consultation will be for 6 weeks

	<ul style="list-style-type: none"> <li>• The proposed neighbourhood development plan?</li> <li>• A statement explaining how the Plan meets the requirements of the 1990 act (as applied by section 38A of the 2004 Act) schedule 8 of paragraph 4B?</li> </ul> <p>If the criteria are satisfied, the local planning authority must publicise the following:</p> <ul style="list-style-type: none"> <li>• Details of the plan proposal</li> <li>• Where and when it may be inspected</li> <li>• Details of how to make representations</li> <li>• A statement that representations may include a request to be notified under regulation 19</li> <li>• The date for representations to be received (being not less than 6 weeks from the date on which the plan proposal is first publicised)</li> <li>• Notify any consultation body referred to in Consultation statement that plan proposals have been received.</li> </ul>	
Decision 6	<p><b>Appointment of examiner and submission of neighbourhood plans for examination</b></p> <p>The local authority must appoint an examiner as soon as possible to carry out an examination under paragraph 7 of schedule 4B to the 1990 act (as applied by section 38A of the 2004 Act). The authority can only appoint a person to carry out the examination if the qualifying body consents to the appointment. If no consent is forthcoming, the Secretary of State may appoint an examiner.</p> <p>The local authority must send the following to the examiner:</p> <ul style="list-style-type: none"> <li>• The neighbourhood plan proposal</li> <li>• The documents referred to in regulation 15(1) and any other document submitted to the local Planning authority by the qualifying body in relation to the Plans proposal.</li> <li>• The Conservation of Habitats and Species information if relevant</li> <li>• Copies of representations which have been made in accordance with regulation 16.</li> </ul>	Chief officer Technical decision who to appoint
Decision 7 (non LPA Decision)	<p><b>Examination Criteria for decision making</b></p> <ul style="list-style-type: none"> <li>• The neighbourhood plan must have regard to national planning policy</li> <li>• The neighbourhood plan must be in general conformity with strategic policies in the development Plans for the local area (i.e. such as in a core strategy)</li> <li>• The neighbourhood plan must be compatible with EU obligations and human rights requirements</li> </ul>	Examiner

	<ul style="list-style-type: none"> <li>• Consultation requirements must have been carried out in accordance with the Act and Regulations.</li> </ul>	
Decision 8	<p><b>Consideration of recommendations made by the examiner</b></p> <p>The local planning authority must consider each of the recommendations made in the examiner's report (and the reasons for them) and decide what action to take in response to each recommendation.</p> <p>If the local planning authority propose to make a decision which differs from that recommended by the examiner and the reason for the difference is (wholly or partly) as a result of new evidence or a new fact or a different view taken by the authority as to a particular fact, the authority must notify prescribed persons of their proposed decision (and the reason for it) and invite representations. If the authority considers it appropriate to do so, they may refer the issue to independent examination. This does not apply in relation to recommendations as to the referendum area.</p>	IDM (relevant portfolio holder)
Decision 9	<p><b>Neighbourhood development plans – referendum</b></p> <p>If the local planning authority is satisfied that the draft plan meets the conditions in paragraph 8(2) of Schedule 4B to the 1990 Act, is compatible with Convention rights and complies with the provisions in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004, or that the draft plan would meet those conditions if modifications were made to it (whether or not recommended by the examiner), a referendum must be held on the making of the neighbourhood plan.</p> <p>The local planning authority can modify the proposed plan in the ways set out in paragraph 12(6) to Schedule 4B to the 1990 Act.</p> <p>If the draft neighbourhood plan relates to an area which has been designated as a business area, an additional referendum must be held in accordance with paragraph 15 of Schedule 4B to the 1990 Act</p> <p>Local planning authorities may decline to consider proposals submitted to them if they consider them to be repeat proposals, pursuant to paragraph 5 in Schedule 4B to the 1990 Act.</p>	IDM (relevant portfolio holder)

	<p>Local planning authorities must consider whether the proposal complies with the requirements in paragraph 6 of Schedule 4B to the 1990 Act. It must notify the qualifying body as to whether or not the requirements are satisfied. If the requirements are not satisfied, it must refuse the proposal and notify the body of its reasons for refusal.</p> <p><b>Criteria for decision making</b></p> <ul style="list-style-type: none"> <li>• Is the draft plan a 'repeat proposal' (as defined in paragraph 5 of Schedule 4B to the 1990 Act)? [if so, the authority can decline to consider it]</li> <li>• Is the proposal made by a qualifying body under s.61F of the 1990 Act? [if not, the proposal must be refused]</li> <li>• Does the proposal comply with the provisions of s.61F? [if not, the proposal must be refused]</li> <li>• Does the proposal and the documents and information accompanying it comply with the provisions in paragraph 1 of Schedule 4B to the 1990 Act? [if not, the proposal must be refused]</li> <li>• Has the draft plan been publicised in accordance with paragraph 4 of Schedule 4B to the 1990 Act? [if not, the proposal must be refused]</li> <li>• having regard to national policies and advice contained in guidance issued by the Secretary of State, is it appropriate to make the order?</li> <li>• Does the making of the order contribute to the achievement of sustainable development?</li> <li>• Is the making of the order in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)?</li> <li>• Does the making of the order breach EU obligations?</li> <li>• Does the draft neighbourhood plan specify the period for which it is to have effect?</li> <li>• Does the draft neighbourhood plan include</li> </ul>	
--	--	--

	<p>provision about development that is excluded? [it must not]</p> <ul style="list-style-type: none"> <li>• Does the draft neighbourhood plan relate to more than one neighbourhood area? [it must not]</li> <li>• Is there already a neighbourhood development plan in place for that neighbourhood area? [there must be only one neighbourhood plan in respect of each neighbourhood area]</li> <li>• If to any extent a policy set out in a neighbourhood development plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy.</li> </ul> <p><b>Conduct of the referendum</b>  If the authority is satisfied that the relevant criteria have been met, it must hold a referendum on the draft neighbourhood plan, subject to any modifications it considers appropriate (any such modifications to the plan are subject to the restrictions in paragraph 12(6) of Schedule 4B to the 1990 Act).</p> <p>The area in which the referendum (or referendums) take place must, as a minimum, be the neighbourhood area to which the draft neighbourhood plan relates.</p> <p>The referendum must be conducted in accordance with the Neighbourhood Planning (Referendum) Regulations 2012 (as amended).</p> <p>The local planning authority may extend the area in which the referendum is (or referendums are) to take place to include other areas (whether or not those areas fall wholly or partly outside the authority's area). If it decides to extend the referendum area it must publish a map of that area.</p>	
Decision 10	<p><b>Neighbourhood development plans -Decision on a plan proposal</b>  A local planning authority must make a neighbourhood development plan as soon as reasonably practicable after the referendum if in each of the applicable referendum more than half of those voting have voted in favour of the plan, unless they consider that making the plan would</p>	Cabinet

	<p>breach, or be otherwise incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).</p> <p>If there are two applicable referendums (because the plan relates to a neighbourhood area designated as a business area), and in one of those referendums (but not the other) more than half of those voting have voted in favour of the plan, the local planning authority may (but need not) make the neighbourhood development plan.</p> <p><b>Publicising the decision</b> The local planning authority must publicise their decision and the reasons for the decision and must send a copy of the decision and reasons for the decision to the qualifying body that initiated the process and to other prescribed persons</p> <p><b>Neighbourhood development plan – Publicising the Examiner report and Decision</b> As soon as possible after deciding to make a plan or refuse to make a plan a local planning authority must</p> <ul style="list-style-type: none"> <li>• Publish the following documents on their website and in any other way it considers appropriate <ul style="list-style-type: none"> <li>- A statement setting out the decision and their reasons – the decision statement</li> <li>- The report by the examiner</li> <li>- Details of where and when the decision statement may be inspected</li> </ul> </li> <li>• Send a copy of the decision statement to the qualifying body and any person who asked to be notified of the Decision.</li> </ul> <p><b>Publicising a neighbourhood development plan</b> As soon as possible after making a neighbourhood development plan under section 38A(4) of the 2004 Act the local authority must</p> <ul style="list-style-type: none"> <li>• Publish on the website and in whatever way they consider appropriate to bring it to the attention of people who live, work or carry out business in the area <ul style="list-style-type: none"> <li>- The Neighbourhood development plan</li> <li>- Details of where and when the plan can be inspected</li> </ul> </li> <li>• Notify any person who asked to be notified where and when it may be inspected.</li> </ul>	
Decision 11	<p><b>Publicising a modification to the neighbourhood development plan (Reg 30)</b> •As soon as possible after modifying a</p>	IDM (relevant portfolio holder)

	<p>neighbourhood development plan a local planning authority must publish on their website and in any other way it considers appropriate</p> <ul style="list-style-type: none"> <li>- A document setting out details of the modification 'the modification document'</li> <li>- Details of where and when the modification document may be inspected</li> </ul> <p>• The local planning authority must also send a copy of the decision statement to the qualifying body and any person who was previously notified of the making of the neighbourhood development plan.</p>	
Decision 12	<p><b>Publicising revocation of the neighbourhood development plan (reg 31)</b></p> <ul style="list-style-type: none"> <li>• As soon as possible after the revocation of a neighbourhood development plan a local planning authority must publish on their website and in any other way it considers appropriate <ul style="list-style-type: none"> <li>- A document setting out details of the revocation 'the revocation document'</li> <li>- Details of where and when the revocation document may be inspected</li> </ul> </li> <li>• The local planning authority must also send a copy of the revocation document to the qualifying body and any person who was previously notified of the making of the neighbourhood development plan.</li> <li>• Send a copy of the revocation document to any other person the local planning authority consider necessary to bring the revocation to their attention.</li> <li>• Cease to make the revoked neighbourhood development plan available on their website and at any other place where it was available for inspection.</li> </ul>	IDM (relevant portfolio holder)

## SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

### Director of Legal Services

17. The recommendation of the report requests that the Individual Cabinet Member for Planning, Regeneration and Transport:
18. Agrees the proposed timetable processes for determining an application for a Neighbourhood Area or Neighbourhood Forum set out in the New Table A at paragraph 15 of the report pursuant to the Neighbourhood Planning (General)(Amendment) Regulations 2015 ; and

19. Agrees the consequential amendments to the original Table A set out in paragraph 17 of the Neighbourhood Planning – Council Decision Making Report approved by the Leader of the Council on 13 September 2012 pursuant to the Neighbourhood Planning Regulations 2012 (see Appendix A of the report) now comprised in the New Table A.
20. The Cabinet Member will note that the Leader of the Council approved the decision making for the determination of Neighbourhood Planning within the Borough on the 13 September 2012. The Leaders decision was made in accordance with the extant procedural and legislative provisions in relation to neighbourhood planning pursuant to the Localism Act 2011 (which amended the Town and Country Planning Act 1990) (“the Act”), the Neighbourhood Planning (General) Regulations 2012 No.637 (“the 2012 Regulations”) and the Neighbourhood Planning (Referendum) Regulations 2012.
21. On the 9 February 2015, the Neighbourhood Planning (General) (Amendment) Regulations 2015 (“the 2015 Regulations”) came into effect. The new 2015 Regulations amend the former 2012 Regulations in respect of three discrete areas, namely the consultation period within which representations to a Neighbourhood Area application must be received, the introduction of a prescribed period within which a Neighbourhood Planning Application must be determined by a Local Planning Authority and a requirement for a qualifying body to submit with a proposal for a Neighbourhood Plan either an Environmental report, prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an Environmental Assessment is not required.
22. The Cabinet Member will note, that under the 2015 Regulations the new consultation and determination periods do not apply retrospectively in relation to Neighbourhood Planning Area applications first publicised by the Local Planning Authority under Regulation 6 of the 2012 Regulations. Therefore, a Neighbourhood Area Applications publicised prior to the 9 February 2015 would not be subject to a statutory determination period.
23. Neighbourhood Planning is intended to provide communities with a greater influence over the development of their local area by enabling them to draw up neighbourhood development plans and orders. The Cabinet Member will note that the approval of the recommendation will facilitate implementation of the process of Neighbourhood Planning in the borough and the consequent administrative functions required of the Council set out in the Neighbourhood Planning – Council Decision Making Report approved by the Leader of the Council on 13 September 2012 (see Appendix A). This document sets out the legal basis for each step of the extant approved Neighbourhood Planning Process and is subject to the proposed legislative amendments brought into force by the 2015 Regulations set out below and forming the basis for the recommendation.
24. Paragraph 7 of the report sets out the 2015 Regulations introduction of the new “Prescribed Date”, being the statutory period within which an application for a Neighbourhood Area must be determined by a Local Planning Authority pursuant to Regulation 6A (1) (2) (a-c). Regulations 6A(1) (2) (a & c) are the relevant to sub-sections to applicable to a London Borough such as Southwark.



25. In summary, Regulation 6A(2)(a) provides that where a Neighbourhood Planning application relates to an area that straddles two or more Local Planning Authorities, the Local Authority must determine the application within 20 weeks, from the date immediately following the date on which the application is first publicised. Further, Regulation 6A(2)(c) provides that in all other cases a Neighbourhood Area application must be determined within the period of 13 weeks, from the date immediately following that on which the application is first publicised.
26. Regulation 2(1) of 2015 Regulations provides that representations must be received not less than 6 weeks from the date on which the Neighbourhood Area application is first publicised.
27. As advised in paragraph 10 of the report, the Council now seeks to implement the new statutory periods governing the determination of applications for Neighbourhood Areas, in accordance with the new 2015 Regulations, and will determine applications for Neighbourhood Forums consistently despite the fact that it is not under any statutory obligation to do so.
28. As advised in paragraph 12 of report, a Neighbourhood Area application can extend to more than one borough. In the event that an area application includes an adjoining borough, both boroughs must designate the Neighbourhood Area.
29. In consequence of the new statutory prescribed determination period, the Council will no longer have sufficient time to consult the respective Community Councils and Planning Committee in respect of applications for Neighbourhood Areas and Neighbourhod Forums as set out in the extant Table A, located at paragraph [19 ] of the Neighbourhood Planning – Council Decision Making Report (see Appendix A). The Cabinet Member will note, that although both Planning Committee and the respective Community Councils are currently consulted as part of any publicity or consultation process at each relevant stage, it is considered that the proposal to consult local residents, stakeholders in the area, statutory bodies and elected members will provide adequate consultation.
30. In order to facilitate the new statutory Requirements set out in the 2015 Regulations, the recommendation seeks the Cabinet Member’s approval to replace the extant Neighbourhood Planning Decision Making Process set out in Table A (Appendix A) with the New Table A to incorporate the amendments set out in paragraph 15 of the report, comprising a new timetable and Neighbourhood Planning process.
31. The Cabinet Member is advised that in the event that applications for overlapping areas are submitted to the Council, it may, in determining an application for a Neighbourhood Area, modify designations already made (Section 61G(6) of the Town and Country Planning Act 1990 (“the Act”), but it must have regard to the desirability of maintaining the existing boundaries of areas already designated as Neighbourhood Areas (Section 61G(4)(b) of the Act).
32. A 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 areas designated (or to be designated) as Neighbourhood Areas.

33. Neighbourhood planning is a relatively new legal process, which the Council has a statutory duty to facilitate and administer. The Act, 2015 and 2012 Regulations and the Local Government (Functions and Responsibilities Act) England Regulations 2010 are silent as to the appropriate decision making process. Consequently and given the recent enactment of these provisions, the Southwark Constitution is also silent as to the mode or reservation of such decisions.
34. Broadly speaking key decisions include the designation of Neighbourhood Areas and Neighbourhood Forums, the making of Neighbourhood Development Plans and Neighbourhood Development Orders and the holding of referendums. Consideration has been given to the nature of and the appropriate level at which Neighbourhood Planning decisions can be made, whilst ensuring the process is fair and transparent.
35. The 2015 and 2012 Regulations are directed at the Council as Local Planning Authority, although, most decisions are of an administrative nature and to be taken against a specific set of criteria (e.g. as to the characteristics of a qualifying body that may constitute a forum). Therefore, it is considered that most decisions can be taken either by the Cabinet Member for Regeneration, Planning and Transport or the relevant Chief Officer, presently the Director of Planning.
36. 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.
37. As noted, the decisions set out in the new Table A are not reserved to Council Assembly, Cabinet or any committee. Therefore pursuant to Part 3P: Matters Delegated to Officers of the Constitution it is also appropriate for the relevant Chief Officer, namely the Director of Planning, to make certain decisions concerning Neighbourhood planning. In particular, decisions of a technical nature (i.e. decision 6: appointment of examiner and decision 8: referendums which are decisive) are at this stage recommended for delegation to Chief Officer in consultation with the relevant Cabinet Member for Regeneration, Planning and Transport.
38. Consistently with the Constitution, 'it is the responsibility of and duty of Chief Officers' to ensure that where appropriate matters of a controversial nature, or involving significant changes in policy, are consulted upon with the relevant Cabinet Member and recorded or reported to the Cabinet, Council Assembly an committee as appropriate'.
39. Further, the Cabinet Member will note that, whilst applications for a Neighbourhood Development Plan (post designation of a Neighbourhood Forum or Area) are submitted to the Local Planning Authority, this process does not

entail making new planning policy. Neighbourhood Development Plans must first and foremost be in general conformity with the Core Strategy and the statutory development plan, thus amounting to administrative decisions which do not require the exercise of substantive discretion. Therefore, the implementation of these administrative decision making processes in relation to Neighbourhood Planning falls within the Cabinet Member for Regeneration, Planning and Transport's individual decision making remit and he is advised to approve the recommendations.

40. 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.
41. 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, but only in relation to (a) above.
42. A full equalities assessment has not been carried out at this stage which simply entails approval of internal decision making processes. These decisions are not expected at this stage impact on those with protected characteristics. However, as and when relevant decisions detailed in the new Table A are being taken, full consideration should be given to Equalities Impacts.
43. Neighbourhood planning processes could potentially engage certain human rights 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.
44. The approval of the decision making process set out in the new Table A 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.

#### **Strategic Director of Finance and Corporate Services**

45. There may be financial implications however these are uncertain at present. Each neighbourhood plan would require a referendum paid for by the Council. Neighbourhood planning referendum costs would be similar to a ward election, depending on the size of the area proposed. A ward election would cost around

£25,000 per referendum.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
9 February 2015 Regulations <a href="http://www.legislation.gov.uk/ukSI/2015/20/regulation/2/made">http://www.legislation.gov.uk/ukSI/2015/20/regulation/2/made</a>	Chief Executive's Department. 160 Tooley Street SE1 2QH	Susannah Petit 020 752 55405

## APPENDICES

No.	Title
Appendix 1	IDM report 4 September 2012 <a href="http://www.southwark.gov.uk/downloads/download/3356/neighborhood_planning">http://www.southwark.gov.uk/downloads/download/3356/neighborhood_planning</a>

## AUDIT TRAIL

<b>Lead Officer</b>	Simon Bevan, Director of Planning	
<b>Report Author</b>	Juliet Seymour, Planning policy manager	
<b>Version</b>	Final	
<b>Dated</b>	6 March 2015.	
<b>Key Decision?</b>	Yes	
<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>		6 March 2014