RECOMMENDATION

That the Cabinet Member for Regeneration and New Homes:

1. Notes the application (Appendix A) from the proposed Herne Hill Forum (HHF) for the designation of the Herne Hill Neighbourhood Area identified on the map at Appendix B of this report;

2. Notes the application (Appendix A) from the HHF to be designated as the Neighbourhood Forum for the Herne Hill Neighbourhood Area;

3. Agrees to publicise the application for the Neighbourhood Area and the application for the Neighbourhood Forum in accordance with Regulation 6 and 9 of the Neighbourhood Planning (General) Regulations 2012 (as amended) and the council’s Neighbourhood Planning Decision Making report of 6 March 2015.

BACKGROUND INFORMATION


5. 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

6. Section 61F of the Act provides that a local planning authority may designate an organisation or body as a NF if they are satisfied that it meets the conditions in
subsection (5) are satisfied. The conditions in subsection (5) are: (a) it 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 those area falls within the neighbourhood area concerned; (c) its membership includes a minimum of 21 individuals each of who (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. In deciding whether to designate an organisation/body, a local authority it must have regard to the matters set out in, pursuant to subsection (7), 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 subjection 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.

7. 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.

8. Section 61I of the Act makes provision for NAs in two or more local planning authority areas.

9. 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.

10. 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.

11. 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. The Neighbourhood Planning Act 2017 has imposed a requirement on local authorities to ‘have regard’ to a post examination draft neighbourhood development plan, in so far as it is material to the application.
12. 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.

13. The HHF submitted an application form to both LB Lambeth and LB Southwark due to proposed neighbourhood area covering parts of both boroughs. By virtue of this, the proposed neighbourhood forum membership is comprised of individuals each of whom either live, work or are an elected ward member who represents a part of the proposed neighbourhood area.

14. Following receipt of an application for either a neighbourhood area, neighbourhood forum or both, the designating authorities must both be satisfied that the application is valid according to the requirements set out in subsections 61F(5) of the Town and Country Planning Act 1990 and the Neighbourhood Planning (General) Regulations 2012. Once determined to be valid, the application and related supporting documents must then be publicised for consultation for a minimum of 6 weeks to provide the public with an opportunity to comment prior to the council taking a decision to designate. As the proposed neighbourhood area is situated in more than one local authority area, the designating authorities have 20 weeks in which to make their decision from the date of initial publication.

15. An application to obtain legal status as a neighbourhood planning forum in accordance with section 61F and to legally designate a proposed neighbourhood area in accordance with section 61G were received by the council on Monday 19 June 2017. The council examined the application form and related documents to ensure the application was valid. This necessitated discussion with both LB Lambeth and HHF to establish the requirements and requests were made for further information. In response HHF submitted the required information and the application has now been found valid.

16. The neighbourhood area proposed by the HHF is shown on the map accompanying the application (Appendix B). The proposed neighbourhood area is designed with the intention to create a “Herne Hill Neighbourhood Plan”. The area covers land within the LB Lambeth to the west of the borough boundary.

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

18. 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)).

19. 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.

20. The council has determined that applications for NA and NF’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. The LB of Lambeth has also stated that it will undertake consultation to meet the requirements set out in the regulations and engage the local people in their portion of the applied-for neighbourhood area.

KEY ISSUES FOR CONSIDERATION

The requirements of section 61F

21. The application for designation as a neighbourhood forum 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 HHF 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.

The requirements of section 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. The council considers that the HHF is capable of being designated as a NF and the formal designation is recommended in this report. Therefore the requirements of section 61F (5) of the 1990 Act are satisfied.

24. The application for designation of the proposed neighbourhood area 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 HHF 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.

Consultation

25. 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 Dulwich 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.

26. The council, as one of the two designating authorities (the other being LB Lambeth) will consult on and consider the responses received within the parts of the applied for area which falls within the LB Southwark administrative boundaries.
Decision-making

27. The council’s Neighbourhood Planning Decision Making report of 6 March 2015 outlines at paragraph 16 the decision making process. The report is contained at Appendix C of this report.

Area Designation

28. Decision one of the 6 March 2015 report requires an IDM (relevant portfolio holder) to approve the application(s) for consultation. This is consistent with Regulation 6 of the neighbourhood planning regulations.

29. 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 HHF 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

Forum Designation

31. Decision two of the 6 March 2015 report requires an IDM (relevant portfolio holder) to approve the application for consultation. This is consistent with Regulation 9 of the neighbourhood planning regulations. The neighbourhood forum must submit an application to include:
   - 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)

32. The HHF have submitted the following information to accompany the neighbourhood 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
33. The council does not propose to make a decision as to whether to designate the applied for NA/NF until the period for making representations has expired and any representations received have been considered by both designating authorities.

34. Following the 6 week consultation period the council and LB Lambeth will consider the application(s) and consultation responses with a view to reaching a joint position as to whether or not the proposed NA and NF should be approved as proposed. At Southwark Council the decision to designate a forum/area is required to be taken via agreement to the recommendation set out in an IDM report addressed to the relevant portfolio holder.

35. At Lambeth Council the decision to both go out for consultation and designate is taken at Cabinet level. The statutory 20 week time limit in which to make the decision to designate starts following the initial publication of the application. Working within the LB Lambeth Cabinet cycle, initial publication date, consultation launch and close date has been programmed to achieve a decision by LB Lambeth Cabinet at their meeting scheduled Monday 11 December 2017.

Equalities/Human Rights

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 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 for Dulwich which covers the Herne Hill area. 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. The LB Lambeth will also publicise the application(s).

38. 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

39. 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.

40. The Department for Communities and Local Government has a grant scheme to help resource planning departments supporting neighbourhood planning. The CLG scheme includes:
• Examination and Referendum date: LPAs can claim £20,000 once they have set a date for a referendum following a successful examination.

• Area designation: LPAs can claim £5,000 for the first five neighbourhood areas designated only.

• Forum designation: LPAs can claim £5,000 for the first five neighbourhood forums they designate only.

41. Following designation within the anticipated timescales (late 2017) HHF will represent the 5th Neighbourhood Forum designated in the borough. This means that the council will be eligible to claim for the £5,000 referenced in bullet 3 of paragraph 38 above.

42. However, the neighbourhood area designation would be the 6th neighbourhood area designated in the borough and therefore the council would not be eligible to claim for the £5,000 offered for the first 5 neighbourhood area designations. This mismatch between area and forum designation is due to the Rotherhithe and Surrey Docks Neighbourhood Area having been designated in March 2015 but which is yet to accommodate a corresponding neighbourhood forum.

43. Therefore financial support available from the DCLG will be £5,000 less than that previously available for the council to claim in order to support resource demands that neighbourhood planning activities place on the council under it’s “duty to support.”

44. Staff related costs and any other costs connected with this recommendation will be contained within the grant funding available and within existing departmental revenue budgets.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

45. 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 to appoint HHF as the designated forum and to agree to the publication of both applications in accordance with Regulation 6 and 9 of the Neighbourhood Planning (General) Regulations 2012 and the council’s Neighbourhood Planning Decision Making report of 6 March 2015.

46. A period of at least 6 weeks (from the date of first publication) must be allowed for representations to be made.

47. 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. Because the applications also relate to land within the LB Lambeth, the council will need to co-operate and work with the LB Lambeth.

48. 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.

49. 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.

50. 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 Government (CE16/002)

51. This report is seeking approval from the cabinet member for regeneration and new homes to note the application (Appendix A) from the Herne Hill Forum (HHF) for the designation of the Herne Hill Neighbourhood Area identified on the map at Appendix B of this report; and for the designation of the Herne Hill Forum as a neighbourhood forum for the purposes of neighbourhood planning as prescribed under the Localism Act 2011, as detailed in the report.

52. This report is also seeking approval from the cabinet member for regeneration and new homes to agree to publicise the Neighbourhood Area and Forum 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 6 March 2015 (see Appendix C).

53. The strategic director of finance and governance notes the financial implication that all staff related costs and any other costs connected with this recommendation will be contained within the grant funding available and within existing departmental revenue budgets.

BACKGROUND DOCUMENTS

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<tr>
<th>Background Papers</th>
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<tr>
<td>The Localism Act</td>
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<td>Tom Weaver 0207 525 3841</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 HHF Neighbourhood Area and Neighbourhood Forum application and appendices</td>
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<td>Appendix B</td>
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AUDIT TRAIL

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<th>Simon Bevan, Director of Planning</th>
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<td>Report Author</td>
<td>Tom Weaver, Graduate Planner</td>
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CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER

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