

Item No. N/a	Classification: Open	Date: 28 November 2017	Decision Taker: Cabinet Member for Regeneration and New Homes
Report title:		Neighbourhood Planning – Application for a revised neighbourhood area by the Old Bermondsey Village Neighbourhood Forum	
Ward(s) or groups affected:		Chaucer, Grange	
From:		Chief Executive	

RECOMMENDATIONS

That the Cabinet Member for Regeneration and New Homes:

1. Agrees to consult on the application for a revised neighborhood area as set out in Appendix 2 and 4 on behalf of the 'Old Bermondsey Village Neighbourhood Forum' (or Old Bermondsey Forum/OBF) to the neighbourhood area designated in 2014 referred to as 'Area A' (see Appendix 1) for 6 weeks.

BACKGROUND INFORMATION

2. The Localism Act 2011 introduced new processes for communities to get involved in the planning of their areas through the preparation of neighbourhood plans and neighbourhood development orders. The powers came into force on 1 April 2012 with the publication of associated neighbourhood planning regulations. This provides local communities through parish councils or designated neighbourhood forums with the opportunity to be able to shape and encourage delivery of new development.
3. The Act introduces procedures for making neighbourhood plans and neighbourhood development orders. A neighbourhood plan may contain a range of policies or proposals for land use development that will be used as part of determining decisions on planning applications. It can also grant planning permission through neighbourhood development orders for a particular defined type of development in an area or a specific site. We would expect neighbourhood development orders to be part of neighbourhood plans. The new processes require decisions to be made by the council at various stages to approve an area for the preparation of a neighbourhood plan, to recognise neighbourhood forums and various other matters. This report recommends procedures for making the area based decisions which are to be adopted by the council. The Act and the associated regulations say that neighbourhood plans (and neighbourhood development orders) may be prepared by 'qualifying bodies' which, where they exist, would be a parish council where they exist and in other areas would be a neighbourhood forum set up for this purpose. A 'qualifying body' for the purposes of neighbourhood planning, in the form of a neighbourhood forum, was designated by the council in June 2015 under the title of the Old Bermondsey Village Neighbourhood Forum.
4. The local authority must agree to a neighbourhood forum being a 'qualifying body' for the purposes of the Act and must agree the area for which a

neighbourhood plan or development order is to be prepared. There are specific requirements set out in the Act and the neighbourhood planning regulations for neighbourhood forums to be designated as qualifying bodies and for the local authority to set other conditions.

5. If proposals come forward for overlapping areas the council will need to arbitrate, and decide which boundary makes most sense in planning terms.
6. The local planning authority has to provide 'technical advice and support' to communities preparing neighbourhood development plans but it's up to the council to decide what this should be. It could include gathering evidence, helping with facilitation or advice on consultation. It can, but does not have to, include financial support. This will depend on resource availability, community requirements, evidence available, whether a sustainability appraisal is required and the volume of neighbourhood planning activity that comes forward.
7. Once the plan is submitted the council has to check to make sure that consultation procedures have been followed. If they have then the council needs to arrange and pay for an independent examination. This would be similar to the process of examination in public but, the government says, should often be carried out through written representations.
8. The ambition of the neighbourhood plan needs to be in general conformity with the strategic needs and priorities of the wider local area. To enable this to happen, the council must make sure that their strategic policies are up to date. Therefore this independent check will look at how the plans/orders fit against the local plans, London Plan, national policies, and any adjoining neighbourhood plans.
9. If it passes the check, the council needs to arrange (and pay for) a referendum on the plans or order. The referendum can go beyond the neighbourhood area if its impacts will be felt more widely.
10. It is possible that the council will receive applications for recognition of neighbourhood forums from many areas. While some neighbourhood forums may be considered not truly representative, others may be proposing an area where it is not appropriate to prepare a neighbourhood plan at that time. There may also be cases where the aims of the community proposing a neighbourhood plan might be best achieved by some other means. The council should therefore state some clear guidelines and criteria for recognising neighbourhood forums and supporting neighbourhood plans. It may be possible in some cases for a neighbourhood plan to be adopted by the council by converting it into local development document under the local development framework regulations or into a local development order. This may obviate the need for a referendum.

Southwark Council's role

11. While Southwark Council has a long track record of working with local communities to establish strong local support for plans and proposals, the Act establishes new features in that neighbourhood forums are intended to lead the process of preparing each neighbourhood plan with the support of the local authority. Neighbourhood plans can provide an additional level of detail and express the community's wishes in relation to development sites including

identifying potential development that has not been identified through the normal planning process. The plans may also be the subject of a local referendum.

KEY ISSUES FOR CONSIDERATION

Consultation

12. The Council has agreed clear decision making processes as set out in the tables in this report. The criteria upon which decisions are based are prescribed by the Neighbourhood Planning (General) Regulations 2012 (“the Regulations”) and summarised in the table at paragraph 15-19 below.
13. The proposal for the revised neighbourhood area will be publicised on the council’s website for a period of 6 weeks. Notification of the application and details of how to send representations will be sent to all those on the planning policy email database. The Mayor will also be consulted along with those on the council’s mailing lists.
14. Once the publicity stage expires, the council will consider the application for the revised neighbourhood area and whether to designate it. This is in line with the regulations and will give clarity about the area agreed to facilitate the neighbourhood planning process. The proposals for the extended area will be announced at the Bankside, Borough and Walworth community council and the Bermondsey and Rotherhithe community councils on 9 and 10 January respectively. The Members will also be consulted at Planning Committee on 16 January 2018.

Decision-making

15. 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 5 of this report.
16. ‘Decision one’ of the March 2015 report requires an individual decision maker (IDM) (relevant portfolio holder) to approve an area 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).
17. The OBF have submitted the following information to accompany the revised 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

18. Table A below sets out the requirements for a neighbourhood area application and the process of decision making relating to designating a neighbourhood area.

19. Table A:

Decision 1:

		Previous procedure	Amended process under new Regulations
Decision 1	<p>Application for designation of a Neighbourhood Area</p> <p>Process Where a relevant body submits an application to the local planning authority. It must include:</p> <ul style="list-style-type: none"> • A map identifying the area • A statement explaining why this area is considered appropriate 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) <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>Criteria for decision making</p> <ul style="list-style-type: none"> • Has the map been submitted identifying the area? • Has the statement explaining why this area is considered appropriate to be designated been submitted? • Has the statement that the organisation or body is relevant for the purposes of the 1990 Act been submitted? • Is there already a neighbourhood plan covering 	<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>Week 0</p> <p>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.</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>Week 1 The valid application will be published on the Council's website.</p> <p>Week 2 Delegated report recommending consultation</p> <p>Week 3 Commence 6 week consultation Consultation is undertaken with local residents, elected members, statutory bodies and key stakeholders.</p>

<p>this area?</p> <ul style="list-style-type: none"> • How do the boundaries relate to current and proposed planning designations? • Is the proposed area appropriate? • Should the area be a business area? <p>Would a business referendum be required?</p> <p>Publicising the application 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>Publicising designation 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—</p> <ul style="list-style-type: none"> (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>Publicising refusal to designate 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</p>		<p>Week 9 Collate feedback</p> <p>Week 10 Consider feedback LPA prepares a report for sign-off by the Individual Decision Maker (IDM).</p> <p>This takes 3 weeks</p> <p>Week 13 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>
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	of where and when the Decision Document may be inspected.		
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20. The 13 week timescale for determining the application will begin from the date immediately following the date on which the application is first publicised. As referenced in paragraph 17 above, the other requirements of the neighbourhood area application have been fulfilled by the forum. Taking this into account, a decision would need to be made on the application, assuming the application is first publicised on Tuesday 28 November 2017, by 27 February 2018. The 6 week consultation would run from Monday 4 December to Monday 22 January, excluding 8 days of Monday 25 December – Monday 1 January which is part of the holiday period.

Financial implications

21. There are no financial implications in deciding to go out for consultation on the Bermondsey revised neighbourhood area application beyond that accounted for in the general planning policy budget. Following consultation, financial implications are not considered to be greater than that already considered at the time of the original neighbourhood forum and neighbourhood area designation.

22. It should be noted that the DCLG provides grants to designating authorities of £5,000 per neighborhood area designated for the first 5 neighborhood area. The council has already claimed the grant for Bermondsey neighbourhood area designation in late 2014 following designation of Area A. The council is due to make a decision on the application for designation of a Herne Hill neighbourhood area prior to 11 December 2017. If designated, the Herne Hill neighbourhood area would be the 5th neighbourhood area designated in the borough and so take the last neighbourhood area-designation grant available to the council. Should the neighbourhood area not be designated, there is the possibility that the council would be eligible to claim the remaining neighbourhood area-designation grant following any designation as a result of the application for a revised Bermondsey neighbourhood area, however this will be considered in greater detail following consultation in the IDM report for the decision on the application when the outcome of the Herne Hill neighbourhood area application has been confirmed.

Director of Law and Democracy/AEG

23. 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.

24. In addition, 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 most important rights for planning purposes are Article 8 (respect for homes);

Article 6 (natural justice) and Article 1 of the First Protocol (peaceful enjoyment of property).

25. The decision in this report is not considered to impact on equalities or human rights.
26. 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 17 of this part delegates to the Cabinet Member for Regeneration and New Homes responsibility for agreeing broad consultation arrangements, in relation to their areas of responsibility.
27. 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 Corporate Services

23. This report is seeking approval from the member for Regeneration and New Homes to agree to consult on the application for a revised neighborhood area as set out in Appendix 2 and 4, on behalf of the ‘Old Bermondsey Village Neighbourhood Forum’ (or Old Bermondsey Forum/OBF) to the neighborhood area designated in 2014 referred to as ‘Area A’ (see Appendix 1) for 6 weeks as set out as decision 1 in paragraph 17 of the report.
24. The strategic director of finance and governance notes that there are no financial implications in deciding to go out for consultation on the Bermondsey revised neighbourhood area application beyond that accounted for in the general planning policy budget.
25. Staff related and 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	http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted	Tom Weaver 0207 525 3841
The Neighbourhood Planning Regulations	http://www.legislation.gov.uk/uksi/2012/637/contents/made	Tom Weaver 0207 525 3841

APPENDICES

No.	Title
1	‘Area A’ designated by the council

2	Revised neighbourhood area applied for 'Area A' + extended area demarcated Application submitted for the designation of a revised area by the OBVNF Council's Neighbourhood Planning Decision Making report of 6 March 2015. Available online at: http://www.southwark.gov.uk/planning-and-building-control/planning-policy-and-transport-policy/development-plan/neighbourhood-planning?chapter=2
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AUDIT TRAIL

Cabinet Member	Councillor Mark Williams, Cabinet Member for Regeneration and New Homes	
Lead Officer	Simon Bevan, Director of Planning	
Report Author	Tom Weaver, Graduate Planner	
Version	Final	
Dated	28 November 2017	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Cabinet Member	Yes	No
Date final report sent to Constitutional Team		29 November 2017