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| <b>Item No.</b><br>N/a             | <b>Classification:</b><br>Open | <b>Date:</b><br>4 September 2019   | <b>Decision Taker:</b><br>Cabinet Member for Growth, Development and Planning |
| <b>Report title:</b>               |                                | Neighbourhood Planning – Application for the designation of the Sydenham Hill Ridge Neighbourhood Forum. |   |
| <b>Ward(s) or groups affected:</b> |                                | Dulwich Wood   |   |
| <b>From:</b>                       |                                | Strategic Director of Place and Wellbeing  |   |

## RECOMMENDATION

That the Cabinet Member for Growth, Development and Planning:

1. Notes the application from the members of Sydenham Hill Ridge, to establish the group with a Neighbourhood Forum status.
2. Agrees to publicise the Neighbourhood Forum application for consultation in accordance with Regulation (9) of the Neighbourhood Planning (General) Regulations 2012 and the Council's Neighbourhood Planning Decision Making report of 6 March 2015.

## BACKGROUND INFORMATION

3. The Localism Act 2011 (by amending the Town and Country Planning Act 1990 ('the 1990 Act')) introduced new provisions which empower parish councils and designated Neighbourhood Forums ('NFs') 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 ('the 2012 Regulations') came into force.
4. 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.
5. 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 organisation/body, it must have regard to certain prescribed matters set out in subsection (7).

6. 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.
7. Once a Neighbourhood Forum has been designated, it 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.

### **Neighbourhood Forum preparation stages**

8. Under regulation (8) of the 2012 Regulations, where an organisation or body submits a neighbourhood forum application, it must include a series of supporting documents accompanying the application. It also needs to demonstrate that the application complies with requirements set out in 61F(5) of the 1990 Act. These will be elaborated upon in further detail under the section 'Key Issues for Consideration'.
9. Regulation (9) of the 2012 Regulations requires local planning authorities to publish the application and any supporting material (found in the appendices) as soon as possible after receiving a Neighbourhood Forum application, which the local planning authority do not decline to consider under Regulation (11). It is required to be publicised on the local authority's website and in any other manner as the local planning authority consider is likely to bring the application to the attention of people who live, work or carry on business in the area for a minimum of 6 weeks, in order to allow for the receipt of representations.
10. Following Regulation (9) and working jointly with LB Lewisham, it is appropriate for LB Southwark to commence the consultation on Sydenham Hill Ridge's Neighbourhood Forum application for a period of 6 weeks in tandem with LB Lewisham.

### **KEY ISSUES FOR CONSIDERATION**

#### **The requirements of Regulation (8) of The Neighbourhood Planning (General) Regulations 2012**

11. Regulation 8 of the 2012 Regulations requires certain documents to be submitted with a neighbourhood forum application. Sydenham Hill Ridge has submitted the following supporting documents to accompany their application, including:
  - The name of the proposed Neighbourhood Forum (Appendix A)
  - A copy of the written constitution of the proposed neighbourhood forum (Appendix B)
  - The name of the neighbourhood area to which the application relates and a map which identifies the area; (Appendix C)
  - The contact details of at least one member of the proposed neighbourhood forum to be made public under regulations 9 and 10; (Appendix D & Appendix A )
  - A Forum Supporting Statement (Appendix E)

12. As such, the Council considers that the requirements of Regulation (8) of the 2012 Regulations have been satisfied in relation to this application.

**The requirements of section 61F subsections (5) & (7) of Town and Country Planning Act 1990**

13. Section 61F(5) of the 1990 Act sets out certain requirements that must be satisfied in order for an organization or body to be designated as a neighbourhood forum. The organization must be:
- a) Established for the express purpose of promoting or improving the social, economic and environmental well-being of the proposed neighbourhood area;
  - b) Membership of the organization must be open to:
    - i) Individuals who live in the proposed neighbourhood area;
    - ii) Individuals who work there; and
    - iii) Elected members of the London borough Council for the area;
  - c) Membership must include as a minimum 21 individuals each of whom:
    - i) Lives in the proposed neighbourhood area;
    - ii) Works there; or
    - iii) Is an elected member of the relevant Council body for the area;
  - d) It must have a written constitution; and
  - e) Such other conditions as may be prescribed.
14. Even if all of those conditions are satisfied, a local planning authority is not obliged to designate the organization or body as a neighbourhood forum. Under subsection (7) of section 61F in the 1990 Act, a local planning authority must, in determining under subsection (5) whether to designate an organisation or body as a neighbourhood forum for a neighbourhood area, have regard to the desirability of designating an organisation or body, which has secured (or taken reasonable steps to attempt to secure) its membership to include, at least one individual who lives in the neighbourhood area concerned, or works there, or is an elected member. The membership should be drawn from different places in the neighbourhood area concerned, and from different sections of the community in that area, and whose purpose reflects in general terms the character of that area.
15. In the Supporting Statement submitted by the Sydenham Hill Ridge members (Appendix E), it states that the current list of supporters who live or work in the neighbourhood aim to recruit more members that are existing tenants, and persons apart of Resident Associations, to voluntarily be a part of the Neighbourhood Forum. Through ongoing events and gatherings they plan to engage with the local community to help shape planning objectives, policies and visions, alongside to widen the membership group of Sydenham Hill Ridge.
16. The Council considers that the Sydenham Hill Ridge organisation is capable of being designated as a neighbourhood forum, but does not propose to make a decision as to whether to designate the applicant organisation as Neighbourhood Forum for the Sydenham Hill Ridge Area until the period for making representations has expired and any representations received have been considered.

## **Consultation**

17. If a recommendation should be made for this application to proceed to publication, it will need to be publicised on the Southwark council website for a period of 6 weeks and two days to account for the August Public Bank Holiday weekend. Publication will start from 15<sup>th</sup> July until 27<sup>th</sup> August 2019. It will also be publicised using the following methods:
  - Publicising a Press notice in the Southwark News;
  - Sending out emails to subscribers in the Planning Policy mailing list, in addition to statutory consultees; and
  - Updating relevant webpages on the Southwark council website
18. Any publication will need to be carried out in accordance with Regulation 9 of the 2012 Regulations which requires the following to be publicised: a copy of the application, a statement that if a designation is made no other organisation or body may be designated for that neighbourhood area until that designation expires or is withdrawn, details of how to make representations and the date by which those representations must be received. The Council is also required to ensure that any publication is likely to bring the area application to the attention of people who live, work or carry on business in the area to which the area application relates. Paragraph 17 sets out the array of publication options that shall be carried out.

## **Financial implications**

19. There is no financial implication for the Council at this stage regarding the designation of the Forum.
20. However, should Sydenham Hill Ridge progress to the stages of producing a Neighbourhood Plan which does proceed to the referendum stage, it will incur inevitable cost to the Council. This cost could be similar to a ward election, which is usually around £25,000 per referendum. It is likely to be shared between LB Lewisham and Southwark, since Sydenham Hill Ridge is a joint operation between the two boroughs.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Director of Law and Democracy**

21. The recommendation requests that the Cabinet Member for Growth, Development and Planning notes the application from Sydenham Hill Ridge members for the designation of a Neighbourhood Forum, and authorises publication of the application for consultation in accordance with regulation (9) of the 2012 Regulations and the Council's Neighbourhood Planning Decision Making report dated 6 March 2015.
22. In considering an application for a neighbourhood forum, the Council must be satisfied that the applicant body/organisation meets the conditions set out in section 61F(5) of the 1990 Act and the Council must also have regard to the matters set out in 61F(7) of the 1990 Act. Officers have assessed the application against these criteria and confirm at paragraph 16 of this report that they consider that the organisation meets the requirements in s.61F(5) and is capable of designation as a neighbourhood forum. Any decision as to whether the

organisation should be designated as a neighbourhood forum will only be taken after all the consultation period has expired and consultation responses have been taken into account.

23. Regulation (8) of the 2012 Regulations sets out the requirements that must be satisfied by the applicant body/organisation in making an application for designation as a Neighbourhood Forum. Officers explain at paragraphs 11 and 12 of this report that the documents submitted to the Council in support of the application satisfy the initial qualifying criteria for the acceptance of the application for consultation. Paragraphs 17 and 18 explain in detail the consultation requirements, set out under Regulation 6 of the 2012 Regulations. This process will need to be followed should this application proceed to publication, including the statutory requirement for applications for Neighbourhood Forums to be publicised for a period of at least 6 weeks. It is only after the publicity period that the Local Planning Authority will be in a position to consider the representations received and determine the application. It should be noted that pursuant to Regulation 9A of the 2012 Regulations, the Council must determine the application within 20 weeks from the date that the application is first publicised.
24. The Council's decision on this application must be publicised as soon as possible after the decision has been taken (Regulation 10 of the 2012 Regulations).
25. 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.
26. 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).
27. The decision in this report is not considered to impact on equalities or human rights.
28. Paragraph 7 (Part 3 (D)) of the Southwark Constitution 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 (new title since 2018 elections is Cabinet Member for Growth, Development and Planning) responsibility for agreeing broad consultation arrangements, in relation to their areas of responsibility.
29. Decision 2 of (Table A), paragraph 16, of the Council's Neighbourhood Planning Decision Making report dated 6 March 2015 clearly states that the decision to agree an application for designation of a neighbourhood forum for 6 weeks

consultation and consideration of the consultation responses thereafter can be taken by Individual Cabinet Member decision . It is therefore considered that the recommendation sought in this report falls within the Cabinet Member’s decision-making remit.

### **Strategic Director of Finance and Governance (PW18/012)**

30. This report is requesting the Cabinet Member for Growth, Development and Planning to note the application for Neighbourhood Forum designation status from the members of the Sydenham Hill Ridge group.
31. This report is also requesting the Cabinet Member for Growth, Development and Planning to agree to publicise the application for Neighbourhood Forum designation for consultation in accordance with Regulation (9) of the 2012 Regulations and the Council’s Neighbourhood Planning Decision Making report of 6 March 2015.
32. The strategic director of finance and governance notes that there are no financial implications arising from this report. Should the Neighbourhood Plan for Sydenham Hill Ridge proceed to the referendum stage, it will be subject to future IDM report, including identifying resources for any commitments.

### **Equalities Impact Assessment**

33. The Council considers that an Equalities Impact Assessment will not be needed for this occasion, as the application submitted complies with subsection (7) of section 61F in the 1990 Act. This is elaborated under ‘Key Issue for Consideration’, paragraph 15 of this report.

### **BACKGROUND DOCUMENTS**

| <b>Background Papers</b>               | <b>Held At</b>  | <b>Contact</b>   |
|--|---|--|
| 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> | <a href="mailto:planpolall@southwark.gov.uk">planpolall@southwark.gov.uk</a> |
| 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>       | <a href="mailto:planpolall@southwark.gov.uk">planpolall@southwark.gov.uk</a> |

### **APPENDICES**

| <b>No.</b> | <b>Title</b>                                  |
|------------|---|
| Appendix A | Neighbourhood Forum application to Southwark  |
| Appendix B | Constitution CIO                              |
| Appendix C | Designated Sydenham Hill Ridge Area May 2019  |
| Appendix D | List of Supporters & Members May 2019         |
| Appendix E | 2019 Neighbourhood Forum Supporting Statement |

## AUDIT TRAIL

|  |   |                          |
|--|---|--------------------------|
| <b>Lead Officer</b>  | Juliet Seymour, Planning Policy Manager |                          |
| <b>Report Author</b>   | Lauretta Doku, Graduate Planner         |                          |
| <b>Version</b>   | Final                                   |                          |
| <b>Dated</b>   | 3 September 2019                        |                          |
| <b>Key Decision?</b>   | No                                      |                          |
| <b><i>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</i></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 Support Services</b>               | 3 September 2019                        |                          |