

Item No. 5.1	Classification: Open	Date: 15 July 2020	Meeting Name: Council Assembly
Report title:		Neighbourhood Planning – Plan to be made a material consideration in planning decisions relating to the South Bank and Waterloo Neighbourhood Area	
Ward(s) or groups affected:		Borough and Bankside; St. George's	
From:		Cabinet	

RECOMMENDATION

1. That council assembly endorse the recommendation of cabinet to make the South Bank and Waterloo Neighbourhood Plan so that it becomes part of the council's development plan and is a significant consideration in all planning decisions relating to the designated Neighbourhood Area.

BACKGROUND INFORMATION

2. 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.
3. 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.
4. South Bank and Waterloo Neighbours ("SoWN") was first designated as a Neighbourhood Forum for the South Bank and Waterloo Neighbourhood Area in March 2014, it renewed its forum status in February 2019. The neighbourhood area, straddles the borough boundary with Lambeth, the greater part falls within Lambeth.
5. The draft neighbourhood development plan (NDP) was submitted to Lambeth and Southwark in August 2018. On 18 October 2018 Southwark made the decision that the draft NDP could be formally published and submitted to examination under Regulations 16 and 17 of the 2012 Regulations. The draft NDP was formally published between 8 November and 20 December 2018 and a total of 27 representations were made and submitted to the Examiner.
6. In agreement with SoWN, Christopher Lockhart-Mummery QC was appointed by

Lambeth and Southwark to undertake the examination of the draft NDP. Following the re-designation of the neighbourhood forum on 19 February 2019, the examination formally commenced on 26 February 2019.

7. The Examiner's report was received on 28 May 2019.
8. The Council considered each of the Examiner's recommendations, and the reasons for those recommendations, and decided what action to take in response. The relevant changes were then made to the NDP.
9. The draft NDP proceeded to referendum on 24 October 2019. As the neighbourhood area is a designated business area, two referendums were required: one for residents and one for businesses.
10. The referendum resulted in 91% voting in favour of the NDP. 826 of those entitled to vote turned out in the resident's referendum with 758 voting in favour of the NDP. 35 of those entitled to vote turned out in the businesses referendum with 32 voting in favour of the NDP¹.

Neighbourhood Plan preparation stages

11. 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. It also needs to demonstrate that the application complies with requirements set out in section 61F(5) of the 1990 Act.
12. 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.
13. 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.
14. The area, in which the referendum takes place must, as a minimum, be the Neighbourhood Area to which the proposed Plan/Order relates. The independent examiner considering the proposal may also consider whether the area for any referendum should extend beyond the Neighbourhood Area to which the draft Plan/Order relates.
15. 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.

KEY ISSUES FOR CONSIDERATION

Proposal and Reasons

Statutory framework for making a neighbourhood development plan

¹ <https://www.southwark.gov.uk/council-and-democracy/voting-and-elections/south-bank-and-waterloo-neighbourhood-referendum>

16. As the SoWN neighbourhood area is a designated business area two referendums on the draft NDP were required in accordance with paragraphs 12(4), 14 and 15 of Schedule 4B to the 1990 Act: one for residents in the referendum area and one for businesses in the referendum area. Regulation 2A of the Neighbourhood Planning (Referendums) Regulations 2012 (“the 2012 Referendums Regulations”) requires the referendums to be held on or before 84 days from the date the decision that the referendum must be held is first published or such other date as may be agreed with SoWN.
17. The area in which the referendums are to take place must, as a minimum, be the neighbourhood area to which the proposed NDP relates. If the local planning authority considers it appropriate to do so, they may extend the referendum area to include other areas (whether or not those areas fall wholly or partly outside the authority’s area). If the local planning authority decides to extend the referendum area, they must publish a map of the referendum area.
18. As the referendum area is spread across Lambeth and Southwark, both councils had to ensure any notices or documents which are required to be published, are done so on the same day and in the same manner.

Should the referendum area be extended beyond the neighbourhood area?

19. The Council agreed with the Examiner’s recommendation that the area for the referendums should not extend beyond the neighbourhood area. Taking account of the content of the draft NDP, nothing has emerged during the examination process or in the neighbourhood planning process in Southwark more generally that points towards there being any justification for the referendums to be conducted over a wider area. As a result of this the referendum did not extend beyond the neighbourhood area.

Arrangements for the conduct on the referendums

20. There are separate regulations that govern the timing and conduct of neighbourhood planning referendums: the 2012 Referendums Regulations.
21. In cross-border cases, or where a business referendum is required in addition to a residential referendum, the basic timescale for the holding of the referendums is 84 days excluding weekend days and public holidays once the decision to hold the referendums is published. This timescale can be dis-applied by agreement with the neighbourhood forum.
22. On 7 August 2019 the council published the Information Statement giving notice of the referendum.

The referendum

23. The referendums were held on 24 October 2019 on the NDP and the modifications to the NDP.
24. The council followed the process set out in Schedule 4B of the 1990 Act and the 2012 Referendums Regulations.
25. A person was entitled to vote in the residential referendum if he or she is entitled to vote in a local government election in the referendum area and his or her qualifying address for the election is in the referendum area.

26. A business was entitled to vote in the business referendum if the business is a non-domestic ratepayer in the referendum area and the business has a registered named voter as their business vote holder on the business voting register.
27. The polling station for the Southwark part of the NDP was located at St George's Cathedral Hall, Lambeth Road, SE1 6HR.
28. The referendum resulted in 91% voting in favour of the NDP. 826 of those entitled to vote turned out in the resident's referendum with 758 voting in favour of the NDP. 35 of those entitled to vote turned out in the businesses referendum with 32 voting in favour of the NDP.
29. As set out in paragraphs 11-15 of this report, if more than 50% of people who voted in the referendum support the Plan, the local authority must bring it into force.

Financial implications

30. There is no financial implication for the Council at this stage, if the recommendation is accepted.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

31. Section 38A(4)(a) of the 2004 Act requires the Council to make a NDP to which the proposal relates if in each applicable referendum more than half of those voting have voted in favour of the plan. Officers have set out at paragraph 28 of the report that both the residential referendum and business referendum resulted in more than half the votes being in favour of the NDP.
32. Section 38A(4)(b) of the 2004 Act expects the Council to make the NDP as soon as reasonably practicable after the referendum is held and Regulation 18A of the 2012 Regulations further stipulates that in any event, the plan must be made no later than the last day of the period of 8 weeks beginning with the day immediately following that on which the last applicable referendum is held.
33. If Council Assembly should make the NDP, officers will need to, follow the requirements as set out in Regulations 19 and 20 of the 2012 Regulations and, publish the decision to make the NDP on the Council website and anywhere else that may bring the decision to the attention of those who live, work or carry on business in the neighbourhood area. The following will also need to be published:
 1. A statement setting out the decision and the Council's reasons for making that decision;
 2. Details of where and when the decision notice may be inspected;
 3. The NDP; and
 4. Details of where and when the NDP may be inspected.
34. A copy of the decision statement will need to be sent to SoWN and any person who asked to be notified of the decision. Officers will also need to notify any person who asked to be notified of the making of the NDP that it has been made

and where and when it may be inspected.

35. Section 38(2)(c) of the 2004 Act states that once the NDP has been made by the Council it will become part of the Council's development plan (for the relevant designated neighbourhood area) and section 6 of the same Act further states that where regard is to be had to the development plan in determining planning proposals, the determination must be made in accordance with the development plan unless material considerations indicate otherwise.
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. 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).
38. The decision in this report is not considered to undermine the objectives of the Equalities Act or to disproportionately interfere with human rights.
39. Part 3C, paragraph 3, of the Council's Constitution states that the approval for recommendation to Council Assembly of those proposals and plans contained in the Council's budget and policy framework can be taken by Cabinet decision.
40. Part 3A, paragraph 10, of the Council's Constitution provides that it is the Council Assembly that must agree the policy framework including development plan documents.

Strategic Director of Finance and Governance (FC19/033)

41. This report is seeking the Council Assembly to endorse the recommendation of Cabinet to make the South Bank and Waterloo Neighbourhood Plan so that it becomes part of the Council's development plan and is a significant consideration in all planning decisions relating to the designated Neighbourhood Area.
42. The strategic director of finance and governance notes that there are no additional financial implications arising from this report.
43. Staff and any other costs connected with this recommendation to be contained within existing departmental revenue budgets

Equalities Impact Assessment

44. An Equalities Impact Assessment for the NDP was completed on March 10 2020. The report compares the baseline demographic data provided in the SOWN

evidence base to the Joint Strategic Needs Assessment (2019) data for the Borough and Bankside ward and finds that the information provided by SOWN is correct and up to date. Overall the EQIA analysis demonstrates generally positive impacts on the protected characteristics in Southwark. Where negative impacts have been identified, it is proposed to accept the examiner's recommendations to delete the identified policies.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
The Localism Act	Planning Southwark Council 160 Tooley Street SE1 2QH	planpolall@southwark.gov.uk
http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted		
The Neighbourhood Planning Regulations	Planning Southwark Council 160 Tooley Street SE1 2QH	planpolall@southwark.gov.uk
http://www.legislation.gov.uk/uksi/2012/637/contents/made		

APPENDICES

No.	Title
Appendix A	South Bank and Waterloo Neighbourhood Plan (circulated separately)

AUDIT TRAIL

Lead Officer	Simon Bevan, Director of Planning	
Report Author	Juliet Seymour, Planning Policy Manager	
Version	Final	
Dated	10 December 2019	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	Yes	No
Date final report sent to Constitutional Team	13 January 2020	