Report title: Making of the draft South Bank and Waterloo neighbourhood development plan

Wards: Bishop’s Ward

Portfolio: Councillor Matthew Bennett, Cabinet Member Planning, Investment and New Homes

Report Authorised by: Sara Waller & Eleanor Purser, Strategic Directors for Sustainable Growth and Opportunity

Contact for Enquiries: Dominique Barnett, Principal Planning Policy Officer, Sustainable Growth and Opportunity, dbarnett@lambeth.gov.uk, 020 7926 6991

Report Summary
The draft South Bank and Waterloo neighbourhood development plan (NDP) has been prepared by the South Bank and Waterloo Neighbours (SoWN) neighbourhood forum for the designated South Bank and Waterloo neighbourhood area. The area, designated in 2014, is a designated ‘business area’ and falls partly within the borough of Southwark. The draft NDP contains policies and community aspirations relating to green infrastructure, open space and air quality; housing; development management; retail and work; social infrastructure and culture; streetscape and transport; and planning gain and mitigation.

The draft NDP underwent examination between February and May 2019. In July 2019 the Cabinet Member for Planning, Investment and New Homes decided to accept all of the examiner’s recommendations to modify the draft NDP and to send it to two referendums: one for residents and one for businesses. The two referendums took place on 24 October 2019. More than half of those voting voted in favour of the draft NDP in each referendum. Cabinet is now asked formally to ‘make’ the draft NDP. For the purposes of neighbourhood planning, the ‘making’ of a NDP means formally ‘adopting it’.

Finance Summary
The making of the draft NDP has no direct financial implications for the Council. The publication of the decision statement and NDP will be covered by the existing budget for Planning, Transport and Development.

Recommendations
(1) To ‘make’ (adopt) the draft South Bank and Waterloo neighbourhood development plan (at Appendix 1).
(2) To delegate authority to the Assistant Director Planning, Transport and Development to make the necessary arrangements in relation to the publication of the decision statement and of the neighbourhood development plan.
1. **CONTEXT**

1.1. The Localism Act 2011 introduced the opportunity for local communities to produce Neighbourhood Development Plans (NDPs), Neighbourhood Development Orders and Community Right to Build Orders. NDPs allow communities to shape development and growth in their local areas and form part of the statutory development plan for the local planning authority area, once made.

1.2. The first stage of preparing a NDP is the designation of a neighbourhood forum and a neighbourhood area. The South Bank and Waterloo Neighbours (SoWN) neighbourhood forum and South Bank and Waterloo neighbourhood area were designated on 10 February 2014. The neighbourhood forum was re-designated on 19 February 2019. The neighbourhood area straddles the borough boundary with Southwark, although the greater part of the neighbourhood area falls within Lambeth. The neighbourhood area was designated as a business area under section 61H of the Town and Country Planning Act 1990, reflecting the nature of the area and who was likely to take the lead in neighbourhood planning.

1.3. The draft NDP, prepared by SoWN, was submitted to Lambeth and Southwark in August 2018. On 18 October 2018, Lambeth made the decision that the draft NDP could be formally published and submitted to examination under Regulations 16 and 17 of the Neighbourhood Planning (General) Regulations 2012. The draft NDP was formally published between 8 November and 20 December 2018 and a total of 27 representations were made.

1.4. The examination of the draft NDP was undertaken by Christopher Lockhart-Mummery QC, with the agreement of SoWN. The examination of the draft NDP took place between February and May 2019. The Examiner’s report was received on 28 May 2019 and recommended that subject to modifications, the draft NDP should proceed to referendums. On 3 July 2019, Lambeth made the decision to accept the examiner’s recommendations to modify the draft NDP and to send the draft NDP to referendums. On 11 July 2017, Southwark made the same decision.

1.5. Neighbourhood planning referendums allow residents and business to vote on the use of the draft NDP in determining planning applications in the neighbourhood area. The draft NDP contains community aspirations and planning policies listed under the following headings: green infrastructure, open space and air quality; housing; development management; retail and work; social infrastructure and culture; streetscape and transport; and planning gain and mitigation. The draft NDP can be found at Appendix 1. It includes the changes set out in the schedule of modifications approved as part of the decision to accept the examiner’s recommendations to modify the draft NDP. In addition, SoWN wish to include an additional post-examination and referendum foreword to introduce the final document; this is on page 2 of the document.

1.6. As the neighbourhood area is a designated business area two referendums were required: one for residents and one for businesses. The two referendums took place on 24 October 2019.

2. **PROPOSAL AND REASONS**

2.1. The process for the holding of the referendums and the making of a draft NDP is set out in the Town and Country Planning Act (‘the 1990 Act’), the Planning and Compulsory Purchase Act 2004 (‘the 2004 Act’), the Neighbourhood Planning (General) Regulations 2012, the Neighbourhood Planning
Section 38A(3) of the 2004 Act states that Schedule 4B to the 1990 Act, which makes provision about the process for the making of neighbourhood development orders, including provision for the holding of referendums, is to apply in relation to neighbourhood development plans (subject to the modifications set out in section 38C(5) of the 2004 Act).

Section 38A(4) of the 2004 Act states a local planning authority to whom a proposal for the making of the neighbourhood development plan has been made:

a) must make a neighbourhood development plan to which the proposal relates if in each applicable referendum under that Schedule (as so applied) more than half of those voting have voted in favour of the plan; and,

b) if paragraph (a) applies, must make the plan as soon as reasonably practicable after the referendum is held.

Section 38A(6) of the 2004 Act states that the authority is not to be subject to the duty under subsection (4)(a) if they consider that the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).

Referendums

The two referendums took place on 24 October 2019. The referendum area was the South Bank and Waterloo neighbourhood area. The referendum question asked those voting whether they wanted the London Boroughs of Lambeth and Southwark to use the neighbourhood plan to help decide planning applications in the neighbourhood area. Voters were asked to answer this question ‘Yes’ or ‘No’.

The Council made the necessary arrangements for the holding of the two referendums in accordance with Schedule 4B to the 1990 Act, the Neighbourhood Planning (Referendum) Regulations 2012 (as amended) and the Neighbourhood Planning (Prescribed Dates) Regulations 2012. Officers in Electoral Services made these arrangements in liaison with the London Borough of Southwark given that the referendum area is cross-borough.

A person is eligible to vote in a residential neighbourhood planning referendum if they are entitled to vote in a local government election in the referendum area and their qualifying address is in the referendum area. A person is eligible to vote in the business neighbourhood planning referendum if the business is a non-domestic ratepayer in the referendum area and the business has registered a named voter on the business voting register. All eligible businesses were invited by the Council to register on the business voting register.

The residential referendum had a turnout of 11%. The results of the residential referendum were as follows:

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<th>Response</th>
<th>Votes</th>
<th>Percent of total</th>
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<td>Yes</td>
<td>758</td>
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<td>68</td>
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2.9. The business referendum had a turnout of 43%. The results of the business referendum were as follows:

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<td>32</td>
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<td>3</td>
<td>9%</td>
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2.10. As more than half of those voting have voted in favour of the draft NDP in each referendum, the Council, under section 38A(4) of the 2004 Act, is now required to make a decision about making the draft NDP.

2.11. Under regulation 18A of the Neighbourhood Planning (General) Regulations 2012 the date prescribed for the purposes of section 38A (4)b of the 2004 Act is the date which is the last day of the period of 8 weeks beginning with the day immediately following that on which the last applicable referendum is held. This means a decision on whether formally to make the draft NDP needs to be made by 20 December 2019.

2.12. The Neighbourhood Planning Act 2017 amended section 38 of the Planning and Compulsory Purchase Act 2004 to state that a neighbourhood development plan which relates to that area also forms part of the development plan for that area if –

a) section 38A(4)(a) (approval by referendum) applies in relation to the neighbourhood development plan, but
b) the local planning authority to whom the proposal for the making of the plan has been made have not made the plan.

2.13. As a result of the outcome of the referendums, the draft NDP forms part of Lambeth’s development plan (alongside the London Plan and the Lambeth Local Plan) for the purposes of determining planning applications in the Lambeth part of the South Bank and Waterloo neighbourhood area.

2.14. Despite the effect of the outcome of the referendums as noted in paragraph 2.12, the local planning authority under the applicable legislative provisions also needs to take a decision about formal adoption of the draft NDP. The Council is required formally to make the draft NDP unless it is considered that the draft NDP would breach or would be incompatible with EU obligations or any of the Convention Rights. Officers are satisfied that the making of the draft NDP would not breach, nor would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).


2.16. A Strategic Environmental Assessment (SEA) screening report concluded that, following consultation with Natural England, Historic England and Environment Agency, the draft NDP (as at August 2017)
would not have significant environmental effects and therefore does not require a Strategic Environmental Assessment. It is considered that the draft NDP (as modified since the examination) will not have significant environmental effects.

2.17. There are no European sites in either Lambeth or Southwark. The Habitats Regulations Screening Assessment of the draft NDP has not identified any likely significant effective or impact on the integrity of any European site. The Screening Assessment found that the draft NDP is unlikely to have adverse effects on the European sites and effects on the European sites and will not result in an adverse impact on the integrity of four sites.

2.18. The draft NDP does not include any policies in relation to the management of waste, nor does the area include a waste management site. The draft NDP includes an air quality policy but it is considered that the policy does not breach the Air Quality Directive. The draft NDP does not include any policies in relation to water or water quality.

2.19. Noting in particular the provisions of Article 8 of the ECHR concerning rights to private/home life, and the terms of the policies proposed in the draft NDP in particular in relation to housing, officers consider that the draft NDP is compatible with the Convention rights.

**Conclusion**

2.20. As more than half of those voting voted in favour of the draft NDP in each referendum, the Council is required formally to make the draft NDP unless it is considered that the draft NDP would breach or would be incompatible with EU obligations or any of the Convention Rights. Officers are satisfied that these requirements have been met and it is therefore recommended that the draft South Bank and Waterloo NDP is formally made.

2.21. The Cabinet of the London Borough of Southwark will consider separately the making of the draft NDP for the part of the neighbourhood area in Southwark.

3. **FINANCE**

3.1. The making of the draft NDP has no direct financial implications for the Council. The publication of the decision statement and NDP will be covered by the existing budget for Planning, Transport and Development.

4. **LEGAL AND DEMOCRACY**

4.1. The processes for the holding of the referendums and the making of a draft NDP are set out in the Town and Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004 and the Neighbourhood Planning Regulations 2012. Sections 2 and 10 of the report identify the relevant specific provisions of that legislation and how these have been applied in relation to the preparation of the draft NDP for the neighbourhood area.

4.2. The Planning Practice Guidance issued by central government (Paragraph: 023 Reference ID: 41-023-20190509) states that in authorities where executive arrangements are operated, it is an authority’s executive that takes decisions on neighbourhood planning.
4.3. The EU obligations identified in section 2 of the report reflect the position as at the time of preparation of the report, as opposed to such obligations as they may be modified in the event of the UK leaving the EU.

4.4. This proposed key decision was entered in the Forward Plan on 17 September 2019 and the necessary 28 clear days' notice has been given. In addition, the Council's Constitution requires the report to be published on the website for five clear days before the proposed decision is approved by Cabinet. Any representations received during this period must be considered by the decision-maker before the decision is taken. A further period of give clear days, the call-in period, must then elapse before the decision is enacted. If the decision is called-in during this period, it cannot be enacted until the call-in has been considered and resolved.

5. CONSULTATION AND CO-PRODUCTION
5.1 The draft NDP has been subject to consultation during its production, following the process required by statutory provisions governing NDP preparation. SoWN undertook pre-submission consultation between 16 November 2016 and 20 January 2017. The Council formally published the draft NDP for comment between 8 November and 20 December 2018.

5.2 The decision to whether to make the draft NDP is not subject to consultation because of the duty to make the draft NDP following the outcome of the two referendums, apart from in the narrow circumstances of EU obligations or Convention rights being breached by the adoption of the plan.

6. RISK MANAGEMENT
6.1. The scope of the decision that needs to be taken is prescribed by the relevant legislation. That legislation sets out what matters must be considered by the decision-maker and what steps must be taken by the Council.

6.2. It is considered that management of risk is able to be satisfactorily achieved by complying with the requirements of the legislation.

7. EQUALITIES IMPACT ASSESSMENT
7.1 The Equalities Impact Assessment is at Appendix 2. It is considered that the making of the draft NDP will not have an adverse impact on groups with protected characteristics.

8. COMMUNITY SAFETY
8.1 None.

9. ORGANISATIONAL IMPLICATIONS
Environmental
9.1. None.

Staffing and accommodation
9.2. None.
Procurement
9.3 None.

Health
9.4 None.

10. TIMETABLE FOR IMPLEMENTATION
10.1. In accordance with section 38A(9) of the 2004 Act and Regulation 19 of the Neighbourhood Planning (General) Regulations 2012, as soon as possible after the deciding to make the NDP, the Council must publish a decision statement which sets out the decision, the reason for that decision and details of where and when the decision statement may be inspected. It should be published on the Council's website and in any other manner likely to bring the decision to the attention of those who live, work or carry on business in the neighbourhood area. The decision statement should also be sent to the neighbourhood forum and any person who asked to be notified of the decision.

10.2. In accordance with Regulation 20 of the Neighbourhood Planning (General) Regulations 2012, the Council must publish the NDP and details of where and when the NDP may be inspected on the Council's website and in any other manner likely to bring the decision to the attention of those who live, work or carry on business in the neighbourhood area. Any person who asked to be notified of the making of the NDP should be notified that the NDP has been made and where and when it may be inspected.

10.3. Subject to the outcome of recommendation 1 of this report, officers will arrange to publicise the decision and the NDP in accordance with the Regulations as soon as possible after it is made. Cabinet is asked to delegate authority to the Assistant Director Planning, Transport and Development to make these arrangements.
### Audit trail

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<td>Sara Waller &amp; Eleanor Purser Strategic Director</td>
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<td>08.11.19</td>
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### Report history

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