

Cabinet, 11 December 2017

Report title: Application to designate Herne Hill Neighbourhood Forum and Neighbourhood Area

Wards: Herne Hill, Coldharbour, Thurlow Park

Portfolio: Matthew Bennett: Cabinet Member for Planning, Regeneration and Jobs

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Report Summary

In July 2017, a combined application was received from the Herne Hill Forum to designate a Herne Hill neighbourhood forum and neighbourhood area for the purposes of preparing a neighbourhood plan. The neighbourhood area applied for crosses the borough boundary with the London Borough of Southwark.

The combined application was publicised by both Lambeth and Southwark for a period of six weeks from 31 July to 11 September 2017 in accordance with the Neighbourhood Planning (General) Regulations 2012.

A decision on whether to designate the neighbourhood forum and neighbourhood area is now required by both Lambeth and Southwark. Each authority must make a decision about designation of the proposed neighbourhood area that falls within its area, and about designation of the proposed neighbourhood forum. This decision must be made by each authority within 20 weeks of the start date of the six week publication period.

Finance Summary

There are no direct financial implications in relation to the matters which are the subject of this report (that is, the decisions on whether to designate a neighbourhood area and forum). However, local planning authorities may claim £5,000 from the Department for Communities and Local Government (DCLG) following a decision to designate a neighbourhood forum and £5,000 following a decision to designate a neighbourhood area.

Recommendations

- 1) To note the responses to the publication of the Herne Hill Forum neighbourhood forum and neighbourhood area application as set out at Appendix 3.

- 2) To refuse the application to designate the Herne Hill neighbourhood area as applied for insofar as it falls within the borough of Lambeth (as shown in the map at Appendix 4) for the reasons set out in the report.
- 3) To designate the Herne Hill neighbourhood area insofar as it falls within the borough of Lambeth as shown in the map at Appendix 5 for the reasons set out in the report.
- 4) To refuse the application for designation of the Herne Hill Forum as a neighbourhood forum for the reasons set out in this report.
- 5) That Cabinet instructs officers (i) to publicise its decision in relation to recommendations (2) and (3) and (4) in accordance with the statutory requirements including preparation of any required statement of reasons (ii) to liaise with officers in Southwark regarding its decision (iii) if necessary to discuss with the Herne Hill Forum any re-submission of an application for designation as a neighbourhood forum.

1. Introduction

- 1.1. The Localism Act 2011 introduced the opportunity for local communities to produce neighbourhood plans, Neighbourhood Development Orders and Community Right to Build Orders. Neighbourhood plans 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 neighbourhood plan is the designation of a neighbourhood forum and a neighbourhood area. The process for designating a neighbourhood forum and area is set out in the Town and Country Planning Act 1990 (which was amended by the Localism Act 2011) and the Neighbourhood Planning (General) Regulations 2012. Neighbourhood plans can be led by parish or town councils, neighbourhood forums or community organisations. Where there are no parish or town councils, a group or organisation can apply to the local planning authority to be designated as a neighbourhood forum.
- 1.3. Once the local planning authority receives a neighbourhood area or neighbourhood forum designation application, they are required to publicise it and invite comments for a minimum period of 6 weeks. Applications for designation of a neighbourhood area and forum that cross a borough boundary must be made separately to each local planning authority affected and must be determined by each authority within 20 weeks from when the application is first publicised.
- 1.4. An application for both neighbourhood area and neighbourhood forum designation was received from the Herne Hill Forum on 5 July 2017. The boundary of the proposed Herne Hill neighbourhood area straddles the borough boundary of Lambeth and Southwark. The application was made to both authorities and was considered by both authorities to be a valid application. Local planning authorities are expected to co-operate as far as they can in relation to cross-border applications for neighbourhood area and forum designation. In accordance with the regulations, the application was publicised and consulted on by both Lambeth and Southwark for 6 weeks from 31 July to 11 September 2017. The application is included in Appendix 1.
- 1.5. This report considers the application and representations received in relation to the proposed neighbourhood area insofar as it falls within the borough of Lambeth, and the proposed neighbourhood forum. Southwark will separately consider the application and representations received in relation to the proposed area that falls within the borough of Southwark, and the proposed neighbourhood forum. Further information about Southwark's consideration of the application is set in paragraphs 2.40 and 2.57 below.
- 1.6. Four neighbourhood forums and neighbourhood areas have previously been designated in Lambeth: Norwood Planning Assembly Neighbourhood Forum; Tulse Hill Neighbourhood Forum; Kennington, Oval and Vauxhall Neighbourhood Forum; and South Bank and Waterloo Neighbours Forum.

2. Proposal and Reasons

- 2.1. The requirements for considering neighbourhood area and forum applications are set in the Town and Country Planning Act 1990 and the Neighbourhood Planning (General) Regulations 2012. The requirements for each type of application are set out below, followed in each case by an assessment of the Herne Hill Forum (HHF) application against these requirements and consideration of comments made in the consultation responses.
- 2.2. Overall, 85 representations were received during the consultation in relation to the application insofar as it relates to Lambeth. Of the representations received, six supported the proposed forum, one supported the proposed area within Lambeth and two supported both the proposed forum and area within Lambeth. Five made no comments and ten made general comments neither supporting nor objecting. 57 representations objected to the proposed area within Lambeth (including one representation comprising a petition with 72 signatures), one objected to the proposed forum and three objected to both the proposed forum and area within Lambeth. A full schedule of the representations received and responses to the points made is included in Appendix 3.

Neighbourhood area

Requirements for a neighbourhood area application

- 2.3. The Neighbourhood Planning (General) Regulations 2012 require that an application to designate a neighbourhood area must include:
- a) A map which identifies the area to which the application relates;
 - b) A statement explaining why this area is considered appropriate to be designated as a neighbourhood area; and
 - c) A statement that the organisation or body making the area application is a relevant body for the purposes of section 61G of the Town and Country Planning Act 1990.
- 2.4. Paragraph 33 (ID:41-033-20140306) of the National Planning Practice Guidance (PPG) sets out the considerations that could be taken into account when setting the boundaries of a neighbourhood area and when preparing the statement explaining why the proposed area is considered appropriate. These include settlement boundaries; catchment areas for local services; areas covered by networks of community based groups; physical appearance or characteristics of the neighbourhood; whether the areas forms all or part of coherent estate for either businesses or residents; whether the area is wholly or predominantly a business area; whether infrastructure or physical features define a natural boundary; the natural setting or features in an area; and the size of the population (living and working) in the area. The guidance states that electoral ward boundaries can be a useful starting point for discussions on the appropriate size of a neighbourhood area.

- 2.5. The local planning authority (LPA) must designate at least some part of the neighbourhood area applied for if it receives a valid application and some or all of the area has not yet been designated as a neighbourhood area. The LPA should take into consideration the relevant body's statement explaining why the area applied for is considered appropriate and any other relevant factors in deciding whether to designate the area applied for or only some part of that area. If only part of the area applied for is designated, reasons must be given. The PPG advises that when a neighbourhood area is designated an LPA should avoid pre-judging what a qualifying body may subsequently decide to put in its draft neighbourhood plan. It should not make assumptions about the neighbourhood plan that may emerge from developing, testing and consulting on a draft neighbourhood plan when designating a neighbourhood area.
- 2.6. The PPG states that a prospective neighbourhood forum or community organisation can put forward the neighbourhood area they consider appropriate for neighbourhood planning and this can cross local planning authority administrative boundaries. Although authorities are encouraged by the PPG to take a collaborative approach in the case of cross-border applications, it remains necessary for the area application to be made to each of the local planning authorities which has part of its administrative area within the proposed neighbourhood area. Each authority must determine the application within 20 weeks of first being publicised.

Consideration of Herne Hill neighbourhood area application against statutory requirements

- 2.7. An assessment has been made of the application to designate the Herne Hill neighbourhood area against the requirements of the Town and Country Planning Act 1990 and the Neighbourhood Planning (General) Regulations 2012. This assessment is set out in Table 1, Appendix 2. It concludes that, whilst the justification for a large part of the proposed neighbourhood area is accepted, there are four locations within the proposed area for which the justification is not accepted and/or other planning considerations support a different boundary. These are areas F, G, H and I as shown on the map in Appendix 4.

Consideration of consultation responses on Herne Hill neighbourhood area application

- 2.8. 60 objections (including the petition with 72 signatures) were received relating to the proposed neighbourhood area. Between them they focussed on eleven different locations, nine locations within the proposed neighbourhood area and two outside it. A map of the eleven locations, labelled A to K, is included in Appendix 4. A summary of the objections in relation to each of the eleven locations is set out below, followed in each case by a summary of the officer consideration of the points made. Two further points were also raised, and these are also summarised and considered below.

Area A: Barnwell Road and Effra Parade

- 2.9. The Brixton Society states that the proposed boundary extends too far into areas already covered by existing neighbourhood forums and community groups and that there has been no consultation with the Brixton Society or the Brixton Neighbourhood Forum over

the proposed boundary. They object to the inclusion of Barnwell Road and Effra Parade, stating that there are no historical links with Herne Hill as Barnwell Road was part of the Stuart-Bruce Estate and that Effra Parade was built as a spur off Brixton Water Lane. For Barnwell Road they state that only one resident was asked their opinion by the Herne Hill Forum and that person did not identify with Herne Hill. They say no residents in Effra Parade were asked whether they identified with Herne Hill.

- 2.10. Officer consideration: The boundary in this location follows the Herne Hill ward boundary. There is no designated Brixton neighbourhood planning area or forum and officers are not aware of an application pending. The Brixton Society has expressed an opinion about streets falling within Brixton rather than Herne Hill but there is no definitive evidence either way. Analysis of people consulted by the Herne Hill forum suggests more than one person was asked but only one person identified with another area than Herne Hill. No change to the proposed neighbourhood area is recommended in this location.

Area B: Brixton Water Lane

- 2.11. The Brixton Society and the Water Lane Society raise objections to the inclusion of half of Brixton Water Lane within the proposed neighbourhood area. The Brixton Society states that all six Brixton Society members who live in the street strongly identify with Brixton. They also state that there are no historical links with Herne Hill and that the whole of Brixton Water Lane is included in the Brixton Business Improvement District. They recommend that the whole of Brixton Water Lane conservation area is included in the Tulse Hill neighbourhood area.
- 2.12. The Water Lane Society consider that the dividing line should not bisect the road and that it would be sensible to keep it intact rather than have to deal with two different planning areas. They state that there are mixed views about whether people identified more with Herne Hill or Brixton.
- 2.13. A third objection states that they do not want parts of Brixton Water Lane to be within different planning areas and potentially treated differently.
- 2.14. Officer consideration: The remaining half of Brixton Water Lane is already designated in the Tulse Hill neighbourhood planning area. It is considered appropriate to follow the ward boundary and the boundary of the Tulse Hill neighbourhood area in this location, so that this section of Brixton Water Lane is not isolated in the middle of two neighbourhood planning areas. No change to the proposed neighbourhood area is recommended in this location.

Area C: Poet's Corner (southern arm of Shakespeare Road, Chaucer Road, Spencer Road and Milton Road)

- 2.15. The Brixton Society states that it consulted with three of its members in this area who recognise that Herne Hill is significant due to the proximity of the station and local commercial centre but do not wish to be isolated from Brixton's wider influence. One other objector stated that people they knew in this area identified with Brixton.

- 2.16. Officer consideration: These streets make up the Poet's Corner conservation area. Historic England advises that neighbourhood plans should respect pre-defined boundaries, such as conservation areas, where possible (and prefer conservation areas either to be included in full or excluded in full). The majority of people consulted by Herne Hill Forum in this area stated they identified with Herne Hill over any other area. No change to the proposed neighbourhood area is recommended in this location.

Area D: Houses on Dulwich Road backing onto Brockwell Park, between Brixton Water Lane and Brockwell Lido

- 2.17. The Brixton Society object to the inclusion of this area as it falls within the Brockwell Park Conservation Area (along with Brockwell Park itself) and in their view historically is an outgrowth from Brixton.
- 2.18. Officer consideration: If removed, this area would become isolated between two neighbourhood planning areas - Tulse Hill and Herne Hill. No change to the proposed neighbourhood area is recommended in this location.

Area E: Mayall Road and adjacent parts of Railton Road

- 2.19. The Brixton Society acknowledges that four out of the five residents asked by Herne Hill Forum identified with Herne Hill but expects that more people would associate themselves with Brixton if they were asked. They also state there are no historical links between this location and Herne Hill.
- 2.20. Officer consideration: The objector does not substantiate their statement about the views of the people in this location with supporting evidence, so it is not possible to assess the validity of the point made. There are likely to be many different opinions about historical and other links between different locations, with no clear evidence either way to establish a definitive view. It is noted that the ward boundary falls half-way down Mayall Road, resulting in a very small pocket of Coldharbour Ward being included in the proposed neighbourhood area. However, there is a coherent built form along this section of Mayall Road and following the ward boundary in this location would disrupt that. No change to the proposed neighbourhood area is recommended in this location.

Area F: north of Lowden Road, Herne Hill and Ferndene Roads, Bicknell Road, Cambria Road, Finsen Road, Northway Road and Kemerton Road

- 2.21. The Loughborough Junction Action Group/Loughborough Junction Neighbourhood Planning Forum question the northern boundary of the proposed neighbourhood area. They would prefer the boundary to be drawn along Lowden Road, Herne Hill Road and Ferndene Road, with their objection making the following points:
- Drawing the boundary so close to the Loughborough Junction town centre would detract from their place-making work and significantly impinge on their ability to continue with their work.

- The disputed area is some distance from the centre of Herne Hill and Loughborough Junction would only be of peripheral concern to a Herne Hill neighbourhood plan.
- The organisations have a long record of engagement in the disputed area and are not aware of the Herne Hill Forum or Herne Hill Society being involved in any community activities.
- Loughborough Junction is under considerable development pressure and although the main sites are principally outside of the boundary, these developments are of great concern to residents in the disputed area.
- The evidence that residents in the disputed area overwhelmingly consider themselves to live in Herne Hill is weak.
- Loughborough Junction needs a more nuanced approach to regeneration and is a more mixed area than Herne Hill.

2.22. The Brixton Society supports the representation on this area from the Loughborough Junction Action Group.

2.23. The SE5 Forum for Camberwell objects to the inclusion of Bicknell Road, Cambria Road, Finsen Road, Northway Road and Kemerton Road as these areas form part of Camberwell (postcode area SE5). In summary, the objection states that:

- In the case of the SE5 and SE24 postcode areas, the boundary between them in this location coincides broadly with how local people identify themselves.
- People also identify themselves with the principal natural geographical features of the location: with the crest of the hill that is called Denmark Hill on its northern flank and with Herne Hill on its southern flank.
- The Herne Hill neighbourhood forum consider that it should not matter that the proposed area boundary includes parts of neighbouring areas because these communities are not proposing to prepare neighbourhood plans for their areas. In the view of the SE5 forum, it should be for Camberwell's people to choose to work to improve their community in ways other than via a neighbourhood plan if they wish to, rather than becoming a peripheral part-area in another community's plan.

2.24. Officer consideration: Planning Practice Guidance sets out that when deciding the boundaries of a neighbourhood area, consideration could be given to areas where formal or informal networks of community based groups operate. The Loughborough Junction Action Group (LJAG) correctly argues that it is active within this area and the area is the subject of the emerging Loughborough Junction master plan, which is being led by Lambeth Council in partnership with LJAG. The boundary of Area F (as shown on the map in Appendix 4) follows the boundary of the emerging Loughborough Junction master plan, as published on the Council's Loughborough Junction master plan webpage. This emerging master plan has been the subject of three rounds of public consultation to date. The comments that these streets relate more to Loughborough Junction local town centre than to Herne Hill district centre are accepted. Using the Herne Hill Forum's own evidence, the views gathered about where residents living in this location identify with were mixed, with a number identifying with an area other than Herne Hill. The SE5 Forum is also active in this area and does not wish to be part of any neighbourhood plan that this forum might prepare. Having regard to these

considerations, in combination with the assessment set out in Table 1, Appendix 2, it is recommended that this area should not be included within the Herne Hill neighbourhood area.

Area G: Ruskin Park

- 2.25. The Friends of Ruskin Park state they have concerns about the potential benefits and risks for the future of Ruskin Park by including the park in the proposed neighbourhood area. They state that the park is not exclusively an asset for Herne Hill as it is also used and valued by other communities outside the proposed neighbourhood area. They add that Herne Hill Forum has not fully listened to or reflected the concerns expressed in the informal consultations they undertook with the Friends of Ruskin Park.
- 2.26. Loughborough Junction Action Group state that the proposed boundary excludes Brockwell Park, which is at the very heart of Herne Hill, but includes Ruskin Park, which is closer to Camberwell town centre. They therefore argue that Ruskin Park should not be included. One other objector said that Ruskin Park is more part of Camberwell and Denmark Hill than Herne Hill.
- 2.27. Officer consideration: Council information (summarised in the assessment in Table 1, Appendix 2) supports the argument made by the objectors that Ruskin Park serves a wider catchment than Herne Hill and is also associated with Denmark Hill and Camberwell. HHF's own evidence of those they asked shows mixed views among those living in the area surrounding Ruskin Park, with a number identifying with somewhere other than Herne Hill. It is therefore recommended that this area should not be included within the Herne Hill neighbourhood area.

Area H: Shakespeare Road waste transfer site

- 2.28. The Brixton Society states no residents north of the railway on Shakespeare Road were consulted. They state that the waste transfer site should not be included because any change or intensification of the use would impact most on residents in the north of Shakespeare Road, outside of the proposed neighbourhood area and that any local influence over the future use of the site would be lost.
- 2.29. Officer consideration: the argument that this site has more of a relationship with the northern part of Shakespeare Road is considered valid, because the two railway lines form a natural boundary and act as a barrier between this site and remainder of the proposed neighbourhood area; although it is acknowledged that some of the traffic accessing the site travels from Dulwich Road and under the railway line crossing Shakespeare Road. Development involving waste management uses is excluded from the remit of neighbourhood plans by legislation (as set out in Table 1, Appendix 2). As a result of both considerations, it is recommended that this site should not be included within the Herne Hill neighbourhood area.

Area I: Acland Crescent, Deepdene Road, Porchester Close and Sunset Road

- 2.30. SE5 Forum object to the inclusion of this area for the same reasons that they object to the inclusion of Area F (see paragraph 2.22 above). One other objector said they knew people who lived in this area and that those people identified with Camberwell.
- 2.31. Officer consideration: Planning Practice Guidance sets out that when deciding the boundaries of a neighbourhood area, consideration could be given to areas where formal or informal networks of community based groups operate. SE5 Forum is active in this area and has said that they do not wish to be part of any neighbourhood plan this forum might prepare. These streets are closer to Camberwell town centre and the shops along Denmark Hill than to Herne Hill town centre. They are also closer to Denmark Hill station than Herne Hill station. SE5 Forum's point about the relationship between the natural geography of this location and the crest of Denmark Hill is also acknowledged. HHF's own evidence shows views among people living in this area are mixed, with a number contacted identifying with somewhere other than Herne Hill. Taking all these considerations together, it is recommended that this area should not be included within the Herne Hill neighbourhood area.

Area J: north side of Trinity Rise and Brockwell Park Gardens

- 2.32. The Brixton Society recommend that this area should be included in the Tulse Hill neighbourhood planning area.
- 2.33. Officer Consideration: This area was the subject of discussion and agreement between HHF, the Tulse Hill Forum and Norwood Planning Assembly prior to designation of the latter two areas and prior to this application. If this area was removed from the Herne Hill forum proposed area, it would be isolated between designated areas. Tulse Hill Forum would have to apply to be the neighbourhood forum for this area. Tulse Hill Forum have not submitted an objection to this application in relation to this area or any other area. No change to the proposed neighbourhood area is recommended in this location.

Area K: Peabody Estate, Rosendale Road

- 2.34. Six objectors argue that some areas perceived to be "less desirable", such as the Peabody Estate on Rosendale Road, have been excluded from the boundary. Another objector was surprised to see that the Peabody Estate in the south was excluded from the proposed neighbourhood area, given that the boundary reaches almost to Loughborough Junction to the north.
- 2.35. Officer consideration: This area is already in the designated Norwood Planning Assembly neighbourhood area. In s61G(6) TCPA 1990 it is provided that the local planning authority 'may, in determining any application, modify designations already made'. In the Planning Practice Guidance, it is stated that a local planning authority can amend the boundary of a neighbourhood area after it has been designated only if the local planning authority is responding to a new application for a neighbourhood area to be designated. Officers do not consider that there would be any basis for seeking to modify the designation made in relation to the Norwood Planning Assembly neighbourhood area because of the HHF application. The Norwood Planning Assembly

area was designated following a process of consultation both by the relevant forum itself and by the Council. The area that was designated was considered to be coherent in neighbourhood planning terms and to be the area appropriate for designation. The designation of the Norwood Planning Assembly neighbourhood area has not been revisited in conjunction with the HHF application. The forum in that area would not have consulted people within its area about any change to the boundaries of its area. Officers do not consider that there would be any justification for seeking to modify the boundary of the Norwood Planning Assembly area on account of an application relating to the designation of the proposed HHF area. It is clear from the legislation that it is not possible for an area to be within more than one designated neighbourhood area. The Norwood Planning Assembly have not objected to this application. Therefore, no change to the proposed Herne Hill neighbourhood area is recommended in this location.

Area L: Deronda Triangle (Berwyn Road, Deerbrook Road, Deronda Road and Romola Road)

- 2.36. 48 objections (including one comprising a petition of 72 signatures) are from residents and a local neighbourhood association from the Deronda Triangle. Their objections state that residents of these streets are active members of the local Herne Hill community and have a Herne Hill postcode. They also raise concerns over the way people were consulted. They consider that Herne Hill extends down to the South Circular road and that this should be the boundary of the neighbourhood area. A further objector, who lives in Norwood Road, makes the same points.
- 2.37. Officer consideration: These roads were designated as part of the Tulse Hill neighbourhood area in 2016. It is understood that agreement about this area was reached between the Tulse Hill Forum and HHF prior to the Tulse Hill application being submitted and considered. No objections were received to the inclusion of this area when the proposed Tulse Hill neighbourhood area was consulted on in 2015. The position as regards amending area boundaries once an area is designated, and the absence of scope for overlapping area designations, is as set out above in relation to Area K. The same considerations in relation to the appropriateness of the existing designation of the Tulse Hill neighbourhood area apply as are set out above regarding the Norwood Planning Assembly area. The Tulse Hill Forum have not objected to this application. Therefore, no change to the proposed Herne Hill neighbourhood area is recommended in this location.
- 2.38. In addition to the objections relating to the eleven locations above, one person said they thought the proposed neighbourhood area should include all the addresses within the SE24 postcode. Officer consideration of this point concluded that, while the SE24 postcode may have been HHF's starting point, there were other considerations including that the SE24 postcode covers some locations already designated within other neighbourhood plan areas. Therefore, no change to the proposed Herne Hill neighbourhood area is recommended as a result of this objection.
- 2.39. The final three objections about the proposed neighbourhood area said that Brockwell Park should be included. Officer consideration of this point concluded that Brockwell Park has a wider catchment than Herne Hill and has not been included in other

designated neighbourhood planning areas for the same reason. Therefore, no change to the proposed Herne Hill neighbourhood area is recommended in relation to these objections.

Consideration of the proposed neighbourhood area by Southwark

- 2.40. Southwark officers have separately considered the proposed neighbourhood area insofar as it falls within that borough, alongside the representations received about that part of the area. It is understood that Southwark officers propose to decline to designate the area applied for in Southwark and designate a smaller area. It is understood that the areas proposed not to be designated are: the Herne Hill Velodrome, on the basis that it falls outside the natural boundary of the railway line; and Bessemer Grange Primary School and Children's Centre (centred on Nairne Grove, Woodfarers and Dylways) on the basis that they fall within the SE5 postcode area and are on the edge of the Denmark Hill Estate, both of which in LB Southwark's view are strongly associated with Camberwell (including Denmark Hill) rather than Herne Hill. The proposed amendment in this section of the neighbourhood area will also result in the neighbourhood area boundary following the established boundary of the Sunray Estate Conservation Area.

Recommendation in relation to the proposed neighbourhood area in Lambeth

- 2.41. In light of the assessment of the proposed neighbourhood area set out above, including consideration of the representations received, it is recommended to refuse the proposed Herne Hill neighbourhood area as applied for and instead to designate a smaller neighbourhood area. The map in Appendix 4 shows the neighbourhood area applied for: areas F, G, H and I on this map are not recommended for designation.
- 2.42. The map in Appendix 5 shows the smaller area it is proposed to designate as the Herne Hill neighbourhood area within Lambeth. It is considered that the area proposed for designation within Lambeth represents a coherent neighbourhood when considered alongside the area understood to be proposed for designation within Southwark. Having regard to the considerations within the PPG, it represents a reasonable catchment area for walking to Herne Hill town centre and railway station; it is an area in which the Herne Hill Forum is the main active local group; it is principally a residential neighbourhood alongside the district town centre of Herne Hill (which spans the borough boundary); it does not encroach on the catchment areas of other nearby town centres such as Loughborough Junction and Camberwell; it does not artificially divide residential or business estates; it includes the whole of the Herne Hill and Poet's Corner conservation areas; it respects natural features, such as crests of hills, as far as possible; and it is bounded in appropriate locations by major roads and railway lines. Neither Brockwell Park nor Ruskin Park is included because both have a wider catchment than Herne Hill. The boundary of the area proposed for designation in Lambeth is also contiguous with the adjacent designated neighbourhood planning areas of Tulse Hill and Norwood, leaving no 'islands' of undesignated land (other than Brockwell Park, which is considered not to belong exclusively to any one area).

Neighbourhood forum

Requirements for a neighbourhood forum application

- 2.43. The Neighbourhood Planning (General) Regulations 2012 require that an application to designate a neighbourhood forum must include:
- a) The name of the proposed neighbourhood forum;
 - b) A copy of the written constitution of the proposed neighbourhood forum;
 - c) The name of the neighbourhood area to which the application relates and map which identifies the area;
 - d) The contact details of at least one member of the proposed neighbourhood forum to be made public; and
 - e) A statement which explains how the proposed neighbourhood forum meets the conditions contained in section 61F (5) of the Town and Country Planning Act 1990.
- 2.44. The conditions contained in section 61F(5) of the Town and Country Planning Act 1990 are that:
- a) The neighbourhood forum 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;
 - b) Its membership is open to:
 - i) Individuals who live in the neighbourhood area concerned,
 - ii) Individuals who work there, and
 - iii) Individuals who are elected members of a county council, district council or London borough council any of whose area falls within the neighbourhood area concerned;
 - c) Its membership includes a minimum of 21 individuals each of whom
 - i) Lives in the neighbourhood area concerned,
 - ii) Works there, 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;and
 - d) It has a written constitution.
- 2.45. When considering the designation of a neighbourhood forum, the authority must have regard to the desirability of designating an organisation or body:
- a) Which has secured, or taken reasonable steps to attempt to secure, that its membership includes at least one individual falling within the categories set out above;
 - b) Whose membership drawn from different places in the neighbourhood area concerned and from different sections of the community in that area; and
 - c) Which has a purpose which reflects (in general terms) the character of the neighbourhood area.

- 2.46. A local planning authority must take a decision on an application to designate a neighbourhood forum within 20 weeks where the application crosses administrative boundaries and must be submitted to more than one local planning authority. Although it is necessary for applications to be submitted to each authority, there is only one neighbourhood forum organisation. The membership criteria, as contained in the legislation, need to be applied to the forum as a whole.
- 2.47. It is officers' interpretation of the legislative requirements as contained in the Town and Country Planning Act 1990 (in particular sections 61F and G of that Act) that in order to be able to be designated, the neighbourhood forum needs to be able to demonstrate 21 members from amongst the relevant categories of membership and who are located within the area that it is decided should be designated as a neighbourhood area. In the case of a cross-border application, this involves each authority considering the total number of forum members (and also their geographical distribution, if the 21 member threshold is met or exceeded) across the proposed neighbourhood area as a whole, that is, taking account of members who are located in the administrative area of the other authority as well as in the authority's own area.
- 2.48. For the purposes of deciding whether a combined neighbourhood area/forum application is validly made and is able to proceed to be determined, the local planning authority is required to assume that the neighbourhood area as applied for would also be the area that is designated (s61G(2)(b) TCPA 1990). This means that if the forum can demonstrate the requisite minimum number of 21 members (taken as a whole) then the area/forum application is able to proceed to be determined. However, in those cases where, having considered the area application, the local planning authority is of the view that a smaller area than that applied for should be designated, it is officers' interpretation of the legislation that before designating the neighbourhood forum, it is necessary to look again at whether the forum would continue to have the requisite 21 minimum members for the smaller area under consideration for designation. Otherwise, there would be a possibility of a forum being able to be designated that had fewer than the required 21 minimum members.
- 2.49. Officers' interpretation of the requirements of the legislation is supported by the experience of two other London authorities dealing with a cross-border application, and by the content of the Planning Practice Guidance. As regards the first point, officers are aware from a case involving the Old Oak Neighbourhood Area/Forum that a similar issue arose in that case, in which a forum application was refused due to there being fewer than 21 members in the revised neighbourhood area that was designated. As regards the second point, officers note that the PPG states that a local planning authority (or authorities in the case of a cross border application) can consult on applications to designate a neighbourhood area and a neighbourhood forum at the same time (as has been done in this case). The PPG goes on to note that if the neighbourhood area designated is not the same as the one applied for, a prospective neighbourhood forum may find that it has to revisit its membership, purpose or constitution and submit a revised forum application. It is officers' assessment that this is the position in which the HHF now finds itself, for the reasons explained in more detail in the next section of the report.

- 2.50. Only one organisation or body can be designated as a neighbourhood forum for each neighbourhood area. The neighbourhood forum designation is valid for five years from the date that it is made.

Consideration of the Herne Hill neighbourhood forum application against statutory requirements

- 2.51. An assessment has been made of the application to designate the Herne Hill neighbourhood forum against the requirements of the Town and Country Planning Act 1990 and the Neighbourhood Planning (General) Regulations 2012. This assessment is set out at Table 2, Appendix 2 and concludes that the application in respect of the neighbourhood area as applied for meets these requirements in full. This assessment has been carried out on the assumption that the neighbourhood area being applied for would also be the area that is proposed for designation. In view of officers' recommendation regarding the forum application, and in particular the issue of whether the forum would be able to satisfy the 21 minimum member requirement, officers have not repeated this assessment in relation to the smaller area proposed for designation as the neighbourhood area.

Consideration of consultation responses on the Herne Hill neighbourhood forum application

- 2.52. Eight representations received are in support of the proposed Herne Hill neighbourhood forum, and four object to it. One objector states they are unsure how representative the proposed forum is of Herne Hill residents, how it was selected and how it is governed. One objector states that the HHF are not qualified to undertake research and should therefore be discounted. One person objects to the establishment of the proposed neighbourhood forum on the basis that some SE24 postcodes have been excluded. The fourth objector states the HHF has not directly approached the community within Herne Hill that the proposal would affect.
- 2.53. Officer consideration of these objections is that they would not, in themselves, have warranted the forum application being recommended for refusal. It is considered, based on assessment of the demographic profile submitted with the application, that the Herne Hill Forum has a membership that is representative of the neighbourhood area applied for and that its written constitution ensures that it is open to people who live and/or work in the neighbourhood area or are an elected member. It should be emphasised that officers' assessment of whether the forum's membership is representative of the area concerned has been made purely on the basis of the (larger) area applied for. Officers have not gone on to consider whether the forum's membership would be representative of the smaller area proposed for designation, in view of the issue concerning the need for the minimum number of 21 members.

Recommendation in respect of the neighbourhood forum

- 2.54. The forum application includes 21 individuals listed as living and/or working with the proposed neighbourhood area as applied for (of which 15 are within Lambeth and 6

within Southwark). The application is considered to meet the relevant criteria in relation to the neighbourhood area applied for.

- 2.55. However, the assessment of the proposed neighbourhood area insofar as it relates to Lambeth has resulted in a recommendation to refuse the area as applied for and instead to designate a smaller area. Three of the 21 individuals listed in the forum application live and/or work within the part of the proposed area within Lambeth that is not recommended for designation. Of these three individuals, two live and/or work within Area F and one lives and/or works within Area I: as set out in paragraph 2.40 above, it is recommended not to designate these areas (see the Map in Appendix 4 for the boundary of these areas). If recommendations (2) and (3) of this report are agreed, the consequence will be that the Herne Hill neighbourhood forum will no longer meet the requirement to have a minimum of 21 members. This is the case irrespective of any decision that Southwark makes regarding the extent of the area to be designated within Southwark, given that the forum has 21 members in total.
- 2.56. Hence if recommendations (2) and (3) of this report are agreed, it will be necessary to refuse the neighbourhood forum application as set out in recommendation (4) of this report for the reason that the HHF cannot demonstrate the minimum number of 21 members for the neighbourhood area proposed to be designated, as required by the legislation. It is recommended that officers are asked to discuss with the Herne Hill Forum the possibility of submission of a revised application to Lambeth for neighbourhood forum designation.

Implications of the recommendations for Southwark's decision

- 2.57. If recommendations (2), (3) and (4) are agreed, there will be implications for Southwark's decision about the neighbourhood forum application. Southwark is not expected to have made its decision before Lambeth does. Southwark will be able to have regard to the recommendations that are made in Lambeth, and will need to be made aware of Lambeth's decision. Southwark will need to decide a way forward regarding the neighbourhood forum application that has been presented to it, and it will in any event need to consider the area application falling within its administrative area. Officers propose that they liaise with Southwark's officers in relation to the outcome of the application to Lambeth.

3. Finance

- 3.1. The application to designate a neighbourhood forum and area has no direct financial implications for the Council. Preparation of a neighbourhood plan would be led by the Herne Hill Forum but the Council will be required to provide advice and guidance during the formulation process. This will be provided through existing staff and covered by the existing budget for Planning, Transport and Development.
- 3.2. Local planning authorities can claim £5,000 from DCLG following the designation each of a neighbourhood area and forum. This funding is intended to contribute towards the costs the statutory independent examination of any neighbourhood plan that may come forward.

4. Legal and Democracy

- 4.1. The requirements for designation of neighbourhood forums and neighbourhood areas are set out in the Town and Country Planning Act 1990 and in the Neighbourhood Planning (General) Regulations 2012. The 2012 Regulations were amended in 2015 and 2016 to introduce prescribed timescales for the determination of neighbourhood area and neighbourhood forum applications. In the present case, the combined application must be determined within the period of 20 weeks from when the application was first publicised.
- 4.2. A prospective neighbourhood forum can put forward the neighbourhood area that they consider appropriate for neighbourhood planning and this area does not have to follow administrative boundaries. In a cross-border case, the area application must be made to each of the local planning authorities which has part of its administrative area within the proposed neighbourhood area. Similarly, each authority will need to consider whether the neighbourhood forum should be designated.
- 4.3. In practice, in cases involving cross-border applications, authorities are likely to wish to liaise with one another and ensure that they are aware of the steps that the other authority is proposing to take. In this case, Lambeth is making its decision first and Southwark will need to consider how it should proceed.
- 4.4. The legislation requires at least part of the neighbourhood area that is applied for to be designated. It is permissible to refuse to designate a neighbourhood forum in certain circumstances. The legislation also provides that if the authority fails to determine the area application within the required timescale the whole of the area applied for should be designated as the neighbourhood area, unless some part of the area applied for has already been designated as a neighbourhood area or there is another area application pending.
- 4.5. The report proposes that the neighbourhood area to be designated within Lambeth is reduced in extent compared to the area that is the subject of the application. The neighbourhood forum cannot show that it has at least 21 members with the requisite connection to the proposed smaller neighbourhood area. In those circumstances, it is proposed to refuse the application for the designation of the neighbourhood forum. The report sets out officers' understanding of the relevant parts of the legislation and how this is supported by the example of another cross-border application within London, and by the Planning Practice Guidance.
- 4.6. This proposed key decision was entered in the Forward Plan on 10 November 2017 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 five 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 Neighbourhood Planning (General) Regulations 2012 require that neighbourhood forum and area applications are published by the local planning authority as soon as possible for comment. This must include (for both the area and the forum applications) making available on line and in such manner as is likely to bring the applications to the attention of people who live, work or carry on business in the area concerned, a copy of the application, details of how to make representations and the date by which those representations must be received, which must be within no less than 6 weeks.
- 5.2. In accordance with the regulations, the combined application was published on the Council's website for a 6 week period from 31 July to 11 September 2017. The following consultation methods were used:
- Publication on the neighbourhood planning and consultation webpages
 - A notification email to all those on the planning policy consultation database
 - A notification email to Lambeth Forums Network
 - A public notice in the South London Press
 - Copies of the application at Brixton Library and Phoenix House
- 5.3. The response to the consultation is summarised in section 2 above and set out in full in the schedule in Appendix 3.

6. Risk Management

None.

7. Equalities Impact Assessment

- 7.1. The equalities impact of this decision has not been assessed because area designation alone will not directly affect the people within it until a neighbourhood forum is in place and starts to bring forward a neighbourhood plan. An EIA would be undertaken if and when a new neighbourhood forum application is considered for designation.

8. Community Safety

None.

9. Organisational Implications

None.

10. Timetable for Implementation

- 10.1. The Neighbourhood Planning (General) Regulations 2012 require that as soon as possible after designating a neighbourhood area, the decision must be published on the Council's website and in such other manner as is considered likely to bring the designation to the attention to those who live, work or carry on business in the

neighbourhood area. The Council must publish the name of the neighbourhood area, a map which identifies the area and the name of the relevant body who applied for the designation. If the designation applied for is refused, the Council must publish a document setting out the decision and a statement of reasons for the decision.

- 10.2. If an application for neighbourhood forum designation is refused, the Council must publish a document setting out the decision and a statement of reasons for the decision as soon as possible after the decision is made.

Audit trail				
Consultation				
Name/Position	Lambeth directorate or partner	Date Sent	Date Received	Comments in para:
Sue Foster	Strategic Director Neighbourhoods and Growth	14.11.17	15.11.17	
Sandra Roebuck	Director Planning Investment and Growth	3.11.17	13.11.17	
Susan Boucher	Legal Services	3.11.17	20.11.17	Throughout
Henry Langford	Democratic Services	3.11.17	20.11.17	
Andrew Ramsden	Corporate Resources	3.11.17	10.11.17	
Cllr Matthew Bennett	Cabinet Member for Planning, Regeneration and Jobs	14.11.17	16.11.17	
Cllr Claire Wilcox	Chair, Planning Applications Committee	17.11.17	20.11.17	
Cllr Jim Dickson	Ward councillor (Herne Hill)	22.11.17	27.11.17	
Cllr Jack Holborn	Ward councillor (Herne Hill)	22.11.17	27.11.17	
Cllr Michelle Agdomar	Ward councillor (Herne Hill)	22.11.17	27.11.17	
Cllr Donatus Anwanyu	Ward councillor (Coldharbour) and Neighbourhood Lead for Brixton	22.11.17	27.11.17	
Cllr Matt Parr	Ward councillor (Coldharbour)	22.11.17	27.11.17	
Cllr Rachel Heywood	Ward councillor (Coldharbour)	22.11.17	27.11.17	
Cllr Fred Cowell	Ward councillor (Thurlow Park) and Neighbourhood Lead for Norwood	22.11.17	23.11.17	
Cllr Anna Birley	Ward councillor (Thurlow Park)	22.11.17	27.11.17	
Cllr Max Deckers Dowber	Ward councillor (Thurlow Park)	22.11.17	27.11.17	

Report history	
Original discussion with Cabinet Member	19 October 2017
Report deadline	N/A
Date final report sent	N/A
Part II Exempt from Disclosure/confidential accompanying report?	None
Key decision report	Yes
Date first appeared on forward plan	10.11.17
Key decision reasons	Meets community impact test
Background information	National Planning Practice Guidance https://www.gov.uk/government/collections/planning-practice-guidance

Appendices

Appendix 1 – HHF neighbourhood area and forum application
Appendix 2 – Assessment of the HHF neighbourhood area and forum application against statutory requirements
Appendix 3 – Schedule of representations
Appendix 4 – Map of proposed Herne Hill neighbourhood area (as applied for) with areas of contention in Lambeth
Appendix 5 – Map of Herne Hill neighbourhood area recommended for designation by Lambeth