

Item No.	Classification: Open	Date: 1 February 2011	Decision Taker: Cabinet Member for Regeneration and Corporate Strategy
Report title:		Revision to programme of work on Bankside, Borough and London Bridge Supplementary Planning Document and application for Neighbourhood Plan 'Vanguard' status	
Ward(s) or groups affected:		Cathedrals, Grange, Riverside, Chaucer	
From:		Deputy Chief Executive	

RECOMMENDATIONS

That the Cabinet Member for Regeneration and Corporate Strategy

1. Agrees to the revised programme of work on the Bankside, Borough and London Bridge Supplementary Planning Document.
2. Agrees to the submission of an application to become a Neighbourhood Planning Vanguard to the Department for Communities and Local Government in accordance with the scheme announced with the publication of the Localism Bill

BACKGROUND INFORMATION

3. Bankside, Borough and London Bridge is designated as an opportunity area in the London Plan. The council has agreed to work with the GLA on the preparation of planning guidance that would form a supplementary planning document (SPD) as part of Southwark's local development framework and an opportunity area planning framework (OAPF) as part of the Mayor of London's guidance to support the London Plan.
4. A draft document was approved by the former Executive on 9 February 2010 and public consultation took place from January – March 2010. In August 2010 the Cabinet Member for Regeneration and Corporate Strategy approved a further period of consultation to run from mid-September 2010 for 6 weeks in response to requests for a further opportunity to make representations.
5. It was noted at that time that it may be necessary to amend the draft SPD following the adoption of the Core Strategy depending on the outcome of the Planning Inspector's report on the Core Strategy Examination in Public, in which case there would need to be further additional consultation.
6. Following the additional period of consultation in September/October 2010, a group of local residents, businesses and representatives of various local organisations in the Bermondsey Street area came together with the intention of forming a neighbourhood forum and preparing a neighbourhood plan following the principles of 'localism' promoted by the Coalition Government. Following publication of the Localism Bill in December 2010 and the announcement of the Neighbourhood Planning Vanguards scheme, members of the group have requested that Southwark applies to be part of this scheme.
7. The Department for Communities & Local Government (CLG) is inviting local

authorities to take part in a Neighbourhood Planning Vanguard scheme and will work with 'around a dozen places - a range of rural and urban, prosperous and in need of regeneration - which will give us the greatest insight into how neighbourhood planning will work in practice.'

8. Under this scheme, a grant of up to £20,000 will be made available towards the cost of the plan and orders within each neighbourhood.
9. The local development scheme (LDS) which identifies the programme for preparing documents is currently under review. The revised LDS, which is due to be approved by the Cabinet Member for Regeneration and Corporate Strategy in May 2011, will reflect the timescales needed to engage effectively with local communities. In addition, in preparing documents, there are processes in place to ensure that issues related to community engagement are given adequate consideration. The SCI requires the council to draw up a consultation plan during the preparation of planning documents.

FACTORS FOR CONSIDERATION

10. The Vanguard scheme announcement states the intention of following, as closely as possible, the procedures for neighbourhood planning being established through the Localism Bill. However it also states: 'given that the relevant provisions in the Localism Bill are not yet in force, local planning authorities will need to operate within the restraints of the current system for producing development plan documents and local development orders.'
11. The Localism Bill contains provisions whereby the local authority will need to decide whether to recognise a local group wishing to form a neighbourhood forum for these purposes according to a range of criteria mainly set out in Schedule 9 of the bill as follows:

'A local planning authority may designate an organisation or body as a neighbourhood forum if the authority are satisfied that it meets the following conditions

- (a) the organisation or body is established for the express purpose of furthering the social, economic and environmental well-being of individuals living, or wanting to live, in an area that consists of or includes the neighbourhood area concerned,*
 - (b) the membership of the organisation or body is open to individuals living, or wanting to live, in the neighbourhood area concerned,*
 - (c) there are at least 3 members of the organisation or body each of whom lives in the neighbourhood area concerned, and*
 - (d) the organisation or body has a written constitution.'*
12. There are other responsibilities for the local authority including the provision that, once given, a designation may not be withdrawn and that it will run for five years. However, these provisions are not yet law and the council will need to be mindful of them but will not yet be bound by them.
 13. The Localism Bill sets out procedures for neighbourhood plans to be subject to a form of examination followed by a referendum leading to adoption. While this is also not yet law, the vanguard scheme announcement states: 'In addition, though not a requirement of funding, we would find it helpful if local planning authorities were to undertake a referendum on the proposed neighbourhood plan or order.'

14. The group forming the neighbourhood forum is responding to these requirements and, among other preparations, is in the process of agreeing its constitution.
15. Statements by CLG on the Localism Bill have made it clear that neighbourhood planning should not be seen as a process that can be used by local communities to prevent development. The Schedule states in relation to development orders that they must be in general conformity with the strategic policies contained in the development plan for the area of the authority.
16. The group has not yet agreed the detailed boundaries of the area they wish to consider but it is likely to mainly concern that part of the opportunity area east of Borough High Street. Any neighbourhood plan produced will not, therefore, fully replace the planning guidance that Southwark and the Mayor of London have recognised as being needed.
17. Work will continue on the preparation of the evidence base for the document which, where appropriate, will be shared with the neighbourhood forum to assist in their plan preparation. However, detailed policy work on the preparation of the SPD/OAPF is suspended for the time being to allow for the preparation of a neighbourhood plan for the area east of Borough High Street.
18. This course of action has been discussed with GLA officers who have not raised objections.
19. It is also proposed that at an appropriate time, expected to be towards the end of 2011, the council, together with the Mayor of London and CLG, will review the outcomes of the work of the neighbourhood forum and consider whether and how this should be taken forward to become planning guidance and/or policy to be considered in relation to applications for planning permission. The options will include:
 - Proceeding with the preparation of an SPD/OAPF informed where appropriate by the work of the neighbourhood forum (this includes the possibility that the output of the neighbourhood forum could be rejected)
 - Proceeding with preparation of another form of local development document such as a development plan document (DPD)
 - Waiting for the Localism Bill to become law so that the formal stages of examination and referendum can be followed through
20. The council should seek to reserve the right to consider other options as appropriate.

Potential advantages of participation in the vanguard scheme

21. The neighbourhood forum that is being formed has the potential to become a very effective body for developing a collective vision shared by residents, businesses and other organisations in the area to shape the future planning of the area. This may provide valuable assistance to the local planning authority in making planning decisions have widespread local support.
22. Participation in the vanguard scheme will give Southwark the opportunity to influence the debate on the Localism Bill and ensure that the particular concerns that arise regarding the application of proposed procedures to our circumstances

are properly tested before they become law. This includes testing the processes in an area of:

- Central London
- High density mixed development
- Intense pressure for development
- Particular regeneration needs and opportunities
- Extremely diverse and rapidly changing population
- Acute social, economic and environmental pressures

Potential disadvantages of participation in the Vanguard scheme

23. There is continuing high intensity of development activity in the area and both the council and the Mayor of London have recognised the need for clear guidance to steer planning decisions. Participation in the vanguard scheme may be seen as delaying the adoption of guidance to the detriment of the good planning of the area. In particular, land owners and developers may see this as creating more uncertainty about the planning regime for the area when they are making major investment decisions.
24. While Vanguard status would bring a grant of £20,000, the full costs to the council of working with a neighbourhood forum on a neighbourhood plan are not known at this stage. If it becomes a requirement to hold a referendum this may have a significant cost implication. Electoral Services estimate that council elections may cost on average around £25,000 per ward. However, this is not necessarily a requirement and the council will work with CLG and the forum to ensure that costs are kept under control.
25. The neighbourhood forum may have access to its own resources and should, at least, be well provided with volunteer time. This may mean that no more council officer time will be needed to work with the forum than would have been needed to take forward the SPD under current arrangements.

Other considerations

26. Under current arrangements, the council seeks to make sure that consultation on planning documents is effective and inclusive by following the standards set out in the Statement of Community Involvement. This includes approving a consultation plan at the start of plan preparation. The provisions of the Localism Bill may significantly change the ways in which these matters are handled by devolving to the neighbourhood forum the responsibility to ensure that consultation and participation techniques are truly representative and inclusive to meet expectations around equal opportunities and social inclusion. The Localism Bill makes provision for the Secretary of State to make further regulations on the designation of bodies as neighbourhood forums. Participation in the vanguard scheme would give the council the opportunity to influence the direction of any such regulations to ensure that they reflect appropriate standards for equality and inclusion.
27. In advance of the passing of the Localism Bill and the setting of any related regulations, the council will need to apply its own standards for equality and inclusion through agreement with the neighbourhood forum which is being formed.
28. The idea that Southwark should apply for Neighbourhood Planning Vanguard

status was initiated by the group referred to in paragraph 6 above. In making a decision to make such an application and to work with this group the council must be mindful of the fact that other groups may come forward and make similar requests. Any such requests would need to be considered but it may prove impractical for the council to support more than one neighbourhood planning vanguard project at one time.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

29. There are two proposals before the Cabinet Member. The first is to agree a revised program on the work of the Borough and Bankside SPD, if the council is successful in obtaining funding from DCLG on its application to apply for vanguard status. The second proposal before the Cabinet Member is to apply for funding to enable the council to participate in essentially what is a pilot of the Neighbourhood Planning provisions. The government therefore expects authorities participating in this scheme to, as far as practicable:
- Work closely with a parish council or community group so as to enable that group or council to prepare a draft plan or order;
 - Provide the parish council/community group with reasonable guidance and technical assistance to facilitate their preparation of a plan or order; and
 - Appoint a suitably qualified professional to undertake an independent examination of any proposed order (as they would need to in the case of a development plan document which the council believe should proceed to independent examination).
30. Given that the relevant provisions in the Localism Bill are not yet in force, the council will need to operate within the restraints of the current system for producing development plan documents and local development orders. Some of the options suggested at the end of the process are set out in paragraph 19 of the report.
31. By way of background, the government believes that the current planning system is too centralised and bureaucratic. The Bill introduces new rights for local communities to shape their local areas through Neighbourhood Development Plans (NDP) and Neighbourhood Development Orders (NDO).
32. An NDO is an order that grants planning permission in a particular neighbourhood area for development specified in that order. The result is that no planning permission will be required. Any qualifying body (a parish council or an organisation or body designated as a neighbourhood forum (NF) can request and NDO from the local planning authority. The Bill sets out detailed provisions and the process for making an NDO.
33. A community right to build order (CRBO) is a particular type of NDO (*Schedule 11*) (see *Neighbourhood development orders*). A CRBO will give community organisations the ability to take forward development in their area without the need to apply for planning permission, subject to certain qualifications. A community organisation is a body corporate which:

- Is established for the express purpose of furthering the social, economic and environmental well-being of individuals living or wanting to live in a particular area.
 - Meets other prescribed conditions in relation to its establishment or constitution.
34. The community organisation will be responsible for identifying suitable land and sources of finance. The government hopes that this will tackle the lack of development coming forward in rural areas.
35. A Neighbourhood Development Plan (NDP) is a plan which sets out policies in relation to the development and the use of land in a particular neighbourhood. The plan would be made on the initiative of any of the qualifying bodies set out above and would form part of the development plan.
36. The Bill provides that any challenge of a decision not to act or the questioning of a decision can be challenged by way of a Judicial Review when the Bill is enacted in relation to NDOs. Therefore, when the proposal by the NF is submitted the standards that will be applied in justifying any decision in relation thereto will be subject to the usual public law standards i.e. what the council will need to ensure is in coming to any decision in relation to these matters is that the council:
- a. Does not take into account factors that should not be taken into account;
 - b. Does not fail to take into account factors that should be taken into account; and
 - c. The decision is not so unreasonable that no reasonable authority would ever come to such a decision.
37. At the moment officers do not know what the NF will propose i.e. an NDO, an NDP or a CRBO. If the council is successful in applying for vanguard status, this will be a good opportunity for the council to test the provisions of the Localism Bill before it actually comes into force. However, the most obvious proposition is likely to be an NDP.
38. However, the Cabinet Member should be aware that whilst the Borough and Bankside SPD remains unadopted, there is a slightly increased risk of legal challenge against decisions in relation to planning permissions as there will remain some uncertainty about the overall plan or vision. It is difficult to quantify how many challenges may be instituted as a result of a delay in the adoption of the SPD at this point in time or whether or not they will be successful.
39. It is also important to note that both NDOs and NDPs are permissive in that they will specify what is allowed rather than prevent certain types of development. This procedure should therefore not be used as a tool by the community to prevent these types of development.
40. Under the constitution Part 3D, paragraph 4 the Cabinet Member has the authority to submit bids for additional resources from government in relation to their area of responsibility. Under Part 3D, paragraph 14 the Cabinet Member has authority to agree consultation arrangements in relation to their area of responsibility. It is therefore within the Cabinet Member's remit to make the two decisions before her.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
N/A		

APPENDICES

No.	Title
N/A	

AUDIT TRAIL

Lead Officer	Eleanor Kelly, Deputy Chief Executive	
Report Author	Simon Bevan, Interim Head of Planning and Transport	
Version	Final	
Dated	31 January 2011	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Departmental Finance Manager	Yes	No
Cabinet Member	Yes	No
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