



## Mayor and Cabinet

### **Resolution from Sydenham Local Assembly regarding Bell Green Neighbourhood Forum and Area**

**Date:** 7 December 2022

**Key decision:** Yes

**Ward(s) affected:** Bellingham, Perry Vale, Sydenham

**Contributors:** James Lee – Director of Communities, Partnerships and Leisure

### **Outline and recommendations**

This report accompanies a Resolution passed by Sydenham Assembly on 1 October 2022 in relation to the Director of Planning's decision concerning the size and boundaries of the Bell Green Neighbourhood Forum and Designated Area. The Resolution concerns a request for further examination of the process used to arrive at the decision that was made following local consultation.

It is recommended that the Mayor and Cabinet note the content of this report.

## Timeline of engagement and decision-making

*7th April 2022 – Application(s) made to Council for the designation of a new neighbourhood area and forum in the Bell Green area*

*26th May 2022 – Application(s) for neighbourhood area and forum are publicised*

*26th May to 7th July 2022 – Public consultation is held*

*28th July 2022 – Consultation statement and supporting documents submitted to Director of Planning for delegated decision*

*25th Aug 2022 – Decision to refuse the application and designate an amended area made by Director of Planning*

*25th Aug 2022 – Decision to refuse the application for the designation of the neighbourhood forum*

### 1. Summary

1.1. The following resolution was put to attendees at the Sydenham Assembly meeting on 1 October 2022 by a local resident:

**The Sydenham Assembly is concerned about the integrity and conduct of local planning consultations.**

**The Bell Green Neighbourhood Area was approved by democratic public consultation.**

**However, this appears to have been overturned as a result of pressure from five unnamed councillors.**

**We therefore request the following:**

- **Please will the Mayor identify the councillors involved, and produce their responses to the consultation.**
- **Please will the Mayor produce the legally required documentation to justify the radical reduction of the NA by two-thirds.**
- **Please will the Mayor ensure that Planning Enforcement are to be transparent in their processes, and respect local democracy.**

### 2. Recommendations

2.1. It is recommended that the Mayor and Cabinet note the content of this report.

### 3. Policy Context

3.1. Neighbourhood Planning was introduced by the government through the Localism Act 2011 and is designed to enable local communities to draft planning policies at neighbourhood level that are intended to become part of the local planning framework for the area. In order to prepare a plan a neighbourhood area application has to be approved by the Council which sets out the boundaries of the neighbourhood. In addition, a neighbourhood forum application has to be approved which sets out the composition and constitution of the forum, which is the neighbourhood organisation which will produce the neighbourhood plan. Such applications are subject to public consultation.

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- 3.2. Section 61G(5)(c) of the Town and Country Planning Act 1990 provides that a "neighbourhood area" is an area which the local planning authority considers "appropriate".
- 3.3. The NPPG states that a local planning authority must designate a neighbourhood area if it receives a valid application and some or all of the area has not yet been designated (see section 61G(5) of the Town and Country Planning Act 1990 Act as applied to Neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004).
- 3.4. In certain circumstances, the local planning authority must designate all of the area applied for. These circumstances are where a parish council applies for the whole of their parish to be designated or where the time limit for determining the application has not been met.
- 3.5. In other cases the local planning authority should take into account the relevant body's statement explaining why the area applied for is considered appropriate to be designated as such.
- 3.6. However, except where they are required to designate the whole area applied for, a local planning authority can refuse to designate the specific area applied for if it considers the area is not appropriate. Where it does so, the local planning authority must give reasons. The authority must use its powers of designation to ensure that some or all of the area applied for forms part of one or more designated neighbourhood areas.
- 3.7. There is no statutory definition of "appropriate" in respect of section 61G of the 1990 Act. The Court of Appeal has held that the statute provides Councils with a wide discretion in determining whether or not an area is appropriate for designation.
- 3.8. The NPPG advises that the following could be considerations when deciding the boundaries of an appropriate neighbourhood area:
  - village or settlement boundaries, which could reflect areas of planned expansion
  - the catchment area for walking to local services such as shops, primary schools, doctors' surgery, parks or other facilities
  - the area where formal or informal networks of community based groups operate
  - the physical appearance or characteristics of the neighbourhood, for example buildings that may be of a consistent scale or style
  - whether the area forms all or part of a coherent estate either for businesses or residents
  - whether the area is wholly or predominantly a business area
  - whether infrastructure or physical features define a natural boundary, for example a major road or railway line or waterway
  - the natural setting or features in an area
  - size of the population (living and working) in the area
- 3.9. It further notes that electoral ward boundaries can be a useful starting point for discussions on the appropriate size of a neighbourhood area; these have an average population of about 5,500 residents.

## 4. Background

- 4.1. At the Sydenham Local Assembly meeting on 1 October 2022, the recent announcement of the designated area for the Bell Green Neighbourhood Forum was discussed. Residents agreed that the final designated area was significantly smaller than the area

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that had been consulted on. They were concerned about this and felt that the final decision failed to take account of comments made in the consultation and that key areas that had been included in the consultation had ultimately not been included in the final decision.

## 5. Response

*The Bell Green Neighbourhood Area was approved by democratic public consultation. However, this appears to have been overturned as a result of pressure from five unnamed councillors*

- 5.1. This statement is not correct and misrepresents the role and purpose of public consultation. The decision on whether to approve a neighbourhood area is for the Council alone. Public consultation does not determine the decision that will be taken but responses are considered as part of the decision making process. As such, there is no process for the public to approve a neighbourhood area and the Council has not 'overturned' any public decision as there was no decision for the public to make. The reasoning for the decision has been published and was based on the appropriateness of the proposed neighbourhood area only.

*Please will the Mayor identify the councillors involved, and produce their responses to the consultation.*

- 5.2. These details have been provided and all comments from Councillors are published online, unredacted and copied verbatim. The original version of these have been released following a Freedom of Information request.

*Please will the Mayor produce the legally required documentation to justify the radical reduction of the NA by two-thirds.*

- 5.3. All documentation is online and has been since the decision was originally made. The decision and accompanying reports were legally reviewed prior to the decision being issued. The Council remains satisfied that the decision is legally robust and accompanied by the required details.

*Please will the Mayor ensure that Planning Enforcement are to be transparent in their processes, and respect local democracy.*

- 5.4. The Planning Service continues to look for opportunities to improve transparency following the outcomes of the Local Democracy Review. This includes improving information regarding the planning enforcement process and looking at opportunities for the public to track the progress of established breaches via the online planning portal. However, the taking of planning enforcement is discretionary and decisions regarding planning enforcement are not matters for public consultation. While the Planning Service will seek to keep interested parties up to date, the resolution of any breach is ultimately a matter between the Council and the relevant land owner and there will always need to be a balance between full transparency and confidentiality for those who may be subject to enforcement action.

## 6. Financial implications

- 6.1. There are no direct financial implications arising from the recommendation.

## 7. Legal implications

- 7.1. The Rules and Procedure of council's Constitution at Part IV provides at paragraph 15(e) that Mayor and Cabinet will consider reports from local assemblies as part of its business. Paragraph 20(f) allows local assemblies to place an item for consideration on the Mayor and Cabinet agenda.

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## 8. Equalities implications

8.1. There are no direct equalities implications arising from the recommendation.

## 9. Climate change and environmental implications

9.1. There are no direct climate change and environmental implications arising from the recommendation.

## 10. Crime and disorder implications

10.1. There are no direct crime and disorder implications arising from the recommendation.

## 11. Health and wellbeing implications

11.1. There are no direct health and wellbeing implications arising from the recommendation.

## 12. Background papers

12.1. *The following papers are submitted in support of this report:*

- *Delegated decision notice for the Bell Green Neighbourhood Area and Forum*
- *Appendix A – Delegated decision notice for the Bell Green Neighbourhood Area and Forum*
- *Bell Green Neighbourhood Area and Forum consultation statement*
- *Bell Green Neighbourhood Area and Forum consultation (Schedule of comments)*
- *Refusal notice for the Bell Green Neighbourhood Area*
- *Refusal notice for the Bell Green Neighbourhood Forum*
- *Map of Designated Bell Green Neighbourhood Area (Amended boundary).*

## 13. Glossary

13.1.

| Term  | Definition  |
|---|---|
| Neighbourhood Area                                  | A defined geographical area designated by a local planning authority, for which a neighbourhood forum is responsible for neighbourhood planning matters |
| Neighbourhood Forum                                 | A community organisation designated by the local planning authority to lead on neighbourhood planning matters within a designated neighbourhood area    |
| Town and country Planning Act (1990) – The 1990 Act | An Act to consolidate certain enactments relating to town and country planning.   |

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| Term   | Definition   |
|--|--|
| Planning and Compulsory Purchase Act (2004) – The 2004 Act | An act to make provision relating to spatial development and town and country planning; and the compulsory acquisition of land |
| NPPG   | National Planning Practice Guidance  |

## 14. Report author and contact

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