

CABINET



Report subject	Applications for designation of Sandbanks Neighbourhood Forum and Sandbanks Peninsula Area Boundary
Meeting date	20 December 2019
Status	Public Report
Executive summary	<p>The proposed Sandbanks Neighbourhood Forum and proposed Sandbanks Peninsula Neighbourhood Plan Area have been submitted to the Council. Both applications have met the conditions of the Neighbourhood Planning Regulations 2012.</p> <p>Following a six week period of public consultation between 23/09/2019 - 04/11/2019 and due consideration of comments received, there is no justification or reasons to refuse the proposed forum's application. Those who commented were mainly supportive of the applications.</p> <p>Formal designation of the Sandbanks Neighbourhood Forum and Sandbanks Peninsula boundary area will enable the community to start preparing a neighbourhood plan for the Sandbanks Peninsula Area. Once this has been through the statutory process and if adopted by Council, the policies in the plan will be used, alongside the Council's planning policy documents, to make decisions on planning applications in the area.</p>
Recommendations	<p>It is RECOMMENDED that Cabinet:</p> <p>(a) Note the officer assessment of the application submitted by the proposed Sandbanks Neighbourhood Forum to apply for status as a 'designated body' and the proposed Area boundary.</p> <p>(b) Note the support for the Sandbanks Neighbourhood Forum and area boundary from the consultation responses received.</p> <p>(c) In light of (a) and (b) approve the designation of the Sandbanks Neighbourhood forum as a relevant body for the purposes of neighbourhood planning within the boundaries of the neighbourhood area set out in the application, and;</p> <p>(d) Approve that the area set out in the application be designated as a neighbourhood area for the purposes of neighbourhood planning</p>
Reason for recommendations	<p>The Council, as Local Planning Authority is required to determine an application it receives for designation as a proposed 'Neighbourhood Forum' for the purposes of specific planning powers; and it is required to consider and determine whether a proposed 'Neighbourhood Area' should be designated as such, in accordance with the Neighbourhood Planning Regulations 2012.</p>

Portfolio Holder(s):	Councillor Margaret Phipps (Portfolio Holder for Strategic Planning)
Corporate Director	Bill Cotton, Corporate Director of Regeneration and Economy
Contributors	Julian McLaughlin, Director for Growth & Infrastructure Rebecca Landman, Planning Officer
Wards	Canford Cliffs
Classification	For Decision

Background

1. The Localism Act 2011 introduced the concept of neighbourhood planning, whereby parish councils or other established democratic bodies (neighbourhood forums) were given the power to set priorities for local development in their area. Regulations were introduced allowing local planning authorities to permit the designation of neighbourhood forums and neighbourhood areas in order to develop their own neighbourhood plans and the right to access 25% of the community infrastructure levy funds collected in their areas to use on local facilities.

SANDBANKS NEIGHBOURHOOD FORUM & AREA BOUNDARY

2. On 20 August 2019, the proposed Sandbanks Neighbourhood Forum submitted a combined application and supporting documents to BCP as the Local Planning Authority seeking to create a forum and Area Boundary. The proposed forum is an unincorporated association whose aim is to promote and maintain the character and amenities of the Sandbanks Peninsula area. It has adopted a written Constitution which sets out the framework, governance and objectives within the defined neighbourhood area boundary. The proposed boundary is located within Canford Cliffs ward. It comprises the whole of the Sandbanks headland and peninsula to Banks Road back to the intersection with Shore Road. The area boundary goes to low water mark and therefore includes the inter-tidal zone (the foreshore). The Local Planning Authority has overlapping jurisdiction with the Marine Management Organisation for anything in the foreshore. If approved by Cabinet, this will authorise the forum to exercise its powers to progress the preparation of a Neighbourhood Plan for the Sandbanks Peninsula area.

Neighbourhood Forum Designation - Officer Assessment

3. An organisation or body making an application for a neighbourhood forum designation must meet procedural and legal requirements set out in the Neighbourhood Planning Regulations 2012 and Section 61F(5) of the Town & Country Planning Act 1990. Officers assessment of the proposed neighbourhood forum application against the requirements is shown in Table 1.

Table 1: Neighbourhood **Forum** statutory conditions

Requirement	Has compliance been met?	Where has compliance been met?
Provide the name of the proposed neighbourhood forum	Yes	Application form dated 20 August 2019.
Provide a copy of the written constitution of the proposed neighbourhood forum	Yes	Sandbanks Neighbourhood forum has a written constitution that describes the basic framework of the organisation, its purpose, membership rules and election of officers. The constitution dated 1 August 2019 was submitted with application form.
Provide the name of the neighbourhood area to which the application relates and a map which identifies the area	Yes	Submitted within application form.
Provide the contact details of at least one member of the proposed neighbourhood forum to be made public under regulations 9 and 10	Yes	Paul de Cordova, 9 Salter Road, Poole, Dorset, BH13 7RQ made public on the BCP Consultation tracker webpage.
Provide a statement which explains how the proposed neighbourhood forum meets the conditions contained in section 61F(5) of the 1990 Act. Yes – see below		
Demonstrate that the 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 (whether or not it is also established for the express purpose of promoting the carrying on of trades, professions or other businesses in such an area),	Yes	The statement dated 20 August 2019 sets out the purpose of the Sandbanks Neighbourhood Forum is to be active in promoting sustainable development to: <ul style="list-style-type: none"> • Preserve and enhance the unique landscape character of Sandbanks; • Promote higher quality inclusive design in all new developments; • Protect existing jobs, especially in the tourist and maritime industries; • Protect and enhance existing community facilities and amenities, including the beaches through more relevant planning policies and local projects.
its membership is open to— (i) individuals who live in the neighbourhood area concerned, (ii) individuals who work there (whether for	Yes	Sandbanks Neighbourhood Forums has a free membership policy that will seek to secure additional membership from residents and members, and from other sections of the community in the neighbourhood area.

Requirement	Has compliance been met?	Where has compliance been met?
businesses carried on there or otherwise), 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.		The proposed neighbourhood forum comprises 48 members. The majority are residents plus both Canford Cliffs Ward Councillors and 3 local business owners. The minimum number of individuals required is 21. The current membership of individuals listed on the application form exceeds the minimum number required.

Neighbourhood Plan Area designation - Officer Assessment

4. Neighbourhood Plan areas cannot be designated until a neighbourhood forum is designated. In order for the area application to be designated, the application for forum status must also be approved.
5. An application for a neighbourhood plan area must meet procedural and legal requirements set out in the Neighbourhood Planning Regulations 2012 and defined in Section 61G(5) of the Town & Country Planning Act 1990. Officers assessed the proposed neighbourhood plan area application against the requirements. This is shown in Table 2

Table 2: Neighbourhood **Plan Area** statutory conditions

Requirement	Has compliance been met?	Where has compliance been met?
Provide a map which identifies the area to which the area application relates	Yes	Submitted with application form dated 20 August 2019.
Provide a statement explaining why this area is considered appropriate to be designated as a neighbourhood area	Yes	Submitted with application form dated 20 August 2019. The statement sets out the proposed boundary and geographical nature, landscape, building typologies, and social and economic characteristics.
Provide a statement that the organisation or body making the area application is a relevant body for the purposes of section 61G of the 1990 Act	Yes, subject to committee's approval of the forum designation.	Should the committee agree that the proposed Forum be designated in light of the statement that demonstrates that the establishment and purpose of the forum is to promote or improve the social, economic and environmental well-being of the neighbourhood plan area, then this will have been complied with.

Consultation undertaken

- 6. The Neighbourhood Planning Regulations 2012 (Sections 6 & 9) set out the responsibilities of the local planning authority to publicise applications it receives for a designation of a neighbourhood forum and neighbourhood area boundary.
- 7. The neighbourhood forum application, area application and supporting documents were publicised for a period of six weeks between 23/09/2019 – 04/11/2019. Details of how to make representations and the date by which representations should be received were provided.
 - The application was published electronically on the BCP consultation tracker.
 - 1567 emails were sent to consultees on Poole’s planning policy database.
 - 15 site notices were erected in key locations within the proposed neighbourhood area.
 - Copies of the application were placed in Planning Reception at Civic Centre Poole and at Canford Cliffs Library, 6 Western Road, Poole, BH13 7BN.

Consultation Feedback

- 8. There were 20 responses received within the consultation period. There were also 13 late responses, making a **total of 33 responses**. The responses were mainly supportive of the proposed forum’s application and area boundary. Copies of all representations will be made available to view online. In terms of responses, the breakdown is as follows:
 - 23 responses from local residents.
 - 4 responses from statutory bodies – Historic England, Natural England, Sport England, Highways England.
 - 3 responses from residents’ association/local society.
 - 2 responses from residents outside the area boundary.
 - 1 response from planning consultant outside the area boundary.

Table 3: Neighbourhood Forum and Area – breakdown of comment types

Application for Forum designation		
Support	Object	No comment
26	3	4
Application for Area designation		
23	2	8

- 9. The relatively low number of respondents could be due to the fundamentally narrow scope of consultation, essentially to consider whether the forum and area are appropriate to be designated by the local planning authority. Some of the comments were received from current members of the proposed Sandbanks Neighbourhood Forum.

10. As can be seen from the table 3, whilst the numbers of respondents were low, there were many positive comments as follows:

“I would ask you to look favourably on this application and work with the talented and experienced team steering it.”

“This is a great idea and as a resident I give it my full support.”

“This is a worthwhile proposal as it will work to help protect the beautiful and historical area of Sandbanks.”

“The forum is well placed to help serve the local community and to ensure that as many people as possible get the most out of the area.”

“We fully support the Neighbourhood Forum for Sandbanks.”

“The proposed [Constitutional] objects are entirely consistent with our own objectives.”

“We are very encouraged by the recent Neighbourhood Plan.....”

“We support localism...and the proposal to establish the Sandbanks Neighbourhood Forum.”

“We are satisfied that the Constitution is sound and democratic.”

“Having reviewed the application as a local resident I agree to the proposal.....”

11. There were also objections to the Forum designation as follows:

This “is a group of a few wealthy locals wishing to use the neighbourhood planning regime as a means of sabotaging development of the Haven Hotel and hinder development on the peninsula.”

“The forum will do nothing to further prosperity in Poole as a whole.” “It will protect or enhance the existing high property prices and create pressures on other areas for denser high rise housing.”

“Sandbanks has very little in the way of neighbourhood or community spirit. “

“It is not fully representative of the wide range of views across the area, particularly the commercial interests.”

12. The objections to the area boundary were as follows:

“Government guidance suggests electoral ward boundaries are useful starting point for appropriate size of a neighbourhood area. Whilst it is acknowledged that a neighbourhood plan need not follow these boundaries precisely, the neighbourhood area is very much smaller than the boundaries of the ward in which it sits.”

“The landscaped character of the proposed area is not unique within the conurbation; large parts of Poole have a sylvan character. “

“The densely developed character of the area means that there are few opportunities to shape or deliver development in this location.” “

“A significant proportion of the land is taken up with council owned facilities which include car parks, beaches and the foreshore.”

“The exclusivity of the area is not unique; it is a natural consequence of the area’s coastal setting and the limited availability of land which drives land prices and

commercial pressure for development. These pressures exist separately from the planning system and do not necessarily justify the creation of a neighbourhood area.”

Designation of the proposed Forum

13. The prescribed date for determination of an application for forum designation is 13 weeks from the date following the day which the application is first published. The application must be determined by 23 December 2019. There are two options available to the Local Planning Authority.

Option 1 – Refuse to designate the proposed Forum

14. It would only be appropriate to refuse the designation of the forum if there was strong, evidenced- based objection to its designation, for example if the Constitution was flawed or the Forum’s application was not supported by the community. It should refuse an application if the proposed forum applies for designation of a neighbourhood area that includes whole or part of a parish.
15. The Local Planning Authority must provide clear reasons for rejection why it is inappropriate to designate the forum such as evidence that the intentions or actions of the forum are not in keeping with the Localism Act.
16. **In this case, there are no clear reasons or sufficient evidence to reject the forum’s application.**

Option 2 – Agree to designate the proposed Forum

17. The Sandbanks Neighbourhood Forum has been set up satisfactorily, following advice from Poole planning officers. The current membership is sufficient to meet the legal and procedural requirements. The Forum has an open membership policy for residents and business owners and is free to join. The objects of the Association, as set out in the Constitution, are in keeping with the spirit of the Localism Act. The Constitution is broad in scope, setting out appropriate expected elements. The forum has satisfied all the prescribed conditions set out section 61F of the Town & Country Planning Act.
18. The deadline for determination of the forum’s application is 23 December 2019. When designated, the forum status as a designated body with authorisation to act in relation to the defined neighbourhood area will have effect from the date it is made.
19. Designations expire after five years and a forum can apply to the Local Planning Authority to renew its status for a further five years.
20. If the neighbourhood forum’s status is approved, no other organisation may be designated as a neighbourhood forum for the purposes of the Localism Act 2011 and the Neighbourhood Planning Regulations 2012 for that neighbourhood area until the designation expires or is withdrawn. This will only affect the ability to exercise neighbourhood planning powers and will not affect the existence or creation of any other neighbourhood community, voluntary or charitable bodies in the area.
21. **In this case, a valid application has been made to the Local Authority.**

Designation of the proposed boundary - to include the foreshore

22. In all cases the prescribed date for determination of an application for area designation is 13 weeks from the date following the date which the application is first published. The application must be determined by 23 December 2019. There are three options available to the Local Planning Authority.

Option 1 – Refuse to designate the proposed boundary

23. Under the Localism Act 2011, The Local Planning Authority has a legal duty to support the community in the process of neighbourhood planning. If a local planning authority refuses to designate the area applied for, it must give reasons why it is inappropriate to do so.
24. The area plan boundary goes to low water mark. The Local Planning Authority has overlapping jurisdiction with the Marine Management Organisation for anything in the foreshore. Therefore any planning proposals in the foreshore would be subject to consultation with the MMO. This would not prevent designation of the area boundary. It would only be appropriate to refuse the designation of the neighbourhood area if some or all of the specified area is already designated as a neighbourhood area (as neighbourhood areas must not overlap each other) or if the local authority considers the specified area is not appropriate. For example, if the neighbourhood covers a very large area, across ward boundaries, where there are marked changes in character and appearance, or where locations within a neighbourhood area are significantly different in terms of landscape or socio-economic issues, it could be felt that the area is too disparate and dispersed. However, these are not exhaustive reasons and there may be other explanations why it is felt that the area is not a coherent neighbourhood plan boundary.
25. **In this case, the only clear reason to reject the specified neighbourhood plan area is if the neighbourhood forum application fails. Otherwise, there are no clear reasons to reject the specified neighbourhood plan area.**

Option 2 – Modify the proposed boundary

26. The Local Planning Authority has a legal duty to support the community in the process of neighbourhood planning. If a local planning authority seeks to modify the area applied for, it must give reasons why. There are no overriding reasons to modify the proposed boundary, given the reasons in the supporting statement. Whilst an objection has been received, the justification is not sufficient to warrant any change to the proposed boundary. The boundary has been properly defined in the Constitution, to represent the objects of the Association to help create a sense of community on Sandbanks and promote the interests and rights of residents to represent the local community.
27. **In this case, there are no clear reasons to modify the specified neighbourhood plan area.**

Option 3 – Agree to designate the proposed boundary

28. The supporting statement explains the rationale for the proposed area:
“Sandbank's character contrasts to that of the adjacent areas of Canford Cliffs, Branksome Woods and Lilliput, which has an undulating topographical nature, long views and vistas and more spacious building plots. It has more of a suburban character and is predominantly residential.” It concludes that it is a “logical” boundary in terms of topography, land uses and character.
29. **In this case, a valid application has been made to the Local Authority.**

Financial Analysis

30. Should the forum and area be agreed, there are staff cost implications during the process of advising neighbourhood forums. However the largest costs to the LPA will be towards the end of the process when it is required to pay for an examination and referendum. The population of Sandbanks Peninsula is a factor in the calculation of cost when running a referendum and has yet to be costed, since that would presuppose the decision making at this stage. Neighbourhood planning support is currently part of the planning policy team staff budget. This will need to be reviewed depending on the scale of neighbourhood planning support required in the future.
31. Funding is available from central government for the first five neighbourhood forums that are designated and a further £5,000 for the first five neighbourhood areas designated. The LPA can claim an additional £20,000 once a date has been set for a referendum following a successful examination

Summary of financial implications

32. Officer time spent advising on the proposed forum was covered within the existing strategic planning budget. At the designation stage, the council would claim £10,000 for the forum and area designations. No claim can be made for refused forum or area applications.

Summary of legal implications

33. The main legal implication for the LPA is the prescribed date for determination of an application for area designation to be made **13 weeks from the date following the date which the application is first published**. The application must be determined by 23 December 2019.

Summary of human resources implications

34. There are implications for officer time within the Strategic Planning Services devoting time to neighbourhood planning, including, but not limited to:
Attending meetings and engagement with stakeholders during all statutory plan-making process stages; providing planning policy and neighbourhood planning advice; checking documentation and compliance; public consultation materials; correspondence and telephone calls. This is covered within existing budgets

Summary of environmental impact

35. None identified at this stage of the neighbourhood plan process.

Summary of public health implications

36. None identified at this stage of the neighbourhood plan process. However, should the forum and area be jointly designated, this could engage communities locally and have a positive effect on health and wellbeing.

Summary of equality implications

37. The Equalities Act 2010 (Section 149) places a duty on public authorities in the exercise of their functions to ensure that they do not discriminate against any group or individual in the community. Advising the proposed neighbourhood forum has been undertaken having regard to equalities' implications. There are no identified impacts on protected characteristic groups in terms of ethnicity, religious belief or faith, gender, transgender, sexual orientation, and social inequalities.

Summary of risk assessment

38. The main risks are associated with the Council deciding not to designate the forum and area. The information in this report sets out that the application meets the statutory tests and therefore can proceed. If the Council take a different view then further legal input will be required to consider this further.

Background papers

39. None

Appendices

Appendix 1: Combined Application for Neighbourhood Forum and Neighbourhood Plan Area
Sandbanks Neighbourhood Forum Constitution and Map of the proposed Neighbourhood Plan Area