

<p>Cabinet Decision</p> <p>5th April 2016</p>	
<p>Report of: Aman Dalvi, Corporate Director Development & Renewal</p>	<p>Classification: Unrestricted</p>
<p>Neighbourhood Planning: Determination of Spitalfields Neighbourhood Planning Area Application</p>	

Lead Member	Councillor Rachel Blake, Cabinet Member for Strategic Development
Originating Officer(s)	Adele Maher, Strategic Planning Manager
Wards affected	Weavers and Spitalfields & Banglatown
Key Decision?	Yes
Community Plan Theme	A Great Place to Live

Reasons for Urgency

The publication of this report is less than five clear days in advance of the meeting. The completion of the report required external legal advice which was unexpectedly delayed. Due to these circumstances pursuant to Rule 6.1(b) of the Access to Information Procedure Rules, the Mayor identified this report as an item for urgent decision that should not be delayed in order to positively support local communities prepare Neighbourhood Development Plans without further delay.

Executive Summary

Neighbourhood planning was introduced by the Localism Act 2011 and allows communities to help shape their local area by preparing a Neighbourhood Development Plans (NDP), or Neighbourhood Development Orders (NDOs), provided they meet a number of basic conditions, including being in general conformity with the strategic policies of a development plan prepared and adopted by the local planning authority (LPA). In parished areas neighbourhood planning processes are led by parish or town councils; in other areas neighbourhood planning forums must apply to the LPA to be designated as the lead (qualifying body).

As LPA, the Council is required to determine applications for Neighbourhood Area designation in accordance with the Town and County Planning Act 1990 (as amended) (TCPA 1990) and the Neighbourhood Planning (General) Regulations 2012.

The Council has received two Neighbourhood Planning applications that relate to Spitalfields: Spitalfields Neighbourhood Planning Forum Application and Spitalfields Neighbourhood Planning Area Application

This report relates to the proposed Spitalfields Neighbourhood Planning Area application only.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Approve the application for the designation of the Spitalfields Neighbourhood Planning Area with minor amendments as a Neighbourhood Planning Business Area as defined in the plan attached at Appendix 1.

1. REASONS FOR THE DECISIONS

- 1.1 The Council has received an application to designate a Neighbourhood Planning Area in Spitalfields.
- 1.2 The Council is required to determine applications for the area designations in accordance with the Town and County Planning Act 1990 (as amended) ("TCPA 1990") and the Neighbourhood Planning (General) Regulations 2012 ("the 2012 Regulations").
- 1.3 The Government's Planning Practice Guidance ("PPG") on Neighbourhood Planning (Ref ID: 41) provides guidance on the determination of such applications. It also states that the role of the Local Planning Authority ("LPA") is to take decisions at key stages in the Neighbourhood Planning process.
- 1.4 Officers have undertaken an assessment of the proposed Spitalfields Neighbourhood Planning Area application against relevant provisions of the TCPA 1990, the 2012 Regulations and the guidance detailed in the PPG. As a result, officers are satisfied that the Spitalfields Area application, with minor amendments, accords with relevant legislative requirements. The application is therefore recommended for approval and a decision should be taken in accordance with the LPA's statutory duties.

2. ALTERNATIVE OPTIONS

- 2.1 In the first instance, officers carefully considered whether it would be appropriate to designate the area specified ('specified area') in the submitted application. Having regard to relevant legislative provisions and the guidance in paragraph 33 of the PPG, the proposed area was not considered appropriate. As such alternative options for the area were sought in accordance with the TCPA 1990.
- 2.2 By virtue of section 61G of the TCPA 1990, the authority must exercise their power of designation where a valid application has been made so as to secure that some, or all, of the specified area forms part of one or more areas designated (or to be designated) as neighbourhood areas where:
 - i) some or all of the specified area has not been designated as a neighbourhood planning area; or
 - ii) the authority refuses the application because they consider that the specified area is not an appropriate area to be designated as a

neighbourhood area.

- 2.3 The authority may also modify designations already made and ensure that neighbourhood areas do not overlap.
- 2.4 In accordance with section 61H of the TCPA 1990, the authority has an additional option. Section 61H provides that the power of a LPA to designate a neighbourhood area, as a business area, is exercisable by the authority only if, having regard to such matters as may be prescribed, they consider that the area is wholly or predominantly business in nature.
- 2.5 Options available to the authority are therefore to: 1) designate all of the area specified in the application; 2) designate some of the area specified; 3) modify existing designations; and 4) designate the area as a business area. These have been considered by the authority.

3. DETAILS OF REPORT

- 3.1 This report provides an overview of the assessment undertaken by Officers of the proposed Spitalfields Neighbourhood Planning Area application.
- 3.2 The content of this report is as follows:
 - Section 4: provides an introduction to Neighbourhood Planning;
 - Section 5: outlines the relevant legislative framework and guidance;
 - Section 6: provides a background to the Spitalfields area application and details of the LPA's assessment.

4 INTRODUCTION TO NEIGHBOURHOOD PLANNING: A COMMUNITY LED PROCESS

- 4.1 The Localism Act 2011 amended the TCPA 1990 to make provision for neighbourhood planning, which gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.
- 4.2 The legislative provisions concerning neighbourhood planning within the TCPA 1990 are supplemented by the Neighbourhood Planning (General) Regulations 2012 (as amended by the Neighbourhood Planning (General) (Amendment) Regulations 2015), and the Neighbourhood Planning (Referendum) Regulations 2012.
- 4.3 PPG issued by the Secretary of State for Communities and Local Government provides detailed advice relating to the neighbourhood planning system

introduced by the Localism Act 2011, addressing the key stages of decision-making including the designation of neighbourhood areas.

- 4.4 Neighbourhood planning provides communities with the ability to prepare a Neighbourhood Development Plan (NDP) and/or Neighbourhood Development Orders (NDO), in areas designated by the LPA on application as a neighbourhood area. Neighbourhood planning powers may only be exercised by bodies authorised by the legislation. In a neighbourhood area where there is a parish council, only a parish council may make proposals for a NDP or NDO. In neighbourhood areas without a parish council, only a body designated by the LPA as a neighbourhood forum may bring forward proposals for that neighbourhood area.
- 4.5 NDPs set out policies in relation to the development and use of land in all or part of a defined neighbourhood area and may include site allocations, or development principles, for allocated sites. They may also include character appraisals and seek to establish community facilities and/or identify areas for public realm improvements. NDOs allow for planning permission to be granted in the circumstances specified and exempt certain types of development, or development in certain areas, or on particular sites, from the usual requirement to apply to the LPA for a grant of planning permission.
- 4.6 Both NDPs and NDOs need to be in general conformity with the strategic policies of the Council's 'Local Plan': Core Strategy (2010) and Managing Development Document (MDD) (2013).
- 4.7 A NDP that has been 'made' in accordance with the relevant legislative provisions forms part of the Council's statutory 'Development Plan' (comprising the Local Plan and London Plan) and, as such, will be accorded full weight when determining planning applications in the neighbourhood area. NDPs will form a new spatial layer to the Council's planning policy and guidance.
- 4.8 NDP policies will be developed by a neighbourhood forum through consultation with stakeholders in their relevant neighbourhood area and through engagement with Council Officers. Proposed NDP policies must be supported by an up-to-date evidence base to ensure that they are reasonable, sound and justified. Before the NDP is 'made' it must be subject to pre-submission publicity and consultation, submitted to the LPA for a legal compliance check, publicised for consultation, submitted for independent examination, found by the independent examiner to meet the basic conditions specified in the legislation, and passed at a referendum.

Community Infrastructure Levy

- 4.9 The Community Infrastructure Levy Regulations 2010, as amended by the Community Infrastructure Levy (Amendment) Regulations 2013 ("the CIL Regulations") were supplemented by the Community Infrastructure Levy Guidance Note, published by DCLG on 26 April 2013. The 2013 guidance was replaced by the Government's PPG on 6 March 2014.
- 4.10 The CIL Regulations, as explained by the PPG, make provision for how CIL receipts may be used in relation to neighbourhood planning in those areas

which have Parish Councils and those which do not. Tower Hamlets currently does not have any Parish Councils and, as such, the Council retains the revenue generated by CIL.

- 4.11 The Community Infrastructure Levy PPG (Ref ID: 25) states (at paragraph 072) that:

"... In England, communities that draw up a neighbourhood plan or neighbourhood development order (including a community right to build order), and secure the consent of local people in a referendum, will benefit from 25 per cent of the levy revenues arising from the development that takes place in their area. This amount will not be subject to an annual limit. ..."

- 4.12 Therefore, where a NDP or NDO has been adopted, the Council will consult with the relevant local community as to how this 25 per cent proportion of CIL receipts will be spent.

Overview of Neighbourhood Planning at LBTH

- 4.13 The determination of applications to designate neighbourhood areas and neighbourhood forums are decisions exercised by the Mayor of Tower Hamlets.
- 4.14 Such applications are required by the Council to be submitted using the Council's neighbourhood planning application.
- 4.15 The Council has published guidance to assist prospective neighbourhood forums to understand what is involved in becoming a forum and designating an area and the criteria the Council use to make decisions.
- 4.16 This guidance advises prospective forums to liaise with officers prior to applications being submitted. This allows those proposing to make neighbourhood planning obligations to meet relevant legislative requirements.
- 4.17 The Council is required to publicise applications for the designation or neighbourhood areas and forums for a period of six weeks. In addition to that basic legislative requirement, Officers are guided by best practice and also consult with the following:
- Community Ward Forums
 - Government agencies
 - Associated Ward Councillors

5. NEIGHBOURHOOD AREA APPLICATIONS: RELEVANT LEGISLATION AND GUIDANCE

- 5.1 This section outlines the legislative framework and Government guidance relevant to the designation of Neighbourhood Areas in the following sequence: 1) making an application; 2) consulting on an application; and 3) designating an area.
- 5.2 The Council is subject to a statutory duty to determine applications to designate neighbourhood areas in accordance with relevant legislation, including sections 61G(5) and 61H(3) of the TCPA 1990. The Council must also have due regard to the guidance issued by the Secretary of State in the

PPG on neighbourhood planning, as it relates to the designation of neighbourhood areas.

Making an application

- 5.3 In accordance with Regulation 5 of the Neighbourhood Planning (General) Regulations 2012, where a relevant body submits an area application to the local planning authority it must include:
- (a) A map which identifies the area to which the area 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 TCPA 1990.
- 5.4 A LPA may decline to consider an area application if the relevant body has already made an area application and a decision has not yet been made on that application.
- 5.5 Upon receipt of an application, it is validated in accordance with the above.

Consulting on an application

- 5.6 In accordance with Regulation 6 of the Neighbourhood Planning (General) Regulations 2012, the authority must publish the following on its website and in such a manner as to bring the application to the attention of people who live, work or carry on business in the area to which the application relates:
- (a) a copy of the area application
 - (b) details of how to make representations
 - (c) the date by which those representations must be received, being not less than 6 weeks from the date on which the application is first published.

Designating an area

- 5.7 Section 61G of the TCPA 1990 requires a LPA to exercise its powers of designation "so as to secure some or all of the specified area forms part of one of more areas designated as neighbourhood area". In so doing the LPA (in non-parished areas such as Tower Hamlets) must have regard to:
- (1) The desirability of maintaining the existing boundaries of areas already designated as neighbourhood areas (section 61G(4)(b));
 - (2) Refusing the application because they consider that the specified area is not an appropriate area to be designated as a neighbourhood area. (section 61G(5)(c));
 - (3) Exercising their power of designation so as to secure that some or all of the specified area forms part of one or more areas designated (or to be designated) as a neighbourhood area (section 61G(5)(c));

- (4) Modification of designations already made ((section 61G(6)); and
- (5) Ensuring that neighbourhood areas do not overlap ((section 61G(7)).

5.8 In accordance with Section 61H of the TCPA 1990, whenever a LPA exercises its power under section 61G to designate an area as a neighbourhood area, it must consider whether it should designate the area concerned as a business area.

5.9 Section 61H(c) specifies the criteria for determining if an area should be designated as a business area, providing as follows:

"The power of a local planning authority to designate a neighbourhood area as a business area is exercisable by the authority only if, having regards to such matters as may be prescribed, they consider that the area is wholly or predominately business in nature."

5.10 Paragraph 035 of the PPG states that "the local planning authority should aim to designate the area applied for".

5.11 Section 61O of the TCPA 1990 requires LPA's to take account of the guidance in paragraph 033 of the PPG, which lists considerations that may be relevant to determining the boundaries of a neighbourhood area. Paragraph 33 of the PPG also provides guidance on considerations when deciding the boundaries of areas. It states that "electoral ward boundaries can be a useful starting point for discussions on the appropriate size of a neighbourhood area". Other considerations outlined in the PPG relate to:

- (a) village or settlement boundaries, which could reflect areas of planned expansion
- (b) the catchment area for walking to local services such as shops, primary schools, doctors' surgery, parks or other facilities
- (c) the area where formal or informal networks of community based groups operate
- (d) the physical appearance or characteristics of the neighbourhood, for example buildings may be of a consistent scale or style
- (e) whether the area forms all or part of a coherent estate either for businesses or residents
- (f) whether the area is wholly or predominantly a business area
- (g) whether infrastructure or physical features define a natural boundary, for example a major road or railway line or waterway
- (h) the natural setting or features in an area
- (i) size of the population (living and working) in the area

(Please note that LBTH have inserted the above lettering whereas the PPG uses bullet points.)

5.12 The area application for Spitalfields is assessed by the LPA against the above legislative and regulatory criteria. The assessment also takes into account the PPG and public consultation responses, where relevant to decision making.

Relevance is determined in line with the legislative criteria and PPG guidance. The following section of this report assesses the application against the above criteria and guidance.

6. NEIGHBOURHOOD PLANNING AREAS: SPITALFIELDS APPLICATION, CONSULTATION AND ASSESSMENT

- 6.1 This section provides a background to the Spitalfields Neighbourhood Area application, public consultation and details of the assessment. The format of this section outlines how the Spitalfields Neighbourhood area application was processed and assessed in relation to the criteria that an LPA must have regard to as it relates to: 1) making an application; 2) consulting on an application; and 3) designating an area.
- 6.2 The designation of an area is assessed against the criteria taken from 61G (1-5), 61H TCPA 1990 and paragraphs 033 and 035 of the PPG.

Making an application

Application submission and validation

- 6.3 An application was received from the proposed Spitalfields Neighbourhood Planning Forum on 1st December 2014, seeking designation of the Spitalfields neighbourhood planning area (a related application was submitted on the same date seeking designation of the Spitalfields neighbourhood planning forum).. The area application included:
- A map which identifies the area to which the area application relates;
 - A statement explaining why this area is considered appropriate to be designated as a neighbourhood area in the application form; and
 - A statement that the organisation or body making the area application is a relevant body for the purposes of section 61G of the TCPA 1990 in the application form.
- 6.4 The applications for designation of a neighbourhood area and forum were submitted at the same time and validated concurrently. Throughout the validated process for the area it was accepted that the proposed forum was capable of being designated as a forum by the LPA.
- 6.5 No other area applications have been received by the Council for this area.
- 6.6 The application submission was validated in accordance with Regulation 5 of 2012 Regulations.

Consultation on application

Public consultation process

- 6.7 In accordance with Regulation 6 of the 2012 Regulations, public consultation on the Spitalfields area (and the forum) applications was carried out for six weeks between 5th January and 16th February 2015.

- 6.8 The application was advertised in East End Life and all application documents were made publically available on the Council's website, and as part of a 'bundle' in the Council Town Hall and in relevant Idea Stores or libraries. The bundle included the aforementioned documents and a leaflet explaining what the consultation was about.
- 6.9 The advertisement in the East End Life and other publicity material including, emails to stakeholders and the leaflet in the application 'bundle' contained a statement to the effect that if a designation is made no other organisation or body may be designated for that neighbourhood area until the designation expires or is withdrawn; details of how to make representations; and the date by which those representations must be received, being not less than six weeks from the date on which the application was first published.

Summary of Representations received

- 6.10 All representations received during the consultation period have been taken into account in the determination of this application. The content of these representations has been duly considered and taken into account by the LPA to the extent that the representations address considerations that are relevant to the Council's decision having regard to the statutory requirements in particular the criteria for designation in Sections 61F and 61G of the TCPA 1990 (as amended) and guidance within Section 4, in particular paragraph 033 of the Government's Planning Practice Guidance (PPG).
- 6.11 This section provides a summary of the representations received. Further detail on the public consultation representations is included in Appendix 2: Public Consultation Summaries.
- 6.12 The representation numbers and their responses can be summarised as follows:
- 23 representations of support
 - 608 representations in objection
 - 7 representations that were neutral
 - 1 representation giving no comment
 - 2 petitions
- 6.13 Of the 23 representations made in support of designation, the reasons given included: the proposed area is representative and reflects the heart of the area; the area includes Old Truman Brewery; and the area is manageable in terms of policy making.
- 6.14 Of the 608 representations and 2 petitions made in objection, the reasons given included: the area is too large; it is not coherent; the Old Truman Brewery site should not be included as it has a distinct character and has a sphere of influence beyond the area. Many of these representations repeated and reflected the same concerns using the same format and content only differing in respect of individual addresses and signatures. Many of these representations were received as part of the submission made by Zeloof LLP. More information on this is contained in paragraph 6.15 of this report.

6.15 Zeloof LLP and Truman Estates Limited own Old Truman Brewery a significant site in the proposed neighbourhood planning area. The submission from Zeloof LLP included the following representations that objected to the Area designation:

- 1 petition signed by 654 separate signatories objecting to the designation of the area and forum;
- 1 petition signed by 918 separate signatories objecting to the designation of the area and identifying an alternative area;
- 484 letters from a total of 288 different businesses located primarily within the landowner's site. The content of these letters were the same, the addresses and signatures were different. Of these 203 letters are from market stall based businesses representing a total of 187 different businesses;
- 30 letters from 17 businesses located outside of the landowner's site. The content of these letters were the same, the addresses and signatures were different. These include a mix of those businesses located within the relevant neighbourhood planning areas and those outside;
- 32 letters from residents located outside of the landowners site. The content of these letters were the same, the addresses and signatures were different. These include a mix of those residents located within the relevant neighbourhood planning areas and those outside; and
- A total of 61 letters from Zeloof LLP and Truman Estates Limited, owners of the Old Truman Brewery.

Post public consultation submissions

6.16 After the completion of the public consultation, the proposed forum submitted further unsolicited documentation to the Council entitled 'General Statement on Business Area, Consultation and Membership' which explains that proposed forum has, along with details of the consultation processes and membership procedures, considered the merits of the proposed Spitalfields Neighbourhood Planning Area being designated as a 'Business Neighbourhood Planning Area' under section 61H of the TCPA 1990, and requests that the Council designate the whole area specified in the application as a 'business area'.

6.17 Officers do not consider further public consultation on the forum's above referred additional submissions, or the designation of the proposed neighbourhood area as a 'business area', to be necessary for two reasons: firstly, the relevant provisions within the TCPA 1990 and the 2012 Regulations make no provision for the amendment of a neighbourhood area application or multiple rounds of public consultation; secondly, Section 61H of the TCPA 1990 empowers the Council to designate a neighbourhood area as a business area. The said power may only be exercised where the LPA, having regard to such matters as may be prescribed, considers that the area is wholly or predominantly business in nature. That decision is a matter of judgment for

the LPA, having regard to all relevant considerations which may include matters that are not addressed in the application, or responses to consultation

- 6.18 Accordingly, the Council's decision making process on this area application takes no account of the 'General Statement on Business Area, Consultation and membership' submitted by the forum.

Determining an application: Designating an Area

- 6.19 The following section of this report provides:

- 1) a summary understanding of the submitted boundary and area; and
- 2) an assessment of the area application against relevant legislation (Sections 61G and 61H of the TCPA 1990), the 2012 Regulations and guidance within the PPG.

1) Proposed Area – Summary of submitted boundaries and area

- 6.20 The specified area comprises the majority of Spitalfields and Banglatown Ward and a small section of Weavers Ward.

- 6.21 The area also aligns closely with the place of Spitalfields, as identified in the Core Strategy (2010).

Southern Boundary

- 6.22 The application acknowledges that the proposed Area of Spitalfields must remain distinct from the area of Whitechapel. West of Commercial Road, the boundary includes Wentworth Street which hosts the Petticoat Lane Market. On the eastern side of Commercial Road, the boundary line includes The Toynbee Hall Estate and then traces the mid-point of Wentworth Street to Frostic Walk.

Northern Boundary

- 6.23 This boundary traces the southern boundary of the Bishopsgate Goodsyard Site Allocation (as identified in the Managing Development Document (2013)), and the southern side of the East Shoreditch Neighbourhood Planning Area.

Eastern Boundary

- 6.24 The eastern boundary includes the listed buildings and retail offering of the western part of Cheshire Street. This boundary also includes Allen Gardens and Spitalfields Farm. The application states that Allen Gardens has been included due to the relationship between users of Brick Lane and Allen Gardens, and that Spitalfields Farm has been included due to the ancillary nature of Spitalfields Farm to Allen Gardens. The remainder of the eastern boundary aligns with the City Fringe Activity Area boundary.

Western Boundary

- 6.25 The western boundary runs along Middlesex Street and the boundary between Tower Hamlets and the City of London. This provides a hard boundary between the proposed 'area' and the surrounding area as well as a

transition between the commercial core of the City of London and the mixed use area east of Middlesex Street.

2) **Assessment of the application – designating an area**

6.26 This section of the report considers the area application and public consultation responses against the statutory criteria and guidance outlined above.

In accordance with 61G(4)(b), is it desirable to maintain the existing boundaries of areas already designated as neighbourhood areas?

6.27 The proposed area interacts with a designated neighbourhood area, East Shoreditch Neighbourhood Area, along the northern boundary, but does not overlap with this boundary. The boundary between the designated East Shoreditch Neighbourhood Area and the proposed Spitalfields Neighbourhood Area reflects the distinct characters of the two areas and ensures that the main north south conduit is retained in one Neighbourhood Area. It is therefore considered desirable to maintain the boundaries of the existing Neighbourhood Area. The proposed Spitalfields Area already maintains this boundary and so no change is required.

In accordance with 61G(5)(c) should the application be refused because it is considered that the specified area is not an appropriate area to be designated as a neighbourhood area?

6.28 The following paragraphs answer the above question through considering the appropriateness of the area to be designated by reference to considerations within paragraph 033 of the Government's PPG (as set out at (a) to (i) below), and other matters that have arisen during public consultation.

(a) Village or settlement boundaries

6.29 The proposed boundaries do not align with village or settlement boundaries. Instead, due to the urban nature of this area; an historical and political understanding of the area of Spitalfields has been used as a basis for the proposed boundaries. This is considered appropriate.

(b) Catchment area

6.30 The area is served by one large local open space (Allen Gardens), a primary school (Christ Church (C of E)), an early years childcare provider (Spitalfields Children's Centre) and a District Centre (Brick Lane). The area is served by multiple London Underground and Overground nodes but does not have a station within the area specified in the application. Residents and workers of the area are served by the aforementioned assets and Brick Lane District Centre. As such, the catchment area of the proposed neighbourhood area indicates the area boundaries are appropriate.

(c) Community based groups

6.31 A number of community based groups operate in the area as detailed in the application. These are cultural, social and economic in nature and interest. In addition, a number of community based groups in the area concentrate their activities within the proposed area. The prevalence of community groups

operating in this area, and the local focus of many groups, indicates the area can be considered appropriate.

(d) Physical appearance or characteristics

- 6.32 The Core Strategy Place of Spitalfields describes the area as vibrant, diverse and mixed use with a city fringe character. The area is host to residential, business, leisure and assembly, retail land uses. It has one strategic north south highway in the form of Commercial Street and another important local north south route in the form of Brick Lane. The public realm also serves important commercial functions particularly related to space dedicated to market trading and tourism. The combination of these factors, as well as close proximity to the City of London and the excellent transport links has made this area a vibrant area that has a global reputation and a local importance.
- 6.33 A core characteristic of the area is that the architectural and urban character varies considerably across the area and that this character has evolved over a long period of time. The inclusion of two urban blocks along the south western boundaries (bounded by Middlesex Street to the west, Bell Lane to the east and with the east west section of Goulston Street) is considered appropriate as it acknowledges the shared characteristics, in terms of scale, massing, design and heritage of these blocks with the blocks to the north.
- 6.34 Furthermore the inclusion of these two blocks is considered appropriate because it enables the inclusion of the public realm between the blocks and as such the food court market area located on Goulston Street, directly south of Petticoat Lane Market located on Wentworth Street. This is considered appropriate because, as identified above, the use of the public realm for commercial functions is characteristic of the area. The proximity of the food court market to Petticoat Lane Market and their shared operational characteristics also indicate [justification for their inclusion].
- 6.35 An alternative area was suggested by a number of representors, including petition signatories. This identification of an alternative area does not represent an application but has been considered by the LPA in this assessment as an aid to understanding the character of the area. However, the alternative area is not considered to reflect the character or function of Spitalfields as it is residential led and does not reflect the vibrant and mixed use character of Spitalfields.

(e) Coherent estate either for businesses or residents

- 6.36 The Holland Estate (Estate) is located to the south west of the specified area and consists of a number of blocks with predominantly residential units. The Estate was built by the London County Council (LCC). The original blocks are red brick and have a uniform height of 4/5 storeys. Denning Point, a new block within the estate is 22 storeys high. East End Homes are the owner of the Estate.
- 6.37 The Estate is largely homogenous in use, scale, bulk and design and therefore for reasons of coherence as well as community cohesion, it is recommended to extend the area along the southern boundary to include the Holland Estate.

- 6.38 The degree to which it is appropriate to include the Old Truman Brewery site within the area to be designated was raised in representations made during the public consultation period. The following paragraphs briefly outline the level of objection and the reasons for objection. Further information can be found in Appendix 5: Public Consultation Summaries.
- 6.39 608 representations and 2 petitions were received in objection to the proposed area. Many of the objections proposed an alternative area that excluded the Old Truman Brewery site from inclusion in the area. As set out in paragraphs 6.14 and 6.15 above, these representations were submitted by Zeloof LLP, a landowner of part of Old Truman Brewery site. Many of these representations repeated and reflected the same concerns; the majority of the letters received had the same format and content only differing in respect of individual address and signatures.
- 6.40 The representation submitted by Zeloof LLP outlines reasons why the Old Truman Brewery site should not be included within the proposed Area. As part of this representation, a smaller number of residents and businesses inside and outside of the proposed area also expressed opposition to the designation of the proposed Area. This representation also suggested an alternative area for designation that would exclude the Old Truman Brewery site and shift focus away from the commercial aspect of Spitalfields and towards a residential area more closely aligned with Whitechapel.
- 6.41 Objections received relating to the exclusion of the Old Truman Brewery site may be summarised as follows:
- the site is unique in land use, character and physical distinct from the rest of the proposed Area;
 - the site is physically contained due to the architecture and use of perimeter walls; and
 - the site currently has a wide sphere of influence that extends beyond the local and neighbourhood level.
- 6.42 When considering whether or not the Old Truman Brewery site should be included within the proposed neighbourhood area, it is noted that the Old Truman Brewery site is a local landmark within the area and a feature for international and local tourism. It has reached the status of local asset due to its industrial heritage, location on Brick Lane and the iconic chimney that rises above the prevailing building height in the vicinity. The Old Truman Brewery site provides spaces for small and medium sized enterprises (SMEs) and market stall holders which are a vital feature of the area and contribute to its function and global reputation as a tourist destination. The site is an important land use in the Brick Lane Town Centre and adds to the economic diversity that is characteristic of this area. It is a hub of economic activity and provides employment for local residents and a draw for tourists alike. Physically, the Old Truman Brewery site is located on both the eastern and western sides of Brick Lane and is integrated with the north south axis of Brick Lane.
- 6.43 Accordingly, it is considered appropriate to include the entirety of the Old Truman Brewery site in the neighbourhood planning area because it is

physically, socially and economically intrinsic to the character and function of the area of Spitalfields.

- 6.44 The coherence of the area for businesses and residents is considered appropriate, subject to the inclusion of the entirety of the Holland Estate and Old Truman Brewery site.

(f) Wholly or predominantly a business area

- 6.45 Please see paragraphs 6.56 to 6.61.

(g) Infrastructure or physical features as a natural boundary

- 6.46 To the north and west, boundaries align with roads, railway lines and borough boundaries, which contain the proposed area. The eastern boundary recognises the boundaries of the City Fringe Activity Area (designated in the Management Development Document, Adopted Proposals Map, 2013), and allows for the inclusion of the Spitalfields Farm, Allen Gardens and the retail parade on Cheshire Street. Spitalfields Farm and Allen Gardens are assets with local significance and the retail parade on Cheshire Street shares a close relationship with the retail activity on Brick Lane, as denoted by the Brick Lane District Centre boundaries.

- 6.47 The specified area is therefore appropriately sensitive to boundaries formed by infrastructure, physical features and spatial planning designations.

h) the natural setting or features in an area

- 6.48 The Area has two north south conduits in the form of Commercial Street and Brick Lane. These two thoroughfares provide a backbone on which the Area radiates to the east and to the west. The Area also includes a number of notable assets that contribute to the character of Spitalfields including Christ Church Spitalfields, Jamme Masjid Great Mosque, the Old Truman Brewery site and Spitalfields Market.

- 6.49 The assets or features of the area highlight the diverse community and uses in the area and to that degree inform an understanding of the character of the area. This can be used to come to a decision on the overall appropriateness of the specified area.

(i) Size of the population (living and working) in the area

- 6.50 The proposed area does not align with ward boundaries and, as such, it is difficult to calculate the population living and working in the area. Whilst the majority of the area is in the western section of Spitalfields and Banglatown ward, the Census figures do not provide an accurate reflection of residents living in the area as the eastern section of the ward is predominately residential and the western area is not. With regards to the size of the population working in the area, it has been possible to work out the number of commercial units in the area as 1,127 units, but these units do not take account of the number of businesses in each unit, the working population nor the amount of commerce that is taking place in a non-physical 'unit' such as the guided tours and market stalls.

- 6.51 As an inner city mixed-use location in one of London's densest boroughs, the living and working populations can be said to be relatively high. It is noted that the population size of neighbourhood areas designated to date ranges

significantly. It is also noted that paragraph 033 of the PPG states 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". Given the above, the Council considers that the proposed area is considered appropriate in terms of the living and working population.

Conclusion on appropriateness

- 6.52 In conclusion, it is considered the specified area is an appropriate area to be designated as a Neighbourhood Area, where the boundaries include all of the Holland Estate, Old Truman Brewery site and the two urban blocks along the south western boundary of the area. A map of the Area, as amended, is included as Appendix 1.

In accordance with 61G(5)(c) will the LPA exercise their power of designation so as to secure that some or all of the specified area forms part of one or more areas designated (or to be designated) as a neighbourhood area and if so, what is the designation?

- 6.53 The LPA have concluded that the specified area with minor alterations is appropriate and as such will designate all of the area applied for. subject to minor alterations. Minor alterations will result in a modestly expanded area for reasons of coherence Officers propose, therefore, that the LPA should exercise its powers of designation accordingly.

In accordance with 61G(6) are the LPA proposing modifications of designations already made?

- 6.54 The LPA has given consideration to modifying the East Shoreditch Neighbourhood Area boundary and is not proposing modifications as the boundaries of the both areas are considered to be coherent and appropriate.

In accordance with 61G(7), have the LPA ensured that neighbourhood areas do not overlap?

- 6.55 The specified area abuts the East Shoreditch Neighbourhood Planning Area on the southern side of Bethnal Green Road and the northern buildings of Brick Lane. There is no overlap between the two areas and as such the area accords with requirements.

In accordance with Section 61 H, having regards to such matters as may be prescribed; do the LPA consider that the area is wholly of predominately business in nature?

- 6.56 The eastern part of the proposed area is located within the Central Activities Zone, as defined by the London Plan (2015). The western and southern boundaries correspond with the Core Growth Area identified in the London Plan City Fringe OAPF and the area exempt from Class O (office to residential) permitted development within Part 3 of Schedule 2 to the GPDO. South of Allen Gardens, the eastern boundary follows the City Fringe Activity Area boundary as defined by spatial designations in the Managing Development Document Adopted Polices Map (2013).

- 6.57 The area has two north south movement corridors, Commercial Street and Brick Lane, both of which support a range of businesses in the Area. The full length of the Brick Lane District Centre is incorporated within the area with the exception of the units on the northern side of Bethnal Green Road, which are located in the East Shoreditch Neighbourhood Planning Area and the southern end which adjoins the Whitechapel Road.
- 6.58 The public realm plays a vital function in the commercial character of the area with the area being host to multiple markets: Petticoat Lane, Spitalfields and the variety of markets that take place on Brick Lane, Cheshire Street and Sclater Street. The area is also a global tourist destination because of the cultural, artistic, historical and architectural character of the area. The retail offer (fashion and culinary), in the area also plays a critical role for tourism in the area.
- 6.59 The area also supports the 'Tech City' industries and plays a role in providing workspaces for small and medium enterprises and the creative digital economy. The GLA City Fringe OAPF identifies the direction of the area as supporting London's financial and business services.
- 6.60 Given the London Plan and Local Plan spatial designations that exist in the area, the global, strategic as well as local nature of the economic activity in the area, Officers concluded that, notwithstanding the number of residential properties in the area, the area is predominately business in nature. It is recommended that the proposed area be designated as a Business Area.

Conclusion

- 6.61 The proposed area, with amendments, is considered acceptable as a neighbourhood planning business area, as it meets with relevant legislative requirements and accords with the Government's PPG guidance. The area represents a coherent spatial and physical understanding of the character and function of Spitalfields. It uses an understanding of historical boundaries, Local Plan spatial designations, key local assets and business assets, movement corridors within the area and its surroundings, borough and ward boundaries.

Officers' Recommendation

- 6.62 Designate the proposed area with minor amendments (identified in Appendix 1) as the Spitalfields Neighbourhood Planning Business Area in accordance with sections 61G(5) and 61H(3) of the TCPA 1990, the Neighbourhood Planning General Regulations 2012, the PPG and the Tower Hamlets Neighbourhood Planning Guidance Note.

7. COMMENTS OF THE CHIEF FINANCE OFFICER

- 7.1 This report asks the Mayor in Cabinet to consider an application to designate an area of Spitalfields (as shown in the plan in Appendix 1) as a Neighbourhood Planning Area in accordance with the statutory requirements of the Localism Act 2011.

- 7.2 If designated as a Neighbourhood Planning Area, an application to designate a Neighbourhood Planning Forum within the area will be considered. This is the subject of a further report on this agenda.
- 7.3 The Council has a duty to provide support and advice to Area Forums which will incur additional administration costs, and these must be contained within existing budgets. Local planning authorities are however able to claim £5,000 for each of up to 20 area designations (i.e. a maximum of £100,000) in 2016/17, and also claim for up to 5 forum designations (£25,000 each) during the financial year. Therefore, there is the potential for the Council to recover some costs, although the Borough will be in competition with other Authorities to secure these limited resources from the £7.5 million of resources that are available nationally.
- 7.4 An element of any Community Infrastructure Levy (CIL) that is generated within a Neighbourhood Planning Area can be allocated specifically to support development within that same area, depending on the status of the Neighbourhood Planning Forum. The appropriate conditions are set out in paragraphs 4.9 to 4.12 of this report. The level of these resources could be substantial and will need to be taken into consideration when determining the allocation of other funding streams across the borough.
- 7.5 In certain circumstances Neighbourhood Development Orders would exempt certain types of development, or development on a particular site, from requiring planning permission (paragraph 4.5). If this is the case, the Authority will not receive a planning fee, although it will also not incur the costs of processing and determining the application. It is anticipated that the exemption will only relate to a limited number of smaller developments, so any reduction in planning fee income should be relatively minor, however the impact must be closely monitored once the new system is in place.

8 LEGAL COMMENTS

- 8.1 This report concerns an application dated 1 December 2014, to designate a Spitalfields neighbourhood planning area (Spitalfields Area Application) and is linked to the report on the related application of same date asking the Mayor in Cabinet to consider designating Spitalfields as a neighbourhood planning forum (Spitalfields Forum Application), in accordance with the statutory requirements of the Localism Act 2011.
- 8.2 Consultation in respect of the proposed Spitalfields neighbourhood planning area and forum (as detailed at paragraph 6.7 of this report) has been carried out in accordance with Regulations 6 and 9 respectively of the 2012 Regulations.
- 8.3 In respect of the application for the neighbourhood forums, the Council may make a designation if it is satisfied that the relevant body meets the conditions set out in Section 61F(5) of the TCPA 1990 (listed in paragraph 5.5 of the Spitalfields Forum Application report). The Council must also have regard to the matters set out in Section 61F(7) of TCPA 1990 (as detailed in paragraph 5.7 of the Spitalfields Forum Application report). The Spitalfields Forum Application has been assessed against these statutory criteria and has been found to comply with them.

- 8.4 The forum designation will have effect for a period of five years, unless the Council decides to withdraw it, either because the organisation no longer meets the conditions for approval or because the body itself so elects. During these five years, no other organisation or body may be designated as a neighbourhood forum for the area.
- 8.5 In determining the neighbourhood area applications, the Council needs to consider the factors set out in Section 61G and 61H of the TCPA 1990 and the 2012 Regulations. The relevant factors are summarised at paragraphs 5.7, 5.8 and 5.9 of this report. Legal Services are satisfied that Officers have had proper regard to these factors in formulating their recommendations that the Spitalfields Area applications be approved, subject to minor alterations.
- 8.6 As regards the making of such minor alterations to the proposed areas, Section 61G entitles the Council to designate an area inconsistent with the boundaries proposed in the application. However, any decision to alter the boundary of a neighbourhood area could be challenged in the Courts. Therefore, the reasons for making them must be sound, clearly set out and justified. This has been done at paragraphs 6.26 to 6.62 of this report.
- 8.7 In deciding whether to designate a neighbourhood forum or a neighbourhood area, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not. An Equality Analysis Quality Assurance Checklist has been undertaken (see Appendix 3). It indicates that no negative equality impacts arise at this stage. The position will be reviewed if and when any proposed Neighbourhood Plan and/or Neighbourhood Development Order are brought forward by the designated forums for the relevant areas.
- 8.8 The Council's decisions on the neighbourhood area and the forum applications must also be publicised as soon as possible after the decisions are taken (Regulations 7 and 10 of the 2012 Regulations).

9. ONE TOWER HAMLETS CONSIDERATIONS

- 9.1 One Tower Hamlets principles have been considered so far as they impact upon the determination of the application to become a Neighbourhood Planning Area. The implications of determining these applications on the protected characteristics outlined in the Equalities Act 2010 have been considered using the Council's Equality Analysis Quality Assurance Checklist and it has been considered that no further action needs to be taken at this stage.
- 9.2 Due regard for the nine protected groups will be embedded in the preparation and production of any subsequent NDP and/or NDOs.
- 9.3 Furthermore, NDP's and NDO's are required to be in general conformity with the statutory development plan, which includes the London Plan and the Council's Local Plan and, as such, will give due consideration to One Tower Hamlets considerations and the Community Plan.

10. BEST VALUE (BV) IMPLICATIONS

- 10.1 Under section 3 Local Government Act 1999, the Council 'must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness'.
- 10.2 During the determination of the these applications the Council has worked with the relevant forum where appropriate, having regard to economy efficiency and effectiveness, and in conformity with statutory requirements as detailed in the TCPA (1990).
- 10.3 At the stage when Forums are developing Neighbourhood Development Plans (NDPs) and Neighbourhood Development Orders (NDOs), the plans and orders will add an additional layer of detail to the Council's Development Plan and look to steer the future development of land in the relevant area. This will better allow the existing and future community to contribute to economic, environmental and social improvements in their area and benefit from the resultant development.

11. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 11.1 Determining Neighbourhood Planning Areas applications does not have any discernable impacts on the environment.
- 11.2 At the stage where designated neighbourhood forums are preparing NDPs or NDOs for the designated neighbourhood areas, consideration will be given to action of a greener environment.
- 11.3 Under Article 3(3) and 3(4) of the Strategic Environmental Assessment (SEA) Directive 2001/42/EC an SEA may be required of plans and programmes which "determine the use of small areas at a local level. In accordance with Regulation 9(1) of the Environmental Assessment of Plans and Programmes Regulations 2004 ("the 'Regulations'"), the responsible authority will determine whether a Strategic Environmental Assessment (SEA) is necessary. The Council will act as necessary to provide advice to designated Forums in respect of the requirements to carry out an SEA.

12. RISK MANAGEMENT IMPLICATIONS

- 12.1 The application recommendations have been reported through a number of internal groups that consider risk management issues and mitigation. These include:
- Development & Renewal Directorate Management Team
 - Corporate Management Team

13. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 13.1 Determining Neighbourhood Planning Forums and Areas applications does not have any discernable impacts on crime and disorder.
- 13.2 At the stage where designated neighbourhood forums are preparing NDPs or NDOs for the designated neighbourhood areas, consideration may be given to crime and disorder where the Forum wish to pursue the implications of crime and disorder on the built environment.

14. SAFEGUARDING IMPLICATIONS

- 14.1 There are no specific safeguarding implications associated with this report.

Linked Reports, Appendices and Background Documents

Linked Report

- Report to Cabinet on 5th April 2016, on the Spitalfields Neighbourhood Planning Forum Application

Appendices

1. Appendix 1: Spitalfields Area Map
2. Appendix 2: Consultation Summary Report
3. Appendix 3: Equality Analysis Quality Assurance Checklist

Background Documents – Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012

- NONE

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