

Non-Executive Report of the: Council Wednesday, 17 July 2019	 TOWER HAMLETS
Report of: Will Tuckley, Chief Executive	Classification: Open (Unrestricted)
Spitalfields and Banglatown Community Governance Review - Final Recommendations	

Originating Officer(s)	Matthew Mannion, Head of Democratic Services Steve Morton, Strategy, Policy and Performance Officer
Wards affected	Spitalfields & Banglatown; Weavers;

Executive Summary

Following receipt of a valid petition requesting that a Town Council (a name variation of the parish council governance arrangement) be established in the Spitalfields and Banglatown area of the borough, a Community Governance Review (CGR) was established in line with the Local Government & Public Involvement in Health Act 2007 to consider the application.

The CGR has consisted of background research by the Council plus two public consultation exercises; the first on the original proposals set out in the petition, and then a second stage which considered draft recommendations from the Council alongside other potential options.

The research and consultation phases are now complete and appended to this cover report is the final analysis and conclusions report of the Community Governance Review. Council is asked to consider the contents of the appended report and agree a recommendation to conclude the review.

The Council's proposed final recommendation is that there be no change to existing community governance arrangements within the wards of Spitalfields & Banglatown and Weavers and that a parish should not be created.

Recommendations:

The Council is recommended to:

1. To consider and review the final analysis and conclusions of the Community Governance Review as set out in Appendix 1 to this report.
2. To consider the equalities analysis as set out at Annexe 6 to Appendix 1 (final analysis and conclusions)
3. To review the reasons set out for the Council's proposed recommendation and the alternative options set out in sections 2 and the 3 of this report
4. To agree that there be no change to existing community governance arrangements within the wards of Spitalfields & Banglatown and Weavers and that a parish should not be created.

1. REASONS FOR THE DECISIONS

- 1.1 Following receipt of a valid petition the Council is required to undertake a CGR. This report presents the information required by Council in order to reach a final recommendation on that review.
- 1.2 The legislative framework for community governance reviews is set out in the Local Government and Public Involvement in Health Act 2007 ('the 2007 Act'). Chapter 3 of Part 4 of the 2007 Act devolves the power to take decisions about matters such as the creation of parishes and their electoral arrangements to local government and local communities in England.
- 1.3 Under the terms of the 2007 Act, the Council must have regard to guidance issued by the Secretary of State about undertaking community governance reviews.¹ The most recent guidance was issued in March 2010.²
- 1.4 In making its final decision the Council has a duty to secure that community governance within the area under review:
 - a) reflects the identities and interests of the community in that area, and
 - b) is effective and convenient³
- 1.5 Relevant considerations which should influence the Council's judgement against these two principal criteria include the impact on community cohesion and the size, population and boundaries of the proposed area.⁴

¹ Local Government & Public Involvement in Health Act 2007 100(4)

² Guidance on Community Governance Reviews. Department for Communities and Local Government and Local Government Boundary Commission for England. 2010

³ Local Government & Public Involvement in Health Act 2007. 93(4)

⁴ Guidance on community governance reviews DCLG & LGBCE 2010 para 53

- 1.6 The government has further clarified criterion b) by stating that the effectiveness and convenience of local government is best understood in the context of a local authority's ability to deliver quality services economically and efficiently, and to give users of services a democratic voice in the decisions that affect them.⁵
- 1.7 The Council is required to consult with local government electors for the area under review and any other person or body which appears to have an interest in the review.⁶ It must take into account any representations received in connection with the review.⁷
- 1.8 In making its final recommendations, the Council should consider the information it has received in the form of expressions of local opinion, representations made by local people and other interested persons, and also use its own knowledge of the local area. In taking this evidence into account and judging the criteria in the 2007 Act against it, a principal council may reasonably conclude that a recommendation set out in a petition should not be made.⁸
- 1.9 Where a principal council has conducted a review following receipt of a petition, it will remain open to the Council to make a recommendation which is different to the recommendation the petitioners wished the review to make. This will particularly be the case where the recommendation is not in the interests of the wider local community, such as where giving effect to it would be likely to damage community relations by dividing communities along ethnic, religious or cultural lines.⁹

2. ALTERNATIVE OPTIONS

- 2.1 There was no alternative option to setting up the CGR as this was required following receipt of a valid petition. However, the Council's draft recommendations published for the second stage consultation exercise provided for two alternative options.

Establish a Parish Council

- 2.2 The final analysis and conclusions report at Appendix 1 sets out the reasons why this is not recommended. However, should Council agree to establish a parish then it is recommended it do so on the terms set out in that report.

Reject the proposal to create a parish council but instead create or strengthen non-parish forms of community governance

⁵ Guidance on community governance reviews DCLG & LGBCE 2010 para 62

⁶ Local Government & Public Involvement in Health Act 2007 93(3)

⁷ *ibid.* 93(6)

⁸ Guidance on Community Governance Reviews. DCLG & LGBCE 2010 para 96

⁹ Guidance on Community Governance Reviews. DCLG & LGBCE 2010 para 95

- 2.3 The Council has considered other (non-parish) forms of community governance that have been or could be made in the area. The Council has concluded that there is little support for establishing new forms of community governance. A number of arrangements have been unsuccessful in the past. There are, however, existing groups and forums that the Council can support and engage with under existing governance arrangements without creating new arrangements. It is noted that proposals for strengthening local democratic engagement were supported by the General Purposes Committee on 25 June 2019.

Decision Making Process Options

- 2.4 In addition to the above formal Community Governance Review options, Town Council Campaigners have made requests in relation to how the Council reaches a decision.

Defer a decision until an independent audit is undertaken on the responses to the consultation.

- 2.5 This request was presented at the Cabinet meeting on 26 June 2019 and is due to their allegation that the consultation findings have not been accurately represented.

- 2.6 The Council strongly rejects this. There is no evidence that the Council has incorrectly analysed the consultation responses and, in any case, the Council will publish the raw data (with personal information redacted) to allow anyone to review it should they so wish. An independent audit will therefore not add any value to the process and will merely delay the conclusion of the review.

Hold an 'advisory ballot' of residents within the boundary of the proposed parish

- 2.7 Town Council campaigners have submitted a number of requests for the Council to hold a 'referendum' within the boundaries of the proposed parish council as a method of determining a final view of those within the area. They argue that it is a more definitive result than a consultation.

- 2.8 The Council is not required to conduct a referendum or ballot as part of the community governance review process. If any ballot were to be undertaken at any stage, then its outcome would be purely advisory. It would also not be sufficient to meet the legal requirement to consult a broad range of the community as well as local government electors. A ballot would not enable the Council to make a judgement on whether the creation of a parish would impact adversely on groups with protected characteristics as it is required to do under the Public Sector Equality Duty. If in the Council's judgement a recommendation to establish a parish council would negatively impact on community cohesion, either within the proposed parish area, or in the wider community within which it would be located, it should not be made. Any decision taken by the Council solely on the basis of either consultation findings or a ballot would be open to challenge on its decision making.

3. DETAILS OF THE REPORT

- 3.1 The power to establish Parish Councils within London was re-established by the Local Government and Public Involvement in Health Act 2007. Local authorities can consider whether it would be in the local interest to establish parish councils through a Community Governance Review (CGR).
- 3.2 A CGR can be triggered by the receipt of a valid petition from a specific area requesting that such a review be undertaken. The Council received such a petition on 23 July 2018.
- 3.3 An initial report on the CGR was presented to Cabinet on 26 September 2018 after which a final Terms of Reference for the CGR were agreed and published.
- 3.4 At the beginning of October 2018 the first stage consultation exercise commenced seeking views on the initial proposals as set out in the petition to the Council. The report setting out the responses received is attached as part of Appendix 1 to this report.
- 3.5 Following background research and after considering the results of the first stage consultation, the Council published its draft recommendation (to reject the proposal to create a parish council but instead create or strengthen non-parish forms of community governance) as well as alternative options, including the option of creating a parish council or to retain existing governance arrangements, and these were subject to a second phase of public consultation.
- 3.6 The responses to the second stage consultation are also set out as part of Appendix 1 to this report.
- 3.7 The Council is satisfied that the consultation exercises were conducted thoroughly and effectively enabled local residents, business and other interested parties to contribute to the CGR.
- 3.8 The Council has now considered the recommendations set out in the petition in the light of relevant legislation and guidance issued by the Secretary of State and has fully considered the responses to the consultation exercises. Final recommendations have now been drawn up.
- 3.9 The final recommendation to Council is to:

“Agree that there be no change to existing community governance arrangements within the wards of Spitalfields & Banglatown and Weavers and that a parish should not be created.”
- 3.10 The CGR Final Analysis and Conclusions report at Appendix 1 sets out the reasons for this conclusion in detail but in summary, and after careful consideration, the Council considers that:

- There is not significant support for the creation of a parish council, either within the area or within the broader community.
- A parish would not be reflective of the identity and interests of the whole community.
- The creation of a parish would be likely to damage community cohesion both within the area and between the area and other parts of the borough.
- A parish council would not be an effective and convenient form of local governance and would not be best placed to deliver quality services efficiently and effectively.
- There is the potential for a significant additional financial cost to local residents from the precept raised by a parish council with a particular concern that this could have a greater impact on people living on lower incomes.

3.11 Members are requested to consider the evidence and conclusions set out in more detail in the CGR final analysis and conclusions report at Appendix 1 and then determine a final recommendation for the review.

Next Steps

- 3.12 Should Council reject the proposal to create a parish and parish council then the conclusions of the CGR will be published and those who responded to the consultation exercise notified.
- 3.13 Should Council agree to establish a parish and parish council then a report, will be presented to Council in September 2019 on the next steps.

4. EQUALITIES IMPLICATIONS

- 4.1 The Equality Analysis accompanying this report identifies the potential for a negative impact on community cohesion if a parish and parish council were to be established. Consultation findings have indicated strong opposition to the proposal amongst people who gave their ethnicity as Asian / Asian British and their religion as Muslim. Of those who opposed the creation of a parish and who provided comments, one in four gave a view that the proposal would divide communities. Whilst this was expressed in terms of dividing better off and less well off neighbourhoods and residents, evidence from the ward profiles and other sources shows that there are higher concentrations of people of Asian / Asian British ethnicity living the more deprived parts of the area.
- 4.2 Government guidance is clear that where a principal council has conducted a review following receipt of a petition, it will remain open to the principal council to make a recommendation which is different to the recommendation the petitioners wished the review to make. This will particularly be the case where the recommendation is not in the interests of the wider local community, such as where giving effect to it would be likely to damage community relations by dividing communities along ethnic, religious or cultural lines.

5. OTHER STATUTORY IMPLICATIONS

5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:

- Best Value Implications,
- Consultations,
- Environmental (including air quality),
- Risk Management,
- Crime Reduction,
- Safeguarding.
- Data Protection / Privacy Impact Assessment.

5.2 Analysis of relevant risks and implications are set out in the CGR Final Recommendations report attached at Appendix 1 to this cover report.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

6.1 This report recommends Council to consider and review the final analysis and conclusions of the Community Governance Review as set out in Appendix 1 to this report, and to consider the equalities analysis as set out at Annexe 6 to Appendix 1 (final analysis and conclusions). The recommendation of the review is that there be no change to existing community governance arrangements within the wards of Spitalfields & Banglatown and Weavers and that a parish should not be created in the area.

6.2 A Community Governance Review is a statutory process that has financial implications for the London Borough of Tower Hamlets as the principal council responsible for conducting the review. Costs arise from the legal requirement to consult local government electors within the area covered by the review, and others with an interest in the review. The cost of the review is not yet finalised, however spend to date is approximately £35,000. An initial estimate of costs was in the region of £15,000 to £20,000, and the main reason for the increase has been a comprehensive phase two consultation exercise involving printing and distributing over 13,000 hard copy booklets, and higher than anticipated staff costs.

6.3 The Council is seeking to recoup a proportion of these costs from the Ministry of Housing, Communities and Local Government's Community Governance Review New Burdens Fund. This fund was set up to support local authorities to meet the costs arising from reviews triggered following a 2015 reduction in the threshold for a valid petition from 10% to 7.5%. The Tower Hamlets Community Governance Review meets this criterion. The Council will look to absorb any remaining costs from within existing budgets.

7. COMMENTS OF LEGAL SERVICES

7.1 A Community Governance Review has been carried out in accordance with the Local Government and Public Involvement in Health Act 2007. This follows a valid petition being received which satisfies the requirements of s.80 of the Act, being:

- It has been signed by the relevant number of electors in the petition area;
- It defines the area for which the review relates and specifies the recommendations; and
- It defines the area of the new parish.

7.2 In undertaking the Community Governance Review, the council has ensured that it has had regard for the duties set out in s.93 Local Government and Public Health Act 2007. These were:

- The need to consult local government electors in the area and any other person or body that would have an interest;
- To have regard for the needs for a review to reflect the identities and interests of the community in that area and is effective and convenient;
- To take into account other arrangements that have already been made or could have been made; and
- To take into account any representations received.

7.3 All duties were satisfied during the research and consultation phases of the Community Governance Review. A notice was then published with the council's draft recommendation in accordance with the provisions of this Act.

7.4 During this Community Governance Review, the council was also to have regard for its public sector duty regarding socio-economic inequalities under s.1 Equality Act 2010. Under this Act, due regard was to be had for the desirability of exercising functions in a way that is designed to reduce the inequalities of any outcome which results from socio-economic disadvantage. There is a wider public sector Duty of Care at s.149 Equality Act 2010, which means the council must have due regard to the following when exercising its functions:

- The need to eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act;
- To advance equality of opportunity between those with a protected characteristic and those that do not share it; and
- To foster good relations between those with a protected characteristic and those that do not share it.

7.5 The Community Governance Review has considered this legislation. Any Equality Assessment for this Community Governance Report should also have regard for this legislation and the demographic of the proposed area of the parish.

Linked Reports, Appendices and Background Documents

Linked Report

- Second stage consultation reports (General Purposes Committee 25/6/19 and Cabinet 26/6/19)
- Draft Recommendation reports (General Purposes Committee 26/2/19 and Cabinet 27/2/19)
- Initial Community Governance Review report (Cabinet 26/9/18)

Appendices

- Appendix 1 (with 6 Annexes) - Community Governance Review – Final Analysis and Conclusions

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

List any background documents not already in the public domain including officer contact information.

- Consultation dataset (to be published shortly)

Officer contact details for documents:

N/A