

# **London Borough of Tower Hamlets community governance review**

## **Final analysis and conclusions**

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## Contents

1. Executive summary .....	3
2. Introduction.....	4
3. Background .....	6
4. Consultation, evidence and guidance informing the review.....	8
5. Key considerations .....	9
Legislative criterion a) Is the proposal reflective of the identity and interests of the community in the area? .....	9
Legislative criterion b) Would a parish council be an effective and convenient form of local governance? .....	14
Support for the creation of a parish council .....	19
6. Conclusions.....	21
7. Final recommendation .....	25
8. What happens next? .....	25
Annexe 1 Boundaries map .....	Attached
Annexe 2 CGR Terms of Reference.....	Attached
Annexe 3 Phase One consultation report.....	Attached
Annexe 4 Initial analysis and draft recommendations .....	Attached
Annexe 5 Phase Two consultation report.....	Attached
Annexe 6 Equality analysis .....	Attached

## 1. Executive summary

- 1.1. This report sets out the final analysis, conclusions and recommendations of a community governance review conducted by the London Borough of Tower Hamlets following receipt of a valid petition requesting the creation of a parish and parish council in the Spitalfields area.
- 1.2. The Council has considered four broad options during the review. These were to:
  - i. adopt the petitioners' proposals in full*
  - ii. create a parish and parish council but with modifications to the proposals made in the petition*
  - iii. reject the proposal to create a parish council but instead create or strengthen non-parish forms of community governance.*
  - iv. reject the proposal to create a parish council and retain existing governance arrangements*
- 1.3. At the end of phase one of the review the Council concluded that it could not support option i) adoption of the petitioners' proposals in full. In summary, the Council does not have the power in law to create a 'Town Council' as requested; it can only create a parish and parish council. The Council rejected the boundaries proposed by the petitioners as unsuitable. The Council also rejected the proposed name as not fully reflective of the current identity of the area.
- 1.4. In its initial analysis and draft recommendations the Council set out alternative proposals for the creation of a parish and parish council for the area - option ii) create a parish council with modifications to the proposals in the petition. It sought views on its proposals from local government electors and others with an interest in phase two of the review.
- 1.5. After careful consideration the Council has come to the conclusion that it cannot support this option. Consultation has confirmed the Council's view that there is not significant support for the creation of a parish council, either within the area or within the broader community. Of the 2,173 valid responses received in phase two, 1,239 were from people living within the area covered by the three boundary options put forward for consideration by the council. Of these 34.6% (429) supported the creation of a parish council; 63.1% (783) did not support the proposal; 2.2% did not express an opinion.
- 1.6. Consultation has also confirmed that there is significant opposition to the proposal, especially within the Bangladeshi community. Whilst consultation findings are only indicative of local views, the Council cannot discount these findings in reaching its decision. Government guidance is clear that community governance arrangements should

reflect, and be sufficiently representative, of people living across the whole community, and not just a discrete cross section of it.

- 1.7. In the light of consultation findings, the Council's judgement is also that the creation of a parish would not be in the interests of the community as it is likely to damage community cohesion both within the area and between the area and other parts of the borough.
- 1.8. Having considered other aspects of the proposals the Council has concluded that establishing a parish would not be an effective and convenient form of local governance and would not be suitable for the delivery of quality services efficiently and effectively. There is also the potential for a significant financial cost to local residents from a precept raised by the parish council with a particular concern that it could have a greater impact on people living on lower incomes.
- 1.9. In its initial analysis and draft recommendations the Council said it favoured creating an alternative, non-parish, arrangement for community governance in the area. This was option iii) create or strengthen non-parish forms of community governance.
- 1.10. Very little support was received for this option in phase two consultation. A number of forms of community governance have previously been tried in the area but subsequently abandoned on grounds of cost, difficulty sustaining in them, changes of political priorities and criticism from external bodies. They include full neighbourhood decentralisation in the 1980s and more recently, Local Area Partnerships and Neighbourhood Community Budget Areas.
- 1.11. Having considered and rejected options i) to iii) the Council's final recommendation is therefore option iv) reject the proposal to create a parish council and retain existing governance arrangements.

## **2. Introduction**

- 2.1. This section sets out key considerations that members of the Council should take into account in reaching a decision on the request to create a parish and a parish council as set out in the petition received by the Council on 23 July 2018.
- 2.2. 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.
- 2.3. 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.<sup>1</sup> The most recent guidance was issued in March 2010.<sup>2</sup>

- 2.4. 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 convenient<sup>3</sup>
- 2.5. 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.<sup>4</sup>
- 2.6. 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.<sup>5</sup>
- 2.7. 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.<sup>6</sup> It must take into account any representations received in connection with the review.<sup>7</sup>
- 2.8. 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.<sup>8</sup>
- 2.9. 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

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<sup>1</sup> Local Government & Public Involvement in Health Act 2007 100(4)

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

<sup>3</sup> Local Government & Public Involvement in Health Act 2007. 93(4)

<sup>4</sup> Guidance on community governance reviews DCLG & LGBCE 2010 para 53

<sup>5</sup> Guidance on community governance reviews DCLG & LGBCE 2010 para 62

<sup>6</sup> Local Government & Public Involvement in Health Act 2007 93(3)

<sup>7</sup> Local Government & Public Involvement in Health Act 2007. 93(6)

<sup>8</sup> Guidance on Community Governance Reviews. DCLG & LGBCE 2010 para 96

damage community relations by dividing communities along ethnic, religious or cultural lines.<sup>9</sup>

### 3. Background

- 3.1 Tower Hamlets Council received a valid petition on 23 July 2018 from 324 local residents requesting the creation of a new parish council.
- 3.2 To be valid, a petition to trigger a community governance review must be signed by at least 7.5% of local government electors living in the area covered by the petition. The petition must define the area to which the review is to relate and specify one or more recommendations which the petitioners wish the community governance review to consider making.
- 3.3 If the recommendations in a petition include the establishment of a new parish council, then the petition is to be treated as if it is also recommending that a new parish be created.<sup>10</sup>
- 3.4 The wording of the petition was as follows:

*“We, the undersigned, are electors who live in Spitalfields and believe that Spitalfields should have a Town Council which we hope will be subdivided into at least three electoral wards.*

*We ask that Tower Hamlets Council undertake a Community Governance Review in accordance with its duties under Section 83 of the Act. We hope that the outcome of this review leads to the creation of a new local council for Spitalfields to be called Spitalfields Town Council, which would work with Tower Hamlets to represent our community and bring about improvements to our town. We recommend the Town Council area includes Spitalfields Neighbourhood Planning Area and the Former Bishopsgate Goods Yard site (only that part within Tower Hamlets).”*
- 3.5 A map showing proposed boundaries of the parish was presented with the petition. The boundaries proposed by the petitioners sit entirely within the two wards of Spitalfields & Banglatown and Weavers. They comprise the western part of the ward of Spitalfields & Banglatown and a small portion of Weavers ward.
- 3.6 On receipt of a valid petition, if there is no ongoing community governance review, a council must undertake a community governance review that has terms of reference that allow for the petition to be considered.<sup>11</sup> The terms of reference for the review must specify the

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<sup>9</sup> Guidance on Community Governance Reviews. DCLG & LGBCE 2010 para 95

<sup>10</sup> Local Government & Public Involvement in Health Act 2007 80(2-8)

<sup>11</sup> Local Government & Public Involvement in Health Act 2007 83(2)

area under review.<sup>12</sup> It is for the Council to decide the terms of reference for the community governance review and to decide what modifications (if any) to make to terms of reference.<sup>13</sup>

- 3.7 Terms of reference for this community governance review were considered by the Mayor in Cabinet on 26 September 2018 and agreed by the Chief Executive following further discussion with officers. They were modified on 1 March 2019 to extend the period of public consultation for phase two of the review from 8 to 12 weeks. Terms of reference for the review can be found on the Council website at [www.towerhamlets.gov.uk/consultations](http://www.towerhamlets.gov.uk/consultations).
- 3.8 The terms of reference set out the objectives of this community governance review as follows:
1. To fulfil the council's obligations to undertake a community governance review following the receipt of a valid petition. The current guidelines state that we must complete this review within 12 months of the receipt of the petition.
  2. To consider whether the creation of a parish council reflects the identities and interests of the community in the area.
  3. To ensure that any proposed arrangements provide effective and convenient local government, including viability in the provision of services, the promotion of well-being and community cohesion.
  4. To take into account any other arrangements for community representation and engagement in the area that are already in place or that could be made.
  5. To consider options for electoral arrangements for the parish council should the proposal to create a parish council be adopted.
- 3.9 In specifying the area under review, the Council took a decision to set its geographical scope as comprising the wards of Spitalfields & Banglatown and Weavers. The original boundaries proposed by the petitioners sit entirely within these two wards.
- 3.10 The Council's intention in setting a broader area for review was to allow the petitioners' recommendations to be considered as required in legislation. The Council also wished to establish whether these recommended boundaries were indeed reflective of the identity and interests of the local community and whether they were suitable for effective and convenient community governance for the area.
- 3.11 Reviewing a broader area also allowed the views of those living in adjacent areas to be taken into consideration. The Council believes that this is especially important in an urban, inner city, context where there are not clear boundaries or areas of 'no mans land' between communities as envisaged by government guidance.<sup>14</sup>

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<sup>12</sup> Local Government & Public Involvement in Health Act 2007 81(2)

<sup>13</sup> Local Government & Public Involvement in Health Act 2007 81(4)

<sup>14</sup> Guidance on Community Governance Reviews. DCLG & LGBCE 2010 s.83

#### 4. Consultation, evidence and guidance informing the review

- 4.1. The Council has had regard to government guidance on the conduct of community governance reviews. It has drawn on a number of sources of evidence to inform the review. These include two extensive public consultation exercises undertaken during phase one and two of the review and internal consultation with relevant council officers. It has considered the findings of other community governance reviews across the country and best practice guidance from organisations such as the National Association of Local Councils. It has also reviewed research on the role and functions of parish councils, for example House of Commons Library Briefings.
- 4.2. The consultation arrangements put in place by the Council included an initial phase of consultation on the proposals in the petition (phase one). This ran for twelve weeks from 8 October 2018 and closed on 31 December 2018. Following consideration of phase one findings and its initial analysis and options appraisal the Council published draft recommendations on 6 March 2019 for public consultation (phase two). This consultation exercise ran for twelve weeks and closed on 28 May 2019.
- 4.3. In both phases of consultation the Council defined consultees as all residents in the two wards of Spitalfields & Banglatown and Weavers as well as any other person, organisation or business that has an interest in the review. This included, but was not limited to, local government electors in the area, other local residents including council tax payers, residents of the wider borough, people and organisations with a connection to the area, local businesses, public sector bodies, civil society organisations, and neighbouring local authorities.
- 4.4. The Council considered 892 responses in phase one, of which 673 were from individuals, 40 were from an organisation; (179 responders did not say in what capacity they were responding).
- 4.5. In phase two 2,173 responses were considered by the Council of which, 2,082 were from individuals, 49 were from an organisation; (42 responders did not say in what capacity they were responding).
- 4.6. Detailed consultation reports for phase one and phase two are available on the Council website at [www.towerhamlets.gov.uk/consultations](http://www.towerhamlets.gov.uk/consultations).

## 5. Key considerations

### Legislative criterion a) Is the proposal reflective of the identity and interests of the community in the area?

- 5.1. When considering a proposal to create a new parish (and parish council) a principal council must consider whether the proposal is reflective of the identities and interests of the community in that area.<sup>15</sup> Government guidance stresses that how people perceive where they live is significant in considering the identities of local communities and depends on a range of circumstances often best defined by local residents. Factors can include the geography of the area, the make-up of the local community, sense of identity and whether the area is rural, suburban or urban.<sup>16</sup>
- 5.2. According to government guidance, parishes should reflect distinctive and recognisable communities of interest with their own sense of identity. The feelings of the local community and the wishes of local inhabitants should be primary considerations.<sup>17</sup>
- 5.3. Government guidance on the creation of parishes states that parish boundaries should reflect the ‘no-man’s land’ between communities represented by areas of low population or barriers such as rivers, roads or railways. They need to be, and be likely to remain, easily identifiable.<sup>18</sup> In a densely populated urban area like Tower Hamlets there are not such clear physical boundaries between communities so that defining potential parish boundaries is less straightforward.
- 5.4. During public consultation a number of people mentioned the distinct identity of the area, giving this as a reason why it should have its own parish council. Spitalfields as a place name has appeared in records since the Middle Ages. Various historic maps exist showing the boundaries of ecclesiastical parishes in the area. Spitalfields is also recognised as a ‘place’ in the Council’s Core Strategy published in 2010, which forms part of the Local Development Framework albeit with imprecisely defined boundaries.
- 5.5. Spitalfields was designated a Neighbourhood Planning Area by the Council in April 2016. A neighbourhood planning area enables local people, through a Neighbourhood Planning Forum, to develop a shared vision for their neighbourhood and to shape the development and growth in the area through a Neighbourhood Plan. The boundaries of the Spitalfields Neighbourhood Planning Area were assessed and agreed by the Council against criteria taken from the Town and Country Planning Act 1990 and the government’s Planning Practice Guidance on Neighbourhood Planning. These boundaries

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<sup>15</sup> Local Government & Public Involvement in Health Act 2007 93(4)

<sup>16</sup> Guidance on Community Governance Reviews. DCLG & LGBCE 2010 s.58

<sup>17</sup> Guidance on Community Governance Reviews. DCLG & LGBCE 2010 s.59

<sup>18</sup> Guidance on Community Governance Reviews. DCLG & LGBCE 2010 s.83

could be seen as a starting point for defining any parish, should one be created.

- 5.6. Boundaries drawn up for neighbourhood planning purposes are not necessarily suitable for the creation of parish however. The Council is required to consider whether they are likely to result in efficient and effective local governance in the area. This includes consideration of whether services can be delivered effectively and efficiently by a parish within those boundaries and whether they are suitable for electoral purposes.
- 5.7. The parish boundaries proposed by the petitioners followed the boundaries of the Spitalfields Neighbourhood Planning Area. In addition the petitioners included the part of the Bishopsgate Goods Yard development site that sits within the London Borough of Tower Hamlets. These proposed boundaries are shown on the map at Annexe 1 and comprise areas A, C and D.
- 5.8. Through consultation in phase one and two the Council wished to test potential boundaries with local people and others to understand if they were indeed reflective of the identity and interests of the community living in the area and would be likely to result in effective and convenient local governance.
- 5.9. The Spitalfields & Banglatown Town Council Campaign, set up to represent the petitioners, themselves stated in their phase one submission *'that the precise delineation of our eastern boundary was not ideally placed, and it meant some people who strongly felt they were living in Spitalfields & Banglatown and would like to be living inside a future parish/town were left outside'*. They proposed an eastward extension of the parish boundary at this point. This area is shown as area B on the map at Annexe 1. It contains the Chicksand Estate and neighbouring streets.
- 5.10. At the close of phase one, the Council put forward three alternative boundary options for consideration. It excluded the Bishopsgate Goods Yard development site from any of the boundary options on the grounds that the site has London wide strategic significance and is shared with the London Borough of Hackney. It also abuts onto the area covered by the East Shoreditch Neighbourhood Planning Area which has an interest in the site. It is awaiting development and has no current residents to consult. The Council will keep this area under review and may consider it in a future community governance review if a parish were to be created.
- 5.11. Boundary Option I comprised the area put forward by the petitioners (excluding the Bishopsgate Goods Yard site). It also includes the area identified on the map at Annexe 1 as Area B. This extends the boundary of the proposed parish eastwards. The Council took note of

the submission by the Spitalfields & Banglatown Town Council Campaign on this matter as set out above.

- 5.12. Boundary Option II comprised the area covered by Boundary Option I with a further extension eastwards to Valence Road. The extended area is marked on the map at Annexe 1 as Area E. The Council wished to test whether residents of this area favoured inclusion in any parish, if one were to be created. The Council also views Valence Road as a potential 'natural' boundary and one which would better facilitate effective delivery of local services by a parish, were one to be created.
- 5.13. Boundary Option III further extended the proposed boundary south to the Whitechapel Road. The properties in this area are mainly commercial with fewer residents to consult, but Whitechapel Road appears to represent a clear 'natural' boundary which may facilitate the more effective delivery of local services by a parish council, were one to be created. The extended area is marked on the map at Annexe 1 as area F.
- 5.14. All three boundary options put forward by the Council included Area C. This covers a small part of Weavers ward along Brick Lane. It is part of the Spitalfields Neighbourhood Planning Area and was included in the boundaries proposed by the petitioners. Although the area could be seen as part of historic Spitalfields it may be less suitable for inclusion in a parish if guidance on 'natural' boundaries were followed. The railway line following the ward boundary may be a better and clearer boundary. Very few consultation responses were received from people living in this area so it is difficult to draw firm conclusions on the level of support from residents for its inclusion in a parish, were one to be created.
- 5.15. Government guidance recognises that while 'place' is important in shaping a sense of community identity it is not the only factor that needs to be taken into account.<sup>19</sup> In a borough like Tower Hamlets, there are diverse communities of interest as well as those centred on neighbourhood or locality; for example, representing age, gender, ethnicity, faith or lifestyle groups. Any number of communities of interest may flourish in an area but they do not necessarily centre on a specific place or help to define it. The Council is mindful that the identity, needs and interests of all these various communities require balancing in making a decision on whether to create a parish.
- 5.16. Government guidance points out the potential role for parish councils in strengthening community engagement and participation and in generating a positive impact on community cohesion.<sup>20</sup> It states that principal councils should consider the impact on community cohesion

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<sup>19</sup> Guidance on Community Governance Reviews. DCLG & LGBCE 2010 s.60

<sup>20</sup> Guidance on Community Governance Reviews. DCLG & LGBCE 2010 s.67

of community governance arrangements.<sup>21</sup> Cohesion issues are connected to the way people perceive how their local community is composed and what it represents, and the creation of parishes and parish councils may contribute to improving community cohesion. However, the guidance also specifically asks principal councils to consider whether a recommendation made by petitioners will undermine community cohesion in any part of its area.<sup>22</sup>

- 5.17. Community governance arrangements should reflect, and be sufficiently representative of, people living across the whole community and not just a discrete cross-section or small part of it. A principal council is advised not to make a decision to create a parish which may threaten community cohesion. Principal councils may decline to set up such community governance arrangements where they judge that to do so would not be in the interests of either the local community or surrounding communities, and where the effect would be likely to damage community cohesion.<sup>23</sup>
- 5.18. During both phases of consultation, concerns were expressed by some that the creation of a parish could divide local communities and have a negative impact on community cohesion. More than one in four of those opposing the creation of a parish gave this as a principal reason for their opposition to the proposal. Most set out their concerns in terms of the original boundary proposal dividing better off areas from more deprived ones. The Council notes that whilst the original area proposed does contain comparatively less deprived areas than much of the borough, it does have more deprived neighbourhoods. There is clearly a risk however that a perception of division on the basis of socio-economic status would persist in surrounding areas and other parts of the borough, were a parish to be created.
- 5.19. Some consultees argued that the creation of a parish council did not have the support of a broad cross section of the community in the area. This is confirmed by the Council's analysis of consultation responses. In phase two, for example, 80% of those who gave their ethnicity as Asian / Asian British did not support the creation of a parish council. Opposition to the creation of a parish council was also high amongst those who gave their religion as Muslim, with 91.2% of this group opposing the proposal.
- 5.20. In the light of these findings, the Council should have regard to the Public Sector Equality Duty as set out in the Equality Act 2010. In particular the Council should have regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Government guidance gives a working definition of this as 'the growth of relations and structures that acknowledge the diversity of society, and that seek to

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<sup>21</sup> Guidance on Community Governance Reviews. DCLG & LBGCE 2010 s.67

<sup>22</sup> Guidance on Community Governance Reviews. DCLG & LBGCE 2010. s.75

<sup>23</sup> Guidance on Community Governance Reviews. DCLG & LBGCE 2010. s.74

promote respect, equity and trust, and embrace diversity in all its forms'.<sup>24</sup> Of particular relevance is the need to consider whether a parish council would be likely to increase diversity in civic and political participation and increase reported confidence and trust in institutions subject to the duty. In reaching its decision, the Council is also required to have regard to the need to advance equality of opportunity. Of particular relevance is the requirement to encourage participation in public life.

- 5.21. In assessing the likely impact that the creation of a parish council could have on community cohesion it is worth noting that social relationships can facilitate or hamper both individual and collective access to resources. Networks of relationships characterised by trust and reciprocity can be understood as generating 'social capital' because they enable people to use and exchange resources. However, social networks can also serve to entrench divisions and inequalities due in part to differences in access to power and resources.<sup>25</sup> Creating a new institution where there is evidence of a lack of trust based on perceptions of divisions along lines of ethnicity, religion or socio-economic status may be unwise without fully understanding how these perceptions arise and how they are best addressed.
- 5.22. The Council notes the argument put forward by campaigners for a parish council that there is little concrete evidence that parish councils elsewhere in the country have had a negative impact on community cohesion. (Conversely there is also no robust evidence that they have a positive impact.) Whilst government guidance is enthusiastic about the potential benefits of parishes for community cohesion, it also clearly states that a council should decline to set up such community governance arrangements where they judge that doing so would not be in the interests of either the local community or surrounding communities, or where the effect would be likely to damage community cohesion.<sup>26</sup> Government guidance on this matter recognises that challenges to community cohesion are very local and that local authorities because of their knowledge of local communities are in a good position to assess these challenges.<sup>27</sup>
- 5.23. The petition proposed that the parish council should be named 'Spitalfields Town Council'. In its initial analysis and draft recommendations, the Council noted that it is unable in law to give a parish council the style 'Town Council'. That would be a matter for the parish council if one were to be established.

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<sup>24</sup> Equality Act 2010: Technical Guidance on the Public Sector Equality Duty: England. Equality & Human Rights Commission 2014. 3.35

<sup>25</sup> Home Office Indicators of Integration framework 2019

<sup>26</sup> Guidance on Community Governance Reviews. DCLG & LGBCE 2010 s.74

<sup>27</sup> Guidance on Community Governance Reviews. DCLG & LGBCE 2010 s.76

- 5.24. The Spitalfields & Banglatown Town Council Campaign, in their phase one submission, acknowledged that concerns had been raised with them about the naming of the proposed parish and the importance of the name 'Banglatown' to the local Bangladeshi community. For this reason they proposed that any new parish should be called 'Spitalfields & Banglatown' rather than 'Spitalfields'. In its initial analysis and draft recommendations the Council accepted this proposal and did not consult further on naming.

### **Legislative criterion b) Would a parish council be an effective and convenient form of local governance?**

- 5.25. Legislation requires a principal council to consider whether a parish council would be an effective and convenient form of local governance.<sup>28</sup> The government has stated that by 'effective and convenient' it means that a parish council is able to deliver quality services economically and efficiently, and give users of services a democratic voice in the decisions that affect them.<sup>29</sup>
- 5.26. During consultation a significant number of those supporting the creation of a parish argued that, if created, a parish council would be better placed to address specific local needs and provide better local services. Others stated that they believed a parish council would increase local democracy and give local people greater voice, both in their dealings with Tower Hamlets Council and greater influence over decisions which affected them, for example, the use of the Community Infrastructure Levy raised from development in the area.
- 5.27. The Council notes the challenge facing all levels of local government in terms of engaging people in the democratic process. It also notes that this challenge is particularly acute for parish councils. In the May 2015 elections in England, for example, only 20% of parish council seats were contested. Creation of a parish council would not automatically guarantee increased local democracy or participation. These challenges would remain for a parish council, were one to be created.
- 5.28. During phase two consultation we asked people about whether other (non-parish) forms of community governance should be put in place. This was the council's favoured option in its draft recommendations. Only 7.7% (169) of all respondents supported this option. However, when asked specifically about their support for various (non-parish) options for community governance, 98.2% (2,134) responded giving their views. Forty two percent (896) still did not support any of the options put forward. Of the remainder, support for the various forms of non-parish community governance was fairly evenly distributed.

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<sup>28</sup> Local Government & Public Involvement in Health Act 2007. 93(4)

<sup>29</sup> Guidance on Community Governance Reviews. DCLG & LGBCE 2010 s.62

- 5.29. There have been a variety of community governance arrangements that have been put in place in the borough. They have been abandoned for different reasons, including cost, difficulty sustaining them, varying levels of engagement, and changes of political appetite for specific arrangements. Following consultation, the Council accepts that there is little support for new forms of community governance in the area, either parish or non-parish. It does intend, however, to work with and support existing forums, including ward panels, tenants and residents associations, and other civil society groups to increase community engagement and participation in line with its Community Involvement Strategy. This should be the case whether or not a parish council were to be created. Proposals on strengthening local democratic engagement across the borough were put to the Council's General Purposes Committee on 25 June 2019.
- 5.30. Parish councils have the option to exercise a variety of powers and duties, including the delivery of a small number of specific local services that add to those provided by the principal council. A parish council can enter into discussions with the principal council such as Tower Hamlets Council about the transfer of services, budgets and assets within the service areas listed above. However this is subject to mutual agreement and securing "best value" by law.
- 5.31. The Localism Act 2011 enables parish councils and others to express an interest in running a local authority service. This is called the community right to challenge (CRC). The CRC relates to 'relevant services' and not functions. Some services are excluded by legislation (e.g. packages of services for health and social care for named individuals). There is no guarantee that the eventual provider of the service would be the body that launched the expression of interest. Parish councils can also exercise the community right to bid to purchase assets of community value if they come up for sale, for example a pub, shop or community hall.
- 5.32. In practice, most parish councils do not have the capacity or resources to deliver more than a small range of services and functions. During consultation many of those who supported the creation of a parish council anticipated that it would be able to tackle issues such as litter, street cleaning, the provision of public toilets, crime and anti-social behaviour. Whilst parish councils do have some powers in relation to these issues, they also require the financial and human resources to deliver services. A parish council setting out to provide such services would either need to raise funds through the precept, thereby increasing the cost to local residents, or to negotiate with the principal council (Tower Hamlets) for the transfer of staff, budget, and equipment. At this point, Tower Hamlets Council would be unlikely to make such a transfer to a parish council, were one to be created.

- 5.33. Consultation feedback highlighted the need to improve service delivery in relation to waste management. Measures that we have in place or that we plan to implement include: bringing waste collection services back in house in April 2020; continuing our Big Clean Ups (we have had seven to date) and we actively encourage the community to get involved; working with housing associations and private landlords to improve waste issues on estates; an improved commercial waste offer to increase commercial recycling and reduce illegal dumping; rolling out Smart Bins and incorporating recycling into more street bins; and working to improve recycling to increase the household recycling rate.
- 5.34. Residents in the consultation also asked for better management of crime and anti-social behaviour in the area. The council is actively working with partners including Tower Hamlets Police to address criminal and anti-social behaviour. Operation Continuum is focusing on disruption of the drugs market and has resulted in 190 arrests so far. The council has invested in new police officers for housing estates and elsewhere. Tower Hamlets Enforcement Officers work to tackle anti-social behaviour and violence. Other activity includes seizure of cars and neighbourhood walkabouts.
- 5.35. A parish council can choose not to deliver any services and instead act purely as a means of influencing local service provision made by the principal council or other partners such as the police. However, existing mechanisms for local representation such as ward councillors, neighbourhood panels and tenants' and residents' associations are already in place to do this.
- 5.36. A parish council, if established, would take on the functions of the existing neighbourhood planning forum for Spitalfields. The Localism Act 2011 enables a parish council, or a neighbourhood planning forum if there is no parish council, to work with the principal council (the Planning Authority) to create a plan for their area. The plan sets out policies and priorities for the development and use of land in the area and must be in accordance with the local development plan, examined by an Independent Examiner and pass a referendum.
- 5.37. The Council designated a neighbourhood planning area in Spitalfields in 2016. If a parish were to be created, then the parish council would take on responsibility for neighbourhood planning within its area. There is no requirement for the neighbourhood planning area to be coterminous with the parish.<sup>30</sup> Parish councils are statutory consultees in the planning process and have no powers to approve or reject planning applications, they can only comment or not on applications. The Planning Authority remains the London Borough of Tower Hamlets.

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<sup>30</sup> Planning Practice Guidance. MHCLG Paragraph: 026 Reference ID: 41-026-20190509

- 5.38. Amongst those opposing the creation of a parish council, one fifth expressed concern about increased costs and bureaucracy. It is important that residents understand the potential costs of a parish council and the likely cost to council tax payers within a parish. It is difficult to provide a clear estimate of cost, however, as the level of precept would depend on the scope of services and functions that a parish decided to deliver. Parish councils are funded principally through an annual precept, an additional council tax levied on eligible individuals. This is set by the principal council in the first year and then by the parish council itself once established. Nationally, the average Band D precept charged by a parish or charter trustee for 2018-19 will be £64.05, an increase of £3.02, or 4.9%, from 2017-18.<sup>31</sup>
- 5.39. For illustrative purposes only the Council calculated the tax base for a parish council in the area shown on the map at Annexe 1 as Boundary Option I. This area has 3,277 Band D equivalent properties. At the national average of a £64.05 precept, the estimated total precept for a parish council in this area is estimated to be £209,892.<sup>32</sup>
- 5.40. With a precept set at this level a parish council would be unlikely to be able to do more than employ one or two staff and to provide very basic services. Unlike council tax, however, the precept is not capped. It would therefore be within the power of a parish council, were one to be created, to raise the precept if it wished to provide more extensive services. This could further increase costs for local council tax payers. It is difficult to estimate the likelihood or extent of this but the impact could be significant in terms of costs to council tax payers in the area.
- 5.41. A parish council could also raise income through, for example, by providing car parking spaces, hiring community spaces or running markets. In practice, this would be difficult to organise in an area of this nature and would require an outlay of resources or transfer of resources from the principal council to the parish council.
- 5.42. A parish council would also be eligible for a portion (15-25%) of the Community Infrastructure Levy (CIL) collected in the area. Some consultees said that a parish council would be a better vehicle for the allocation of CIL raised from development in the area and that it would give residents a greater voice in deciding how these monies should be used. In contrast others said that the decisions on the use of planning gain could remain in the hands of a small number of individuals. Arrangements for local people to get involved already exist through the Neighbourhood Planning Forum. Any arrangements for involving a larger number of local people could equally well be made under existing governance structures without necessarily creating a parish

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/700668/Council\\_tax\\_levels\\_set\\_by\\_local\\_authorities\\_in\\_England\\_2018-19\\_revised.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/700668/Council_tax_levels_set_by_local_authorities_in_England_2018-19_revised.pdf)

<sup>32</sup> If a council tax collection rate of 97.25% is assumed then the figure would be 3,177 Band D equivalent properties with an estimated total precept of £203,487

council. It should be noted that the Mayor has agreed to the allocation of 25% of CIL in all neighbourhood planning areas within the borough so establishing a parish council would not result in any additional resources for the area or in resources being taken from other areas. The main difference would be that the parish council, if created, would make decisions on the allocation of these funds.

- 5.43. During the phase one consultation some businesses said they were concerned about the potential for an increase in business rates to fund a parish council. Parish councils do not currently receive any contributions from business rates. This misconception was addressed in the phase two consultation document.
- 5.44. A parish council as a separate legal entity would not be bound to apply any council tax support scheme agreed locally by Tower Hamlets Council. There is therefore a risk that people on lower incomes could be disproportionately impacted by the precept for a parish council. However, a parish council could choose to apply any locally agreed council tax support or indeed to set its own. The Council notes that, nationally, it has proved to be challenging for many parish councils to implement support schemes even where they have wished to do so.<sup>33</sup>
- 5.45. A parish council, if created, would have to consider the scope of service delivery they propose, any income that can be generated, the tax base and the precept they wish to charge. This funding supports the governance and administration of the parish council and any additional services it provides. All councils have costs related to the actual functions of running a council. In the case of a parish council such costs include democratic, management, civic and central administrative expenses. It is therefore difficult to estimate the likely income, expenses and services for any new parish council. This depends on the level of income, nature of services, number of staff and so on. This would be for a parish council to decide, if one were to be established.
- 5.46. Tower Hamlets Council is required to consider what the electoral arrangements should be if a new parish were to be created. Section 95 of the Local Government and Public Involvement in Health Act 2007 requires the Council to consider whether the number, or distribution, of local government electors would make a single election of councillors impracticable or inconvenient and whether it is desirable that any area of a parish should be separately represented on a parish council, were one to be created. The petitioners recommended that the proposed parish should have three electoral wards.
- 5.47. All the boundary options the Council put forward for consultation included a small part of Weavers ward. This is shown on the map at Annexe 1 as Area C. There are electoral issues that need to be

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<sup>33</sup> Parish and town councils: recent issues. Commons Briefing papers SN04827. 2019.

considered in relation to this area if it were to be included in a parish. Government guidance draws the principal council's attention to Schedule 2 (electoral changes in England: considerations on review) to the Local Democracy, Economic Development and Construction Act 2009. This provides that no parish ward should be split by a London borough ward boundary. The effect of this would be that Area C, in Weavers ward, would require its own parish ward, if a parish council were to be created, and would need to have at least one parish councillor for that ward. There is a risk that local electors could be confused if they are voting in borough council elections for Weavers ward councillors and in parish council elections for 'Spitalfields & Banglatown Parish Council' ward councillors.

- 5.48. The number of parish councillors cannot be less than five.<sup>34</sup> If a parish was created within Boundary Option III, the largest boundary area, it is likely to require three wards. With three councillors per ward (and possibly one for Area C if it were to be included in a parish), that would result in a parish council of nine or ten councillors. This is in line with parish councils nationally and with guidance from the National Association of Local Councils.<sup>35</sup>
- 5.49. It is the Council's expectation, that if a parish were to be created, then elections would take place at the same time as borough council elections.<sup>36</sup> The first election, if a parish were to be created, would therefore be in 2022. Implementation would require the establishment of a working group to take forward the establishment of the parish council.

### **Support for the creation of a parish council**

- 5.50. As part of a community governance review the Council is required to consult all local government electors in the area covered by the review as well as any other person, organisation or business which has an interest.<sup>37</sup> It has a duty to consider any representations made in connection with the review.<sup>38</sup>
- 5.51. Of the 2,173 valid responses received in phase two, 1,239 were from people living within the area covered by the three boundary options put forward for consideration by the council. Of these 34.6% (429) supported the creation of a parish council; 63.1% (783) did not support the proposal; 2.2% did not express an opinion.
- 5.52. The highest level of support for the creation of a parish council was from people living in Boundary Option I, where 36.6% (381) supported

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<sup>34</sup> Local Government Act 1972 s.16

<sup>35</sup> NALC circular 1126

<sup>36</sup> Guidance on Community Governance Reviews. DCLG & LGBCE 2010 s.148

<sup>37</sup> Local Government & Public Involvement in Health Act 2007 93(3)

<sup>38</sup> Local Government & Public Involvement in Health Act 2007 100(4)

the creation of a parish council; 61.2% (638) did not support the proposal; 2.1% did not express an opinion.

- 5.53. The original petition had 324 signatories. The Council analysis of phase two consultation data for Areas A and C, covering the original area proposed by the petitioners,<sup>39</sup> shows that only 354 people in those areas expressed their support for the creation of a parish council. This was after two extensive consultation exercises on the proposals and considerable publicity locally, regionally and nationally. If the assumption is made that all these individuals are local government electors this still represents only 8% of the electorate in the area.
- 5.54. Consultation has confirmed the Council's view that there is not significant support for the creation of a parish council, either within the area or within the broader community. It has also confirmed that there is significant opposition to the proposal, especially within the Bangladeshi community. Whilst consultation findings are only indicative of local views, the Council cannot discount these findings in reaching its decision.
- 5.55. A suggestion was made during consultation that parish could be piloted in the area with a final decision made at a later date. Whilst the Council does have the power to both create and abolish a parish in its area, this is not straightforward. Once established, a parish council would need at least two terms of operation (eight years), not counting any interim arrangements, so any 'pilot' would be in place until at least 2030. Abolition also requires robust evidence of sustained public opposition to a parish. Principal councils have been successfully challenged in the High Court in deciding to abolish a parish without this evidence.<sup>40</sup>
- 5.56. Campaigners supporting the creation of a parish council have requested a referendum to determine the outcome of the community governance review. The Council has considered this request. It 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 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

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<sup>39</sup> Excluding Area D, the Bishopsgate Goods Yard site which has no residents to consult.

<sup>40</sup> For example, Britwell Parish Council, R (on the application of) v Slough Borough Council [2019] EWHC 998 (Admin)

solely on the basis of either consultation findings or a ballot would be open to challenge on its decision making.

## 6. Conclusions

- 6.1. The Council is mindful of the legal presumption in favour of the creation of a parish council unless there are clear reasons not to do so. It also has regard to its primary 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 convenient.
- 6.2. It has taken into account government guidance which 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 give users of services a democratic voice in the decisions that affect them. It has applied this in considering the proposal to create a parish council.
- 6.3. Factors which have influenced the Council's judgement against the two principal criteria include the potential impact on community cohesion within the area and between the area and the broader community and the size, population and boundaries of the proposed parish.
- 6.4. As required by law the Council has consulted all local government electors in the area covered by the review as well as any other person, organisation or business which has an interest. It has considered and taken into account representations made in connection with the review.
- 6.5. In its initial analysis the Council set out what it believed to be the four broad options for consideration. These were to:
  - i. adopt the petitioners' proposals in full*
  - ii. create a parish and parish council but with modifications to the proposals made in the petition*
  - iii. reject the proposal to create a parish council but instead create or strengthen non-parish forms of community governance.*
  - iv. reject the proposal to create a parish council and retain existing governance arrangements*
- 6.6. At the end of phase one, the Council concluded that it could not recommend option i) adoption of the petitioners' proposals in full. It set out its reasons for rejecting this option in its initial analysis and draft recommendations document. In summary, the Council does not have

the power in law to create a 'Town Council' as requested. It can only create a parish and parish council. The style 'Town Council' would be a matter for a parish council to adopt, were one to be established. The Council rejected the boundaries proposed by the petitioners as unsuitable for a parish based on considerations of identity and interest and efficiency and effectiveness. The Council also rejected the name proposed by the petitioners as not fully reflective of the current identity of the area.

- 6.7. In its initial analysis and draft recommendations the Council set out alternative proposals for the creation of a parish and parish council for the area – option ii) create a parish council with modifications to the proposals in the petition. Taking into account representations received during phase one consultation and officers' assessment of the feasibility of the proposals, these included a revised name for the parish – 'Spitalfields & Banglatown'. The Council also proposed three alternative boundary options which it felt better balanced the identity and interests of the area and suitability for effective and efficient local governance. It sought views on these proposals in phase two consultation.
- 6.8. If option ii) were to be adopted the Council recommends that a parish in the area should be named 'Spitalfields & Banglatown'
- 6.9. If a parish were to be created, the area that the Council believes best balances the various considerations set out in legislation and guidance comprises areas A, B, E and F on the map at Annexe 1. This excludes the Bishopsgate Goods Yard development site and area C within Weavers ward for the reasons set out above.
- 6.10. If a parish were created, it should have three electoral wards and three parish councillors per ward. The precise boundaries of these parish wards would need to be determined in consultation with the Local Government Boundary Commission for England.
- 6.11. The Council recommends that, if a parish were created, the precept should be set in the first year at the national average rate for a Band D property. It would be for a parish council to determine the precept in subsequent years.
- 6.12. After careful consideration of option ii) create a parish and parish council with modifications to the proposals made in the petition, the Council has come to the conclusion that it cannot support this option. The reasons for this are set out below.
- 6.13. In its initial analysis and draft recommendations the Council expressed concern that the creation of a parish would risk undermining community cohesion both within the area and also between the area and other parts of the borough. This was informed by many of those who responded to the consultation. Consultees in both phase one and

phase two expressed this in terms of a parish creating or reinforcing divisions between more and less deprived neighbourhoods. In an attempt to mitigate this risk the Council accepted the proposal made by campaigners for a parish boundary to be extended eastwards to include the Chicksand Estate and surrounding streets.

- 6.14. Government guidance is clear that community governance arrangements should reflect, and be sufficiently representative, of people living across the whole community, and not just a discrete cross section of it.<sup>41</sup> It states that it would be difficult to imagine a situation in which a principal council could make a decision to create a parish and a parish council which reflects community identity and interests in the area and at the same time threatens community cohesion.
- 6.15. The Council's analysis of phase two consultation findings has demonstrated that the proposal to create a parish has significant opposition amongst Asian / Asian British members of the community and people who gave their religion as Muslim. The Council has concluded that the creation of a parish does not have the support of a broad cross section of those living in the area.
- 6.16. Consultation has identified perceptions of division within the area based on socio-economic status. To some extent this is confirmed by the data in the Borough Profile 2018. There is also the potential for division to arise in relation to ethnicity and religion. Whether or not a parish / parish council is established it is important to better understand the impact of gentrification on the area and also the integration of communities linked to ethnicity and religion. There may also be work needed on how to increase the civic and democratic engagement of women, especially ethnic minority women. It is recommended that Tower Hamlets Council undertakes further work to explore these issues. This could assist a parish council, if established, or other institutions in the area in terms of promoting social integration and community cohesion.
- 6.17. A parish council in the area, if created at any point in the future, would be a separate legal entity from the London Borough of Tower Hamlets. It would however be subject to the Public Sector Equality Duty and as such should have regard to relationships between groups with protected characteristics and put in place measures to address and mitigate them. It is the view of the Council that further work is needed to understand and address issues of integration and community cohesion within the area before a decision could be taken to create a parish council. The Council would need to take this into account in any future Community Governance Review in deciding whether or not to create a parish council.

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<sup>41</sup> Guidance on Community Governance Reviews. DCLG & LGBCE 2010 s.74

- 6.18. It is the Council's judgement that the creation of a parish would be not be reflective of the identity of the whole community, nor would it be in the interests of the community if it were to have a negative impact on community cohesion. Government guidance is clear that principal councils should be able to decline to set up such community governance arrangements where they judge that to do so would not be in the interests of either the local community or surrounding communities, and where the effect would be to damage community cohesion.
- 6.19. The Council has been unable to draw firm conclusions on the likely costs of a parish council as this in part would depend on the amount of money the parish council decided it would need to raise which would be a matter for it. This was clearly a concern for some residents during both phases of consultation. A parish would need to raise income principally through a precept. This would increase council tax for residents living in a parished area. The Council has only been able to provide indicative costs based on national average figures and benchmarking. The precept would depend on the extent to which a parish council decided to deliver its own services. If it chose to do this then the cost could be significantly higher to residents than the indicative figures provided by the Council. The precept is also not capped. The Council is concerned about the risk that the precept could have a greater impact on people living on lower incomes. This again indicates that the creation of a parish would not be in the interests of a broad cross section of those living in the area.
- 6.20. The Council has considered other (non-parish) forms of community governance that have been or could be made in the area. In its initial analysis and draft recommendations the Council said it favoured creating an alternative, non-parish, arrangement for community governance. This was option iii) to create or strengthen non-parish forms of community governance. Very little support was received for this option in phase two consultation.
- 6.21. A number of forms of community governance have previously been tried in the area but subsequently abandoned on grounds of cost, difficulty sustaining them, changes of political priorities and criticism from external bodies. They include full neighbourhood decentralisation in the 1980s and more recently, Local Area Partnerships and Neighbourhood Community Budget Areas.
- 6.22. The Council has concluded from phase two consultation that, whilst there is little support for establishing new forms of community governance either parish or non-parish, there are existing groups and forums including tenants' and residents' associations, the neighbourhood planning form, community safety ward panels that the Council should support and engage with actively. Proposals on strengthening local democratic engagement were put to the Council's General Purposes Committee on 25 June 2019.

- 6.23. Having considered and rejected options i) to iii) the Council therefore recommends option iv) to reject the proposal to create a parish council and retain existing governance arrangements

## **7. Final recommendation**

- 7.1. This recommendation is made under section 87(1) of the Local Government & Public Involvement in Health Act 2007 *The Community Governance Review must make recommendations as to what new parish or parishes (if any) should be constituted in the area under review.*
- 7.2. Tower Hamlets Council recommends 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.
- 7.3. The Council makes no further recommendations in connection with this Community Governance Review.

## **8. What happens next?**

- 8.1. The conclusions of this report will be presented to Council on 17 July 2017.
- 8.2. If the final recommendation is accepted by Council then the decision will be communicated in line with legislation.
- 8.3. If the Council rejects the recommendation and agrees to create a parish council, then a report and implementation plan will be presented to Council in September 2019. Implementation of any arrangements would need to be set out in a Reorganisation Order and would begin in 1 April 2020.

### **List of Annexes:**

- [Annexe 1 Boundaries map](#)
- [Annexe 2 CGR Terms of Reference](#)
- [Annexe 3 Phase One consultation report](#)
- [Annexe 4 Initial analysis and draft recommendations](#)
- [Annexe 5 Phase Two consultation report](#)
- [Annexe 6 Equality analysis](#)