

<p><b>Cabinet Decision</b></p> <p>5<sup>th</sup> April 2016</p>	
<p><b>Report of:</b> Aman Dalvi, Corporate Director Development &amp; Renewal</p>	<p><b>Classification:</b> Unrestricted</p>
<p>Neighbourhood Planning: Determination of Isle of Dogs Neighbourhood Planning Forum Application</p>	

<b>Lead Member</b>	<b>Councillor Rachel Blake, Cabinet Member for Strategic Development</b>
<b>Originating Officer(s)</b>	Adele Maher, Strategic Planning Manager
<b>Wards affected</b>	
<b>Key Decision?</b>	Yes
<b>Community Plan Theme</b>	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 special 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 the Isle of Dogs: Isle of Dogs Neighbourhood Planning Forum Application and Isle of Dogs Neighbourhood Planning Area Application

This report relates to Isle of Dogs Neighbourhood Planning Forum application only.

## **Recommendations:**

The Mayor in Cabinet is recommended to:

1. Approve the application for the designation of the Isle of Dogs Neighbourhood Planning Forum, pending the designation of an appropriate Neighbourhood Planning Area.

## **1 REASONS FOR THE DECISIONS**

- 1.1 The Council has received an application to establish a Neighbourhood Planning Area in the Isle of Dogs.
- 1.2 The Council is required to determine applications for the designation of neighbourhood areas and forums 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) also provides guidance on the determination of such applications, which states that the role of the Local Planning Authority (LPA) is to take decisions at key stages in the neighbourhood planning process.
- 1.4 The Isle of Dogs Neighbourhood Planning Forum application has been assessed by Officers against relevant provisions of the TCPA 1990, the 2012 Regulations and the PPG. Officers are satisfied that the Isle of Dogs Neighbourhood Planning Forum application meets with the requirements for designation. 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 A LPA may designate or refuse a neighbourhood forum application. Where the LPA is satisfied that a prospective forum meets the requirements of section 61F of the TCPA 1990, the Forum may be approved. Where the LPA is not satisfied that a prospective Forum meets the said requirements, the LPA may refuse the application and give reasons for the refusal to the prospective neighbourhood forum.
- 2.2 Officers consider that the Isle of Dogs Neighbourhood Planning Forum application meets the relevant legislative provisions and therefore recommends the designation of the neighbourhood forum in accordance with relevant legislation. As the application accords with the statutory criteria, there is no alternative option.

## **3 DETAILS OF REPORT**

- 3.1 This report provides an overview of the assessment of the Isle of Dogs Neighbourhood Forum application.

3.2 It is important to note that the designation of a Neighbourhood Forum can only be made for a designated Neighbourhood Area. The report to designate the Isle of Dogs neighbourhood area is also due to be considered at the 5 April 2016 Cabinet meeting.

3.3 The content of this report is as follows:

- Section 4: provides an introduction to Neighbourhood Planning;
- Section 5: outlines the legislative and regulatory framework, relevant guidance; and
- Section 6: provides a background to the Isle of Dogs application and details of the 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 '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. 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 online 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 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 form.
- 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 FORUM APPLICATIONS: RELEVANT LEGISLATION AND GUIDANCE**

- 5.1 The Council has a statutory duty to determine applications to designate Neighbourhood Planning Forums in accordance with the relevant legislation: TCPA 1990 Section 61F, the Neighbourhood Planning (General) Regulations 2012. The Planning Practice Guidance (PPG) also contains guidance relevant to the designation of neighbourhood areas

### **Making an application**

- 5.2 Regulation 8 of the 2012 Regulations 2012 specifies the criteria that:

*"Where an organisation or body submits a neighbourhood forum application to the local planning authority it must include—*

- (a) the name of the proposed neighbourhood forum;*
- (b) a copy of the written constitution of the proposed neighbourhood forum;*
- (c) the name of the neighbourhood area to which the application relates and a map which identifies the area;*
- (d) the contact details of at least one member of the proposed neighbourhood forum to be made public under regulations 9 and 10; and*

- (e) *a statement which explains how the proposed neighbourhood forum meets the conditions contained in section 61F(5) of the 1990 Act."*

5.3 Upon receipt of an application, it is validated in accordance with the above.

### **Consulting on an application**

5.4 In accordance with Regulation 9 of the Neighbourhood Planning (General) Regulations 2012, the authority must publish the following on their 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 application;*
- (b) a statement that if a designation is made no other organisation or body may be designated for that neighbourhood area until that designation expires or is withdrawn;*
- (c) details of how to make representations; and*
- (d) the date by which those representations must be received, being not less than 6 weeks from the date on which the application is first publicised."*

### **Determining an application**

5.5 Section 61F of the TCPA (1990) specifies that an LPA may designate a relevant body as a neighbourhood forum if the authority is satisfied that it meets conditions identified in 61F(5) relating to purpose, membership and a constitution. The conditions are as follows:

- a) It [the Forum] is established for the express purpose of promoting or improving promoting or improving the social, economic and environmental wellbeing of an area that consists of or includes the neighbourhood area concerned (whether or not it is also established for the express purposes of promoting the carrying on of trades, professions or other businesses in such an area.
- b) It [the Forum] has a membership is open to:
  - (i) Individuals who work in the neighbourhood area concerned
  - (ii) Individuals who work there (whether for business carried out there or otherwise)
  - (iii) Individuals who are elected members of a county council, district council or London borough council any of whose area falls within the neighbourhood area concerned.
- c) It [the Forum] membership includes a minimum of 21 individuals each of whom –
  - (i) Lives in the neighbourhood area concerned
  - (ii) Works there (whether for business carried on there or otherwise), or

- (iii) Is an elected members of a county council, district council or London Borough Council any of whose area falls within the neighbourhood area concerned.

d) It [the Forum] has a written constitution

e) Such other conditions as may be prescribed.

5.6 Section 61F(6) states a local planning authority may also designate an organisation or body as a neighbourhood planning forum if they are satisfied that the organisation or body meets prescribed conditions. The Secretary of State has not prescribed any conditions in the 2012 Regulations.

5.7 Section 61F(7) of the Act also requires that a LPA

*"(a) must in determining under subsection (5) whether to designate an organisation or body as a neighbourhood forum for a neighbourhood area, having regard to the desirability of designating an organisation or body –*

*(i) which has secured (or taken reasonable steps to attempt to secure) that its membership includes at least one individual falling within each of the sub-paragraphs (i) to (iii) of subsection (5)(b).*

*(ii) whose membership is drawn from different places in the neighbourhood area concerned and from different sections of the community in that area*

*(iii) whose purpose reflects (in general terms) the character of that area*

*(b) may designate only one organisation or body as neighbourhood planning forum for each neighbourhood area*

*(c) may designate an organisation or body as a neighbourhood forum only if the organisation or body has made an application to be designated, and*

*(d) must give reasons to an organisation or body applying to be designated as a neighbourhood forum where the authority refuse the applications."*

5.8 The forum application is assessed against the above legislative criteria and public consultation responses. The following section assesses the application against the above criteria.

## **6 NEIGHBOURHOOD PLANNING FORUMS: ISLE OF DOGS APPLICATION, CONSULTATION AND ASSESSMENT**

6.1 This section provides the background to the Isle of Dogs Neighbourhood Forum application and a summary of the assessment. This section of the report outlines how the Isle of Dogs Neighbourhood Forum application was

processed and assessed under the following headings: 1) making an application; 2) consulting on an application; and 3) designating a forum.

## **Making an application**

### Application submission and validation

6.2 An application was received from the proposed Isle of Dogs Neighbourhood Planning Forum on 1 December 2014. The application contained:

- The name of the proposed neighbourhood forum;
- A copy of the written constitution of the proposed neighbourhood forum
- The name of the neighbourhood area to which the application relates and a map which identifies the area
- The contact details of at least one member of the proposed forum which could be made public
- A statement which explains how the proposed neighbourhood forum meets the conditions contained in 61F(5) of the 1990 Act.

6.3 The submitted application was validated in accordance with regulation 8 of the 2012 Regulations.

## **Consultation on application**

### Public Consultation Process:

6.4 In accordance with regulation 9 of 2012 Regulations, public consultation on the Isle of Dogs forum (and the area) application was carried out for six weeks between 5th January and 16th February 2015.

6.5 The application was advertised in East End Life and all application documents were made publically available on the Council's website, in the Council Town Hall and in relevant Idea Stores or libraries.

6.6 The advertisement in the East End Life, and other publicity material including emails to stakeholders and the leaflet in the application 'bundle' stated 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 6 weeks from the date on which the application was first published.

### Summary of Representations Received:

6.7 All representations received during the consultation period have been taken into account in the determination of this application. The representations have been taken into account to the extent that the representations address considerations which are relevant to the Council's decision having particular

regard to the statutory requirements for designation specified in section 61F of the TCPA 1990 and guidance within Section 4, in particular paragraph 033 of the PPG. Further detail on the public consultation representations is included at Appendix 2: Public Consultation Summaries

6.8 Representations were made both in support of and in objection to the proposed forum. Representations were made by local residents, businesses and representatives of significant landowners in the area as follows:

- 7 individually submitted objections
- 18 individually submitted support statements
- 8 individually submitted neutral statements
- 2 individually submitted concerned statements
- 0 individually submitted no comment statements

6.9 Of the above representations, 16 were from local residents, 1 from a local business, 7 from statutory bodies and 11 from representatives of significant landowners in the area.

6.10 Matters raised in support of the proposed forum included, but were not limited to: the forum's ability to act in the best interest of residents; the purpose and the aims of the forum are important; and the forum will enable services like schools to be considered alongside numbers of habitable rooms.

6.11 Matters raised in objection to the proposed forum included, but were not limited to: the make-up of representatives of the proposed forum; and the constitution does not allow for landowners to become full members.

### **Post public consultation submissions**

6.12 The proposed Forum submitted further documentation after the completion of the public consultation entitled 'Options Appraisal related to the area boundaries' and 'Consultation Strategy'. These documents explain processes that had been undertaken by the Forum.

6.13 Officers do not consider further public consultation on the forum's above referred additional submissions to be necessary for two reasons: firstly the relevant provisions within the TCPA 1990 and the 2012 Regulations make no provision for multiple rounds of public consultation; and secondly the decision whether the additional submissions include new material considerations which the Council should take into account (and consult on) 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.

- 6.14 Accordingly, the Council's decision making process on this forum application takes no account of the 'Options Appraisal related to the area boundaries' and 'Consultation Strategy' submitted by the forum.

### **Determining an application: designating a Forum**

- 6.15 The following section of this report considers the application against relevant legislation Section 61F of the TCPA 1990.
- 6.16 Where the assessment is made with reference to a neighbourhood area, the area used is the alternative area recommended by Officers as the Isle of Dogs neighbourhood area and identified in the 5 April 2015 Cabinet report, and not the area specified in the application.

### **Section 61F(5) considerations**

*In accordance with section 61F(5)(a), is the Forum established for the express purpose of promoting or improving promoting or improving the social, economic and environmental wellbeing?*

- 6.17 The proposed forum was established for the express purpose of promoting or improving promoting or improving the social, economic and environmental wellbeing of the neighbourhood area specified in the corresponding area application. The proposed forum application outlines that, amongst other aims and objectives, the forum seeks to ensure sustainable development and that the quality of life is taken into account at each stage of development.

*In accordance with section 61F(5)(b), is forum membership open to everyone who lives, works (for business carried out there or otherwise) or represents the Area as an elected member?*

- 6.18 Forum membership is open to everyone who lives, works or represents the Area as an elected member. The Constitution of the Isle of Dogs Neighbourhood Planning Forum (dated 1 December 2014) states that forum membership is open to everyone (above the age of 18) who lives in the area, business operators in the area and elected London Borough Council members who represent wards in the area.
- 6.19 The Constitution also states that the Forum committee may refuse membership, or terminate or suspend the membership of any member, by resolution passed at a Committee meeting where the Committee considers that such membership would be detrimental to achieving the objectives, or otherwise is disruptive to the Forum.
- 6.20 Representations submitted expressed concerns that the proposed constitution sought to limit membership as it does not allow for landowners to become full members of the forum, or provide them with the ability to vote.
- 6.21 It is the Council's view that the wording of the constitution does not preclude landowners to become full members. Membership and the application to

become a member remains open and as such it is considered that the constitution does not conflict with 61F(5)(b).

*In accordance with 61F(5)(c), does the forum have a membership which includes a minimum of 21 people, each of whom lives, works or represents the Area as an elected member?*

- 6.22 The forum has a membership which includes a minimum of 21 people, each of whom lives, works (whether for business carried out there or otherwise) or represents the Area as an elected member. Through a mapping exercise of forum members' postcodes and consideration of the interest and relevant background of the persons identified as members in the application form, it can be discerned that there are more than 21 members who live or work in, or are elected members for, the area (as recommended for designation at 5 April 2016 Cabinet).

*In accordance with 61F(5)(d), does the forum have a written constitution.*

- 6.23 The forum submitted a written constitution entitled 'Constitution of the Isle of Dogs Neighbourhood Planning Forum, 1 December 2014' with their application on 1 December 2014.

*In accordance with 61F(5)(e), does the forum meet other conditions as may be prescribed?*

- 6.24 No other legislative or regulatory conditions have been prescribed and as such there are no matters for consideration as part of this application.
- 6.25 In terms of the Council's guidance, the forum's application demonstrates how the Forum will embed the Council's aspirations within the Community Plan, Local Plan and Diversity and Equalities Statement into their activities.

*In accordance with 61F(6) does the forum meet other prescribed conditions.*

- 6.26 The Secretary of State has not prescribed any conditions in the 2012 Regulations.

### **Section 61F(7) considerations**

*In accordance with 61F(7)(a)(i) does the forum secure or take reasonable attempts to secure at least one individual who lives in the area, works in the area or is an elected member of the representing the area?*

- 6.27 The proposed forum secures membership and has taken reasonable attempts to secure at least one individual who lives in the area, works in the area or is an elected member of the representing the area. Forum membership includes residents, local society representatives, community activists, local business representatives and Ward Councillors. The forum has taken reasonable steps to secure these members through a number of methods including publicising the Forum's work through social media, letters, newspaper articles and public consultation meetings.

- 6.28 Representations received state that forum membership does not include sufficient representation of the key stakeholders, landowners and developers. As stated above the forum have taken steps to publicise the developers. As stated above the forum has taken steps to publicise the forum's work and has provided opportunities for interested parties to become members.

*In accordance with 61F(7)(a)(ii), does the forum's membership draw from different places in the area and different sections of the community?*

- 6.29 The proposed Forum secures membership from different places in the area. Through the use of a mapping exercise and with reference to forum members' postcodes, and consideration of the interest and relevant background of the persons identified as members in the application form, it can be discerned that the forum's membership is drawn from different places in the area and different sections of the community.

- 6.30 The majority of members have a residential focus however members include business managers and chairs of local community groups. Members of the Forum are drawn from the three wards of the Forum area (as recommended to 5 April 2016 Cabinet): Blackwall and Cubitt Town; Canary Wharf; and Island Gardens, and spatially represent different areas, including Mudchute Park and the Docklands Sailing Centre.

*In accordance with 61F(7)(a)(iii), does the forum's purpose reflect the character of the Area.*

- 6.31 The purpose of the proposed Forum (as stated in the application) and the objectives of its Constitution state that the Forum seeks to promote and improve the social and economic and environmental wellbeing of the proposed neighbourhood area. This purpose reflects the character of the recommended area which is subject to development pressures such that achieving sustainable development is a key priority in this area.

*In accordance with 61F (7)(b) will designation result in only one organisation or body as neighbourhood planning forum for each neighbourhood area?*

- 6.32 The designation will result in the creation of one forum for one area.

*In accordance with 61F(7)(c) will designate of an organisation or body as a neighbourhood forum only occur where an organisation or body has made an application to be designated?*

- 6.33 The proposed forum made an application for designation as a forum on 1 December 2014, and the application was subsequently validated.

*In accordance with 61F(7)(d) will reasons be given to an organisation or body applying to be designated as a neighbourhood forum where the authority refuse the applications.*

- 6.34 This section is not relevant to this application as the forum is recommended for approval.

## **Conclusion**

- 6.35 The Isle of Dogs Neighbourhood Planning Forum has demonstrated that its application meets the relevant requirements to be designated as the neighbourhood forum for the Isle of Dogs Neighbourhood Area, as recommended to Cabinet on 5 April 2016. As such, Officers are satisfied that the proposed Forum meets the conditions and provisions within section 61F of the TCPA 1990, the 2012 Regulations 2012 and the Tower Hamlets Neighbourhood Planning Guidance Note.

## **Officers' Recommendation**

- 6.36 Designate the prospective Isle of Dogs Neighbourhood Planning Forum as a neighbourhood forum for the Isle of Dogs Neighbourhood Area, as recommended at Cabinet on 5 April 2016.

## **7 COMMENTS OF THE CHIEF FINANCE OFFICER**

- 7.1 A report elsewhere on this agenda asks the Mayor in Cabinet to consider an application to designate an area of the Isle of Dogs as a Neighbourhood Planning Area in accordance with the statutory requirements of the Localism Act 2011.
- 7.2 If the area is designated as a Neighbourhood Planning Area, this further report seeks consideration of an application to establish a Neighbourhood Planning Forum within the Isle of Dogs area.
- 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 neighbourhood planning forum within the Isle of Dogs area (Isle of Dogs Forum Application) and is linked to the report on the related application of same date asking the Mayor in Cabinet to consider designating the Isle of Dogs as a neighbourhood planning Area (Isle of Dogs Area Application), in accordance with the statutory requirements of the Localism Act 2011.
- 8.2 Consultation in respect of the proposed Isle of Dogs Forum and Area Applications (as detailed at paragraph 6.4 of this report) has been carried out in accordance with Regulations 6 and 9 respectively of the 2012 Regulations.
- 8.3 In respect of an application for a neighbourhood forum, 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 (as detailed at paragraph 5.5 of this report). The Council must also have regard to the matters set out in section 61F(7) of that Act (as detailed in paragraph 5.7 of this report). The Isle of Dogs Forum application has been assessed against these statutory criteria and has been found to comply with them.
- 8.4 The designation will have effect for a period of five (5) 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 (5) years, no other organisation or body may be designated as a neighbourhood forum for the area.
- 8.5 In determining an application for a neighbourhood area, the Council needs to consider the factors set out in sections 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 the Isle of Dogs Area Application report. Legal Services are satisfied that Officers have had proper regard to these factors in formulating their recommendation that the Isle of Dogs Area Application be approved, subject to amendments.
- 8.6 As regards the making of such amendments to the proposed area, Section 61G entitles the Council to deviate from the boundaries set out in an application. However, any decision to alter the boundary of a neighbourhood area could be challenged in the Courts. Therefore, the reasons for making any such amendments to the area must be sound, clearly set out and justified. This has been done at paragraphs 6.60 to 6.84 (as appropriate) of the Isle of Dogs Area Application report, as expanded upon in the relevant area appraisals in Appendices to 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 both the Isle of Dogs Forum Application and the Isle of Dogs Area Application 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 applications to become Neighbourhood Planning Forums and Areas. 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 resultant Neighbourhood Development Plan (NDP) or Neighbourhood Development Order (NDO).
- 9.3 Furthermore, NDPs and NDOs are required to be in general conformity with 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 this application the Council has worked with the prospective Forums 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 Forums applications does not have any discernable impacts on the environment.
- 11.2 At the stage where established Neighbourhood Planning Forums are developing NDPs or NDOs for designated Neighbourhood Planning Areas consideration will be given to action of a greener environment. 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 applications does not have any discernable impacts on crime and disorder.
- 13.2 At the stage where established Neighbourhood Planning Forums are developing NDPs or NDO’s for the designated Neighbourhood Planning 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**

1. Neighbourhood Planning: Determination of Isle of Dogs Neighbourhood Planning Area report.

### **Appendices**

1. Appendix 1: Isle of Dogs Map
2. Appendix 2: Consultation Summary Reports
3. Appendix 3: Equality Analysis Quality Assurance Checklist

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

- NONE

### **Officer contact details for documents:**

- Sophie Hall-Thompson
- [sophie.hall-thompson@towerhamlets.gov.uk](mailto:sophie.hall-thompson@towerhamlets.gov.uk)
- 020 7364 6393