


<b>Cabinet Decision</b>  5 <sup>th</sup> April 2016	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Aman Dalvi, Corporate Director Development & Renewal	<b>Classification:</b> Unrestricted
<b>Neighbourhood Planning: Determination of Spitalfields Neighbourhood Planning Forum Application</b>	

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

#### **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 Spitalfields: Spitalfields Neighbourhood Planning Forum Application and Spitalfields Neighbourhood Planning Area Application

This report relates to Spitalfields Neighbourhood Planning Forum application only.

## **Recommendations:**

The Mayor in Cabinet is recommended to:

1. Approve the application for the designation of the Spitalfields 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 Forum in Spitalfields.
- 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 Planning Practice Guidance ("PPG") on Neighbourhood Planning (Ref ID: 41) also provides guidance on the determination of these applications, which states that the role of the LPA is to take decisions at key stages in the neighbourhood planning process.
- 1.4 The Spitalfields Neighbourhood Planning Forum application has been assessed by Officers against relevant provisions within the TCPA 1990, the 2012 Regulations and the PPG. Officers are satisfied that the Spitalfields 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 Spitalfields 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 Spitalfields 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 Spitalfields Neighbourhood Planning Area is also due to be considered at the 5<sup>th</sup> 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 relevant legislative framework and planning practice guidance
- Section 6: provides a background to the Spitalfields forum 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 establish 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 are 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 a LPA

*"(a) must in determining under subsection (5) whether to designate an organisation or body as a neighbourhood forum for a neighbourhood are, 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: SPITALFIELDS APPLICATION, CONSULTATION AND ASSESSMENT**

6.1 This section provides a background to the Spitalfields Forum application, public consultation and details of the assessment. This section of the report outlines how the Spitalfields 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 Spitalfields Neighbourhood Planning Forum on 1<sup>st</sup> 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 application submission 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 the 2012 Regulations, public consultation on the proposed 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, and as part of a 'bundle' in the Council Town Hall and in relevant Idea Stores or libraries. The bundle included the aforementioned documents and a leaflet explaining what the consultation was about.
- 6.6 The advertisement in the East End Life and other publicity material including emails to stakeholders and the leaflet in the application 'bundle' all contained statements to the effect that if a designation is made no other organisation or body may be designated for that neighbourhood area until the designation expires or is withdrawn; details of how to make representations; and the date by which those representations must be received, being not less than six weeks from the date on which the application was first published.

#### Summary of Representations Received:

- 6.7 All representations received during the consultation period have been taken into account in the assessment of this application. The content of these representations has been duly considered and taken into account by the LPA to the extent that the representations address considerations that are relevant to the Council's decision having regard to the statutory requirements for designation, specified in Section 61F of the TCPA 1990 and guidance within



Section 4, in particular paragraph 033 of the Government's Planning Practice Guidance.

- 6.8 This section provides a summary of the representations received. More information can be read at Appendix 2: Public Consultation Summaries.
- 6.9 The representation numbers and their responses can be summarised as follows:
- 23 representations of support
  - 608 representations in objection
  - 1 petition in objection
  - 7 representations that were neutral
  - 1 representation giving no comment on the forum application
- 6.10 Of the 23 representations made in support of designation of the proposed forum, the reasons given included but were not limited to: the forum's diverse representation; and ability to support, protect and encourage appropriate social, economic, environmental growth of the area.
- 6.11 Of the 608 representations and 1 petition made in objection, the reasons given included: a lack of inclusiveness in the Forum's steering group; dissatisfaction with the area the Forum proposed to cover; incomplete consultation; and failure to comply with legislation. A large number of representations objecting to the proposed forum were received. Many of these representations repeated and reflected the same concerns; the majority were made using the same format and content with the only differences being the individual addresses and signatures. These representations were received as part of the submission made by Zeloof LLP. More information on this is contained at paragraph 6.12 of this report.
- 6.12 Zeloof LLP and Truman Estates Limited own Old Truman Brewery a significant site located within the proposed neighbourhood planning area. The submission from Zeloof LLP included 608 representations and 1 petition in objection. This submission was comprised as follows:
- 1 petition signed by 654 separate signatories.
  - 484 letters from a total of 288 different businesses located primarily within the landowner's site. The content of these letters were the same, the addresses and signatures were different. Of these 203 letters are from market stall based businesses representing a total of 187 different businesses.
  - 30 letters from 17 businesses located outside of the landowner's site. The content of these letters was the same; the addresses and signatures were different. These letters were from a mix of those businesses located within the relevant neighbourhood planning areas and those outside.
  - 32 letters from residents located outside of the landowner's site. The content of these letters was the same; the addresses and signatures were

different. These letters were from a mix of those residents located within the relevant neighbourhood planning areas and those outside.

- A total of 61 letters from Zeloof LLP and Truman Estates Limited, owners of the Old Truman Brewery.

#### Post public consultation submissions

- 6.13 After the completion of the public consultation, the proposed forum submitted further unsolicited documentation to the Council entitled 'General Statement on Business Area, Consultation and Membership' which explains that proposed forum has, along with details of the consultation processes and membership procedures, considered the merits of the proposed Spitalfields Neighbourhood Planning Area being designated as a 'Business Neighbourhood Planning Area' under section 61H of the TCPA 1990, and requests that the Council designate the whole area specified in the application as a 'business area'..
- 6.14 Officers do not consider further public consultation on the forum's above referred additional submissions, or the designation of the proposed neighbourhood area as a 'business area', to be necessary for two reasons: firstly, the relevant provisions within the TCPA 1990 and the 2012 Regulations make no provision for the amendment of a neighbourhood area application or multiple rounds of public consultation; secondly, Section 61H of the TCPA 1990 empowers the Council to designate a neighbourhood area as a business area (the said power may only be exercised where the LPA, having regard to such matters as may be prescribed, considers that the area is wholly or predominantly business in nature). That decision is a matter of judgment for the LPA, having regard to all relevant considerations which may include matters that are not addressed in the application, or responses to consultation
- 6.15 Accordingly, the Council's decision making process on this forum application takes no account of the 'General Statement on Business Area, Consultation and membership' submitted by the forum.

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

- 6.16 The following section of this report considers the application against relevant legislation Section 61F of the TCPA 1990.
- 6.17 Where the assessment in this report is made with reference to a Neighbourhood Area, the area referred to is the Spitalfields Area with minor modifications, as recommended at 5<sup>th</sup> April 2015 Cabinet, and not the area proposed in the forum's area 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?*

- 6.18 The proposed forum is established for the express purpose of promoting or improving promoting or improving the social, economic and environmental

wellbeing of the proposed corresponding Neighbourhood Planning Area. The forum application outlines that, amongst other improvements, the forum are promoting social capital, community cohesion, adequate provision for local jobs, training and enterprise, improving environmental quality and energy efficiency. In addition, the promotion and improvement of the social, economic and environmental wellbeing of the area is a stated objective in the forum's constitution.

*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?*

6.19 Forum membership is open to everyone who lives, works or represents the Area as an elected member. The Spitalfields Neighbourhood Planning Forum (SNPF) Constitution 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. The Constitution also states that the Forum committee may, by resolution passed at a Committee meeting, refuse membership, or terminate or suspend the membership of any member, where the Committee considers that such membership would be detrimental to the objectives and activities of the SNPF.

6.20 The ability of the Forum to refuse membership appears to be contradictory to open membership. However, membership and the application to become a member remains open and as such it is considered that the constitution does not conflict with section 61F(5)(b) since the ability of the Forum's Committee to refuse membership is consistent with its stated objective of being able to do so where it considers that such membership would be detrimental to the objectives and activities of the SNPF.

*In accordance with section 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?*

6.21 The forum has a membership which includes a minimum of 21 people, each of whom lives, works or represents the area as an elected member. The application identifies a list of 21 people who live in, or work in, or represent 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<sup>th</sup> April 2016 Cabinet).

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

6.22 The forum has a written constitution. The forum submitted a written constitution titled 'Spitalfields Neighbourhood Planning Forum Constitution' with their application.

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

- 6.23 No other legislative or regulatory conditions have been prescribed and as such there are no matters for consideration as part of this application.
- 6.24 In terms of the Council's guidance, the forum's application demonstrates how the Forum will embed the Council 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.

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

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

In accordance with section 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?

- 6.26 The 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 work initiated in 2012 and which led to the creation of an outreach programme and ultimately the Interim Steering Group for the Forum. Methods of outreach include meetings, consultation events, walkabouts and the hand delivery of publicity materials to all accessible resident and business letter boxes.

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

- 6.27 The forum secures membership from different places in the area. As stated above, 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 forum 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.
- 6.28 The Forum's membership is drawn from different locations in the area including Brick Lane, Commercial Street, Gunthorpe Street and Buxton Street and represents different community groups including businesses, young people and heritage interests.

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

- 6.29 The forum's purpose reflects the character of the Area. The area is mixed use and in an inner city location where jobs, environmental quality and social

cohesion are primary considerations as such the purpose and objectives of the forum and its' constitution reflect the character of the area.

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

6.30 The designation will result in the creation of one Forum for one area.

*In accordance with section 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?*

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

*In accordance with section 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.*

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

### **Conclusion**

6.33 The Spitalfields Neighbourhood Planning Forum has demonstrated that its application to become a Neighbourhood Planning Forum meets the relevant requirements to be designated as the neighbourhood forum for the Spitalfields Neighbourhood Area, as recommended at Cabinet on 5<sup>th</sup> April 2016. As such the Council is satisfied that the proposed forum meets the conditions and provisions within section 61F of the TCPA 1990, the 2012 Regulations, the PPG and the Tower Hamlets Neighbourhood Planning Guidance Note.

### **Officers' Recommendation**

6.34 Designate the prospective Spitalfields Neighbourhood Planning Forum as a Neighbourhood Planning Forum for the Spitalfields Area as recommended at Cabinet on 5<sup>th</sup> 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 Spitalfields 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 Spitalfields 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 Spitalfields area (Spitalfields Forum Application) and is linked to the report on the related application of same date asking the Mayor in Cabinet to consider designating Spitalfields as a neighbourhood planning Area (Spitalfields Area Application), in accordance with the statutory requirements of the Localism Act 2011.
- 8.2 Consultation in respect of the proposed Spitalfields 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 the applications for the 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 set out 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 at paragraphs 5.7 and 6.27 of this report). The Spitalfields forum application has been assessed against these statutory criteria and has been found to comply with them.
- 8.4 The forum designation will have effect for a period of five (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 the Spitalfields Area Application, the Council must consider the factors set out in Section 61G and 61H of the TCPA 1990 and the 2012 Regulations. The relevant factors are summarised at paragraphs 5.7, 5.8 and 5.9 of the Spitalfields Area Application report. Legal Services are satisfied that Officers have had proper regard to these factors in formulating their recommendations that the Spitalfields Area Application be approved, subject to amendments.
- 8.6 As regards the making of such amendments to the proposed Spitalfields Area, Section 61G of the TCPA 1990 entitles the Council to deviate from the boundaries set out in the Spitalfields Area Application. However, any decision to alter the boundary of a neighbourhood area could be challenged in the Courts. Therefore the reasons for making them must be sound, clearly set out and justified. This has been done at paragraphs 6.26 to 6.62 (as appropriate) of the 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 Spitalfields Forum Application and the Spitalfields Area Application must be publicised as soon as possible after the date on which the decisions are taken (Regulations 7 and 10 of the Town and Country Planning (General) Regulations 2012).

## **9. ONE TOWER HAMLETS CONSIDERATIONS**

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

Council's Local Plan and, as such, will give due consideration to One Tower Hamlets considerations and the Community Plan.

## **10. BEST VALUE (BV) IMPLICATIONS**

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

## **11. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

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

## **12. RISK MANAGEMENT IMPLICATIONS**

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



### **13. CRIME AND DISORDER REDUCTION IMPLICATIONS**

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

### **14. SAFEGUARDING IMPLICATIONS**

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

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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

Report to Cabinet on 5<sup>th</sup> April 2016, on the Spitalfields Neighbourhood Planning Area Application

### **Appendices**

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

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

- NONE

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