

Cabinet	 TOWER HAMLETS
3 March 2021	
Report of: Ann Sutcliffe, Corporate Director, Place	Classification: Unrestricted
Neighbourhood Planning: Determination of Limehouse Community Forum Application	

Lead Member	Councillor Eve McQuillan, Cabinet Member for Planning and Social Inclusion
Originating Officer(s)	Steven Heywood, Planning Officer
Wards affected	Limehouse; Shadwell
Key Decision?	Yes
Forward Plan Notice Published	2 February 2021
Reason for Key Decision	Significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority
Strategic Plan Priority / Outcome	1. People are aspirational, independent and have equal access to opportunities; 2. A borough that our residents are proud of and love to live in

Executive Summary

Neighbourhood forum designations expire five years after they are initially granted. The designation of the Limehouse Community Forum as the neighbourhood forum for the Limehouse Neighbourhood Planning Area therefore expired on 1 December 2020. The Forum has submitted an application to be re-designated. This report assesses the application against the relevant legislation and guidance.

Recommendations:

Cabinet is recommended to:

1. Refuse the application for redesignation of the Limehouse Community Forum as the designated neighbourhood forum for the Limehouse Neighbourhood Planning Area.
2. Note the specific equalities considerations as set out in Paragraph 7.1.

1. REASONS FOR THE DECISIONS

- 1.1 Tower Hamlets Council has received an application to renew the designation of the Neighbourhood Forum for the Limehouse Neighbourhood Area.
- 1.2 The Council is required to determine applications for the designation of Neighbourhood 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'). The Government's Planning Practice Guidance ("PPG") on Neighbourhood Planning (Ref ID: 41-021-20140306) 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.
- 1.3 Under the modifications to the 2012 Regulations made by the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, the Council must make a decision on applications for neighbourhood forum designations within 13 weeks of starting a consultation on the application.
- 1.4 The officer has assessed the application against the relevant legislation and guidance and has serious concerns about whether it meets the requirements for approval, in particular relating to TCPA 1990 Section 61F(7). A clear majority of the consultation responses received explicitly objected or raised significant concerns about the application. A consultation statement is included as Appendix 5. Having assessed these responses, the officer notes that there is clearly concern within the community over the representativeness of the Forum and over the process of developing the Forum's constitution. While it is not possible from the consultation exercise to determine which side has a majority of the local community in their support, and while the officer cannot take a position on the contentious issues raised without further evidence, it is clear that there is a lack of consensus on whether the proposed forum is eligible and able to represent different sections of the community. In these circumstances, it is unlikely that the proposed forum will satisfy the required condition of promoting or improving the social, economic and environmental wellbeing of the area concerned. Officers are also of the view that the proposed forum's purpose does not reflect the character of the area. A consultation statement is provided as appendix 5.

2. ALTERNATIVE OPTIONS

- 2.1 An 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 must publicise its reasons for the refusal to the prospective Neighbourhood Forum and to the attention of people who live work and carry on business in the proposed neighbourhood area.

- 2.2 In the case of this report, the alternative would be to approve the application. This would be an acceptable alternative, if upon considering this report and the appended consultation statement, Cabinet members reached a different opinion from that of the officer.

3. DETAILS OF THE REPORT

- 3.1 This report provides an overview of the assessment of the Limehouse Community Forum application.

- 3.2 The content of the report is as follows:

- Section 4 provides an introduction to neighbourhood planning
- Section 5 outlines the relevant legislative framework and guidance
- Section 6 provides an assessment of the Limehouse Community Forum application

4. INTRODUCTION TO NEIGHBOURHOOD PLANNING: A COMMUNITY-LED PROCESS

- 4.1. The Localism Act 2011 amended the Town and Country Planning Act (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) and the Neighbourhood Planning (Referendum) Regulations 2012. Planning Practice Guidance issued by the Secretary of State for Communities and Local Government provides detailed advice relating to the neighbourhood planning system, addressing the key stages of decision-making including the designation of Neighbourhood Areas.
- 4.3. Neighbourhood planning provides communities with the ability to prepare a Neighbourhood Development Plan (NDP) and/or Neighbourhood Development Orders (NDO), in Neighbourhood Areas designated by the LPA on application. 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. A Neighbourhood Forum designation expires 5 years after it is made. A Forum can apply for redesignation. If the LPA considers the Forum to no longer meet the required criteria, the LPA can withdraw designation.

- 4.4. 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.
- 4.5. Both NDPs and NDOs need to be in general conformity with the strategic policies of the Council's Development Plan: the Tower Hamlets Local Plan (2020) and the London Plan (2016).
- 4.6. An NDP that has been 'made' in accordance with the relevant legislative provisions forms part of the Council's statutory Development 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.
- 4.7. 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. Following the Neighbourhood Planning Act 2016, an NDP must be given some weight in determining planning applications once it has passed examination – even before it has passed at a referendum.

Community Infrastructure Levy

- 4.8. The Community Infrastructure Levy Regulations 2010, as amended by the Community Infrastructure Levy (Amendment) Regulations 2013 ('the CIL Regulations') were supplemented by the Government's online PPG on 6 March 2014.
- 4.9. 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.
- 4.10. The Community Infrastructure Levy PPG states (at paragraph 145) that in areas where there is a 'made' NDP or NDO in place, 25% of CIL collected in the neighbourhood area should be spent in that area. Where there is a parish council in place, the money should be passed to the parish council for them to spend directly. Paragraph 146 states that "if there is no parish or town council,

the charging authority will retain the levy receipts but should engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding”.

- 4.11. Therefore, where an NDP or NDO has been adopted, the Council is required to consult with the local community as to how this 25% proportion of CIL receipts will be spent. Irrespective of this regulation, the Cabinet in December 2016, agreed to undertake this for all areas of the borough whether or not an NDP or NDO has been adopted.

Overview of Neighbourhood Planning at LBTH

- 4.12. The determination of applications to designate Neighbourhood Areas and Neighbourhood Forums are decisions exercised by the Mayor of Tower Hamlets. Such applications are required by the Council to be submitted using the Council’s neighbourhood planning application forms.
- 4.13. 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. 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.

5. NEIGHBOURHOOD DEVELOPMENT PLANS: RELEVANT LEGISLATION AND GUIDANCE

- 5.1. This section outlines the relevant legislative framework and guidance as they relate to the submission and consideration of applications for neighbourhood planning forums.
- 5.2. The Council has a statutory duty to determine applications to designate Neighbourhood Forums in accordance with the relevant legislation: TCPA 1990 Section 61F and the Neighbourhood Planning (General) Regulations 2012.
- 5.3. Regulation 8 of the 2012 Regulations 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.*

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

5.5. 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.*

5.6. 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 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 member 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.*

5.7. Section 61F(6) states a local planning authority may also designate an organisation or body as a Neighbourhood 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.

5.8. 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 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.*

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

5.10. Once designated, section 61F(8) states that the Forum designation expires after 5 years to the day of designation. In addition, section 61F(9) states that:

A local planning authority may withdraw an organisation or body's designation as a neighbourhood forum if they consider that the organisation or body is no longer meeting—

- (a) *the conditions by reference to which it was designated, or*
- (b) *any other criteria to which the authority were required to have regard in making the designation;*

and, where an organisation or body's designation is withdrawn, the authority must give reasons to the organisation or body.

6. LIMEHOUSE COMMUNITY FORUM APPLICATION

- 6.1. This section provides detailed assessment of the Limehouse Community Forum application, in relation to the criteria outlined above.

Making the Application

- 6.2. An application was received from the Limehouse Community Forum to renew their designation as a neighbourhood forum on 24 November 2020. The application contained:
- The name of the Neighbourhood Forum
 - A copy of the written constitution of the 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 Neighbourhood Forum which could be made public
 - A statement which explains how the Neighbourhood Forum meets the conditions contained in 61F(5) of the 1990 Act (provided through responses to the questions on the application form)
- 6.3. On 25 November 2020, it was confirmed that the submission had been received and that the required details were included.
- 6.4. Under Regulation 11 of the 2012 Regulations, the Council may decline to consider an application for an area where there is an existing neighbourhood forum designation. At the time the application was submitted, the forum designation in the Limehouse area was still in place; however, on 1 December 2020, that designation expired, and there is now no designated neighbourhood planning forum for this area. It is therefore considered acceptable for the Council to consider the application.

Consulting on the Application

- 6.5. In accordance with regulation 9 of 2012 Regulations, public consultation on the Limehouse Community Forum application needed to be carried out for at least six weeks. The consultation began on 3 December 2020 and ended on 27 January 2021. This was more than the required 6 weeks, in order to account for the holiday period which fell in the middle of the consultation, and to ensure that all interested parties had suitable opportunity to submit responses.
- 6.6. The consultation had been due to finish on 22 January 2021. However, after the consultation had begun, it emerged that there was a mistake on the application form. The form stated that the forum's application to be re-designated had the full support of Limehouse councillor James King. This was not accurate, and the Forum stated this text had been mistakenly copied over from an earlier draft. After discussion between officers, the councillor, and members of the neighbourhood forum, it was agreed that the sentence would

be removed from the application form and the consultation would be extended by five days (the amount of time the erroneous form had been available).

- 6.7. The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 insert regulation 9A into the 2012 Regulations. This states that:
- (1) *Where a local planning authority receive a neighbourhood forum application which they do not decline to consider under regulation 11, the authority must determine the application by the date prescribed in paragraph (2)*
 - (2) *The date prescribed in this paragraph is:*
 - (a) *In a case where the neighbourhood area to which the application relates falls within the areas of two or more local planning authorities, the date which is the last day of the period of 20 weeks beginning with the day immediately following that on which the application is first publicised in accordance with regulation 9;*
 - (b) *In all other cases, the date which is the last day of the period of 13 weeks beginning with the day immediately following that on which the application is first publicised in accordance with regulation 9.*
- 6.8. Due to this requirement that the application be determined within 13 weeks of the consultation process beginning, and given the timescales of the Cabinet reporting process, it was necessary to begin the reporting cycle before the consultation process was completed. The DLT and CLT reports on this topic therefore provided a snapshot of consultation responses at the time of preparation of those reports. The MAB and CAB reports are accompanied by a consultation statement (appendix 5) setting out the methods used to publicise the consultation and the responses to the consultation.
- 6.9. To summarise, 38 responses were received to the consultation. Of these, seven were neutral responses from organisations stating 'no comment' or 'no objection'. Six were positive responses from individuals. Two responses, one from an individual and one from the SPLASH organisation that is the designated neighbourhood forum for the adjacent Poplar Neighbourhood Planning Area, raised concerns but did not explicitly object to the application. Twenty-three responses from individuals objected to the application. Two more responses from individuals – one objecting, and one concerned – were received on the same day that the consultation closed but after the given closing time of 5pm. These have been included in Annex 3 of the consultation statement.
- 6.10. The complaints raised by the negative and concerned responses are summarised in the appended consultation statement. The consultation statement also contains two annexes setting out the main text of all the representations. The officer was contacted by Cllr James King, who noted that some respondents had expressed concerns about their names being made public, and that some of the responses contained allegations of bullying. Due

to this, representations from individuals (whether positive or negative) have been presented anonymously.

- 6.11. Some consultation responses raised the issue of whether the neighbourhood forum had been funded by grants from the Council. The Council would like to make it clear that neighbourhood forums and neighbourhood planning activities are not funded by the Council. Grant funding is available to neighbourhood forums from the Ministry for Housing, Communities, and Local Government.

Determining the Application: Section 61F(5) considerations

- 6.12. *In accordance with section 61F(5)(a), is the Forum established for the express purpose of promoting or improving the social, economic and environmental wellbeing of the area?*
- 6.13. The Forum was initially established as a community safety organisation, but the current iteration of the forum is expressly concerned with social, economic and environmental wellbeing in the Limehouse area, as described in the application form. The forum is concerned with community safety, sustainable living, community cohesion, wellbeing, inclusivity, and access to open space. The Forum's constitution does not contain any clauses that explicitly set out that the Forum is established for these purposes, although this could potentially be inferred from clauses 2(a) and (b).
- 6.14. Responses to the consultation have questioned how committed the Forum is improving environmental wellbeing. One response stated "they are hugely overstating their environmental credentials", and this response and another claimed that the Forum's only environmental activity during their original designation has been to set up a gardening club (known as LIMEgreen). The Forum claims that LIMEgreen aims to "address the growing issues of climate change, street use, recycling, air quality and greening".
- 6.15. Another consultation response claimed that the Forum's primary activities are social events, and that while these events "are popular and serve a valuable function for a section of the Limehouse community", the Forum otherwise does not promote the economic and environmental wellbeing of the area.
- 6.16. *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?*
- 6.17. The current version of the Limehouse Community Forum Constitution states in clause 1 that membership is open to those who live, work, carry out business, or are an elected representative of the area, as well as voluntary and community groups from the area.
- 6.18. Consultation responses have raised the issue that residents of Limehouse are not automatically made members of the Forum, have to apply for

membership, and have to have their membership accepted by the executive of the Forum. Some of this is not necessarily unusual for a neighbourhood forum – potential forums need to show that they have at least 21 members, so there has to be some process of actively ‘opting-in’ to being a member to demonstrate that this requirement has been met. It is also not unusual to have some mechanism for formally removing or suspending members that behave in a way that is contrary to a forum’s stated objectives or would otherwise cast a poor light on a forum (for example, members acting illegally).

- 6.19. However, given the content of a number of the consultation responses, it is clear that there is concern among the community that this power to accept or reject membership may be abused, which would lead to the Forum essentially not being open to all potential members. One response notes that “the Chair is entitled to appoint as many Vice-chairs as he wishes, enabling him to secure a majority of the Executives votes, allowing him to refuse membership to those whose opinions he does not approve”.
- 6.20. *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?*
- 6.21. The application form contains details of 21 members who live or work in the area, including local residents, business operators, and representatives from community organisations.
- 6.22. However, see paragraph 6.40 below for concerns that Limehouse Community Forum members may not actually be the same as Limehouse Neighbourhood Forum members, and that the application may be demonstrating enthusiasm for a wider community organisation rather than a specific commitment towards forming a neighbourhood planning forum.
- 6.23. *In accordance with 61F(5)(d), does the Forum have a written constitution?*
- 6.24. The Forum has a written constitution. There are no requirements in the legislation for the constitution to contain particular items, other than for membership to be open to those who live, work, carry out business, or are elected representatives of the area, and concerns around this requirement are discussed in paragraphs 6.16-6.18 above.
- 6.25. Responses to the consultation have raised significant concerns that the rewrite of the constitution undertaken in 2019 was not handled well and has led to significant resentment among now former members of the Forum. It has been noted that during this process the forum incorrectly claimed that the Council had decreed their existing constitution ‘unlawful’ to justify the need to develop a new one – the Forum was contacted over this issue at the time and was asked to remove that claim from their website.
- 6.26. While these representations are concerning, the legislation at section 61F(5)(d) only provides for a consideration of whether the forum has a written constitution, not the process by which it was written or its contents (beyond

membership being open to all the relevant categories of people). However, concerns relating to this process will be discussed below in the paragraphs relating to section 61F(7).

- 6.27. *In accordance with 61F(5)(e), does the Forum meet other conditions as may be prescribed?*
- 6.28. No other legislative or regulatory conditions have been prescribed and as such there are no matters for consideration as part of this application.
- 6.29. *In accordance with 61F(6) does the Forum meet other prescribed conditions?*
- 6.30. The Secretary of State has not prescribed any conditions in the 2012 Regulations.

Determining the Application: Section 61F(7) considerations

- 6.31. *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?*
- 6.32. The Forum has secured membership of at least one individual who lives in the area or works in the area. The forum has not secured the membership of any elected representatives of the area, but the application form notes that the forum does keep up regular communication with the one elected Tower Hamlets councillor for the Limehouse ward, Councillor James King. As noted in paragraph 6.6, the application form for redesignation initially stated that the forum had the full support of Councillor King, but this was found to be inaccurate, and was corrected on an updated version of the application form.
- 6.33. *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?*
- 6.34. The application form claims that the Forum's membership includes representatives from across the geographical area, and consists of residents, local businesses, and other organisations including the Royal Foundation of St Katherine's, the Canal and River trust, the local primary school, and the Limehouse Basin Berth Holders Association.
- 6.35. Consultation responses have raised a number of concerns in relation to this element. A number of respondents believe that the Forum is not representative of the area, and responses have included claims that the Forum primarily represents white British people in an area which has diverse demographics, and that the local Bangladeshi community is under-represented. This is difficult to quantify, and no demographic data has been provided by the Forum. The representation from SPLASH expressed concern at a lack of members from the estates at the east of the neighbourhood planning area, close to the boundary with the Poplar neighbourhood planning area. Another response claimed the Forum "has failed to recognise the concerns of east Limehouse residents in particular, where recent planning

applications have impacted their lives”. Another said that it is “disappointing that the only faith group to be represented is the C of E when we are a very diverse community”.

- 6.36. Some responses stated that the Forum is only concerned with the area south of Commercial Road, and has ignored communities north of Commercial Road. However, it should be noted that the neighbourhood planning area as designated stops at Commercial Road – the communities to the north are not part of the Limehouse neighbourhood planning area. While wider community engagement is always welcome, there is no requirement for the Forum to engage with communities outside of its designated area on neighbourhood planning issues.
- 6.37. *In accordance with 61F(7)(a)(iii), does the Forum’s purpose reflect the character of the Area?*
- 6.38. The objectives of the Forum are stated in clause 2 of the constitution, and include furthering the interests of its members and of Limehouse; maintaining and improving Limehouse as a place in which to live, work or visit; to represent the views of the Forum to statutory bodies and others; to hold regular meetings to discuss matters of interest to members; and to host events to promote community cohesion. These objectives are not very detailed, but the application form adds that the forum is concerned with community safety, sustainable living, community cohesion, wellbeing, inclusivity, and access to open space, and this could be considered to reflect the character of this densely populated local area.
- 6.39. On the other hand, some consultation responses have noted that residents in the east of Limehouse were disappointed that the Forum did not oppose particular planning applications in that area. While it is not necessary for a neighbourhood forum to respond to planning applications in the area, these consultation responses suggest that there are people in particular parts of the neighbourhood planning area who do not believe the Forum is helping to maintain the character of the area.
- 6.40. Similarly, many consultation responses referred to the fact that a neighbourhood plan for Limehouse has not yet been developed – after five years of the previous designation, a plan had not reached even the first stage of formal consultation. Other responses provide some comments on why this may have been the case. One response states that the Chair of the Limehouse Community Forum has only ever attended one meeting of the neighbourhood planning sub-committee. Another states that the neighbourhood planning sub-committee has received no support from the Limehouse Community Forum, only has six regular members at meetings, and that none of the 21 members listed in the application form apart from the Chair have attended meetings of this sub-committee.
- 6.41. Another representation provided the text of an email from the Chair of the Limehouse Community Forum stating “The LCF should separate any and all planning responsibilities it has as the NPF, and function independently from

the Forum". It was the Limehouse Community Forum that applied to be designated as a neighbourhood forum in 2015, and it is this organisation that is applying to be designated again now. It is very concerning if the neighbourhood planning responsibilities of the designated forum have then been 'sub-contracted' to another quasi-independent group that has not been through the assessment process and retains an uncertain relationship with the 'main' forum organisation who have been officially designated.

- 6.42. One of the primary purposes of a neighbourhood forum is to develop a neighbourhood plan that reflects the character of the area and the desires of its community. The legislation is clearly aimed primarily at situations where a forum is being designated for the first time, and therefore does not address the question of how a lack of progress on the development of a neighbourhood plan should be assessed. However, it could be argued that a failure to progress a neighbourhood plan represents a failure on the part of the Forum to successfully reflect the character of the area.
- 6.43. *In accordance with 61F(7)(b) will designation result in only one organisation or body as Neighbourhood Forum for each Neighbourhood Area?*
- 6.44. Yes – since the Forum's previous designation expired on 1 December 2020, there is currently no designated neighbourhood forum for the Limehouse Neighbourhood Planning Area. This proposal will therefore result in only one neighbourhood forum being designated for the area.
- 6.45. *In accordance with 61F(7)(c) will designation of an organisation or body as a Neighbourhood Forum only occur where an organisation or body has made an application to be designated?*
- 6.46. The Forum made an application for designation on 24 November 2020.
- 6.47. *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?*
- 6.48. If Cabinet agrees with the recommendation of this report to refuse the neighbourhood forum application, a statement of reasons will be sent to the applicant and posted on the Council's website. A draft statement of refusal is attached to this report as Appendix 6.

Conclusions

- 6.49. There are significant concerns about whether this application meets the requirements of the TCPA 1990 relating to the designation of neighbourhood planning forums. These concerns relate to the following sections of the legislation:
- Section 61F(5)

- (a) Concern that the forum is committed to improving the social wellbeing of the neighbourhood planning area, but has shown less commitment to economic and environmental wellbeing
- (b) Concern that the forum is not fully open to all eligible members and that procedures for accepting new members are opaque
- (c) Some concern as to whether the neighbourhood planning function of the Forum has 21 members, if it held at arm's length from the main application body
- Section 61F(7)
 - (a)(ii) Concern over whether the Forum membership is suitably drawn from different places in the area and different sections of the community
 - (a)(iii) Concern over whether the Forum suitably reflects the character of the area as a neighbourhood forum, given the failure to develop a neighbourhood plan over the previous five year designation, and the numerous concerns raised by consultation responses as to the process of developing the neighbourhood plan

6.50. These concerns have been raised in the negative responses to the consultation. A clear majority of the consultation responses received explicitly objected or raised significant concerns about the application, and the number of objectors would be enough to form their own potential neighbourhood forum for the area if so desired. Many of these negative responses make very concerning claims about the governance of the forum, how well it represents different areas of the community, and how the neighbourhood planning element of the organisation is held at arm's length and given limited support by the parent body.

6.51. It is not the purpose of the consultation to act as a plebiscite on a particular organisation, and given that only a small amount of the overall population of Limehouse is engaged in this issue on either side, it is impossible to say whether one side or another has 'majority support'. It is also not the role of the planning officer to investigate every claim made on both sides about the past actions of the forum, in order to discern 'the truth'. But what is clear is that there appears to be a lack of broad community consensus on the representativeness and effectiveness of the Limehouse Community Forum as a neighbourhood forum. In these circumstances, designating the proposed forum may have a negative impact on community cohesion in the area.

6.52. It is also clear that the Limehouse Community Forum has not developed a neighbourhood plan during its previous five year designation, even as far as the first formal stage of consultation. Given this, and the concerns raised about the governance of the neighbourhood planning arm of the forum, it would also be undesirable to redesignate the neighbourhood planning forum when there are no clear signs that any further progress on a neighbourhood plan is likely to be made.

- 6.53. On this basis, the recommendation is that the application to designate the Limehouse Community Forum as the neighbourhood planning forum for the Limehouse Neighbourhood Planning Area should be refused.

7. EQUALITIES IMPLICATIONS

- 7.1. Officers have used the Council's Equality Impact Assessment Screening tool to consider impacts on people with the protected characteristics outlined in the Equalities Act 2010 (Appendix 4). It is considered that the proposals in this report do not have any adverse effects on people who share the protected characteristics and no further action is required at this stage.

8. OTHER STATUTORY IMPLICATIONS

- 8.1. This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
- Best Value Implications,
 - Consultations,
 - Environmental (including air quality),
 - Risk Management,
 - Crime Reduction,
 - Safeguarding.
- 8.2. Best Value Implications: During the determination of the submission the Council has worked with the Spitalfields Neighbourhood Forum where appropriate, and in line with our neighbourhood planning guidance, having regard to economy, efficiency, and effectiveness, and in conformity with the statutory requirements as detailed in the relevant legislation.
- 8.3. Consultations: See paragraphs 6.5-6.10 above.
- 8.4. Other implications: determining neighbourhood forum applications does not have any discernible implications on environmental issues, risk management, crime reduction, or safeguarding.

9. COMMENTS OF THE CHIEF FINANCE OFFICER

- 9.1 There are no material financial implications emanating from this report which seeks support for the re-designation of the Limehouse Community Forum as the designated neighbourhood forum for the Limehouse Neighbourhood Planning Area as it meets the conditions and provisions within section 61F of the TCPA 1990 and the 2012 Regulations
- 9.2 Costs associated with the consultation process and assessment of the application amount to £221 for a public notice and staff time. These funds will be taken from the Plan Making team budget.
- 9.3 There is no Parish Council in place for the Limehouse area. As a result, the CIL regulations 2010 allow the Council to retain any CIL income collected from this area but it must reinvest 25% of this income back into the local community. Should the application be accepted then this will need to be considered when using this CIL funding.

10. COMMENTS OF LEGAL SERVICES

10.1. This report requests Cabinet to:

1. Refuse the application for redesignation of the Limehouse Community Forum as the designated neighbourhood forum for the Limehouse Neighbourhood Planning Area and
2. Note the specific equalities considerations as set out in Paragraph 7.1 and Appendix 4 of this report as it applies to the proposed measures.

10.2. Pursuant to section 9D of the Local Government Act 2000 all functions of an authority are executive functions unless they are specified as not in either the 2000 Act or the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended). The decision on designating a Neighbourhood Forum is not a specified function and is therefore a decision for the Executive. The Executive is also authorised to consider the proposed recommendations in this report as they comprise a 'Key Decision' as defined in Section 3 of the Council's Constitution. Paragraph 6 of Section 3 of the Constitution defines 'Key Decision' as an executive decision which is likely to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions. As stated above in this report, if adopted the Limehouse Community Forum is likely to have a significant effect on communities living or working within the Limehouse Neighbourhood Planning Area given that the proposed Neighbourhood Forum was established for the express purpose of and include furthering the interests of its members and of Limehouse; maintaining and improving Limehouse as a place in which to live, work or visit; to represent the views of the Forum to statutory bodies and others; to hold regular meetings to discuss matters of interest to members; and to host events to promote community cohesion. The application form adds that the forum is concerned with

community safety, sustainable living, community cohesion, wellbeing, inclusivity, and access to open space.

- 10.3. The legislative framework for the designation of neighbourhood forums by the Council and their operative measures are set out in detail in this report and are contained in the Town and County Planning Act 1990 (as amended) ('TCPA 1990') and the Neighbourhood Planning (General) Regulations 2012(as amended) ('the 2012 Regulations'). The Government's Planning Practice Guidance ("PPG") on Neighbourhood Planning (Ref ID: 41-021-20140306) 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.
- 10.4. Section 61(F)(5) to (7) of the TCPA 1990 sets out the conditions that must be satisfied before a local authority may designate an organisation or body as a neighbourhood forum. This report provides a comprehensive assessment of the Limehouse Community Forum's application for re-designation as a neighbourhood forum..
- 10.5. Regulation 9 of the 2012 Regulations requires the Council to publicise valid neighbourhood forum applications in the areas where they are proposed to operate and invite public representations for a minimum 6 week period.
- 10.6. The 2012 Regulations were amended by the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016. Under regulation 9A(2)(b) of the amended 2012 Regulations, the Council must make a decision on applications for neighbourhood forum designations within 13 weeks of starting a consultation on the application.
- 10.7. The Equality impacts of the proposed measure to redesignate the Limehouse Community Forum is set out in paragraph 7.1 and Appendix 4 of this report. It is considered that the proposed recommendations do not have any adverse effects on people with protected characteristics and no further action is required at this stage. Members must have regard to these equality impacts when reaching a decision.
- 10.8. The report notes that twenty-three negative public responses have been received as part of the ongoing public consultation on the re-designation of the Limehouse Community Forum. These include:
- the effectiveness of the forum over the past five years in progressing a neighbourhood plan;
 - the process of developing the forum's constitution; and
 - the forum has not been a welcoming and inclusive organisation

Under regulation 8 of the 2012 Regulations, representations can be made(among other limited matters) on the proposed constitution and on the statement explaining how the proposed neighbourhood forum meets the conditions in section 61(F)(5) of the TCPA 1990.

The representations that have been received have led officers to conclude that the conditions in s61(F)(5), particularly s61(F)(5)(a) have not been satisfied. Officers have further concluded that s61(F)(7)(a)(iii), namely that the organisation's purpose reflects the character of the area has also not been adequately satisfied. The failure of these statutory requirements has therefore led officers to recommend that the CAB refuses the application for the re-designation of the Limehouse Community Forum as a neighbourhood forum. The Statement of Refusal at Appendix 6 of this report sets out the Council's reasons for recommending refusal of this proposed re-designation.

Linked Reports, Appendices and Background Documents

Linked Report

- None

Appendices

- Appendix 1: Limehouse Community Forum Application Form
- Appendix 2: Limehouse Neighbourhood Area Map
- Appendix 3: Limehouse Community Forum Constitution
- Appendix 4: Equalities Impact Assessment Screening
- Appendix 5: Consultation Statement
- Appendix 6: Draft Statement of Refusal

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

- NONE

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