

RECORD OF DECISION MADE UNDER DELEGATED POWERS FOR NEIGHBOURHOOD PLANNING

Delegation approved by Council 27 April 2016 A230 94 (D)

**NEIGHBOURHOOD PLANNING APPROVALS AND CHANGES TO THE COUNCIL'S DELEGATIONS -
(CABINET 11TH APRIL 2016 – MINUTE NUMBER 136/B124)**

COUNCIL RESOLVED that

(b) delegated authority be given to the Acting Director of Economy and Environment in consultation with the Cabinet Member with responsibility for Regeneration and Economic Development to approve applications for Neighbourhood Areas and approve the designation of Neighbourhood Forums, following consultation on the applications for such designations.

DELEGATED REPORT

APPLICATIONS FOR CLIFTON VILLAGE NEIGHBOUHOOD FORUM AND AREA

BACKGROUND

Neighbourhood Planning is a discretionary power that has been established by the Localism Act 2011 and incorporated into the Town and Country Planning Act 1990 (as amended) ("the 1990 Act"). It grants power to the Local Planning Authority ("LPA") to designate a Neighbourhood Forum and establish an area under which that Forum will exercise neighbourhood planning powers, namely the preparation of a Neighbourhood Plan or the establishment of a Neighbourhood Development Order. Section 61F(5) of the 1990 Act provides that a LPA may designate an organisation or body as a Neighbourhood Forum, if the LPA is satisfied that it meets a number of specified conditions (which are set out in that section) relating to the purpose for which the organisation or body was established, its membership and the requirement for it to have a written constitution. This is a discretionary power allowing the LPA to designate. It is not a compulsion to designate.

Section 61G of the 1990 Act provides that a LPA may approve the area for which the powers for Neighbourhood planning would be granted as follows:

"if..

(a) a valid application is made to the authority,

(b) some or all of the specified area has not been designated as a neighbourhood area, and

(c) the authority refuse the application because they consider that the specified area is not an appropriate area to be designated as a neighbourhood area,

the authority must exercise their power of designation so as to secure that some or all of the specified area forms part of one or more areas designated (or to be designated) as neighbourhood areas."

To meet the Neighbourhood Planning (General) Regulations 2012 ("the Regulations") a decision must be made within 13 weeks of the date of the advertisement or the default decision is that the applications are approved. Therefore any decision to refuse or amend must be made before 10th August 2018.

THE APPLICATIONS FOR A NEIGHBOURHOOD FORUM AND AREA

1. The application from the prospective Clifton Neighbourhood Forum to be designated as the Neighbourhood Forum for the Area and a separate application to designate a Neighbourhood Area were submitted to the Council on 24th April 2018.
2. In accordance with the Regulations the applications provided the following information:
 - a. a copy of the Constitution of the proposed Form;
 - b. evidence that the Forum has at least 21 signed up Members from within the area;
 - c. A Statement of Compliance indicating why the area for the Forum had been selected;
 - d. A map showing the area for the proposed Forum and Neighbourhood plan.
3. The applications were advertised on 4th May 2018. The period for representations ended on 18th June 2018.
4. A number of comments were received during the consultation period. The full text of the comments are attached as Appendix 6 to this Report.

REPRESENTATIONS RECEIVED

5. There have been representations from 58 people or organisations on the applications. This is the largest number that the Council has received on applications for Neighbourhood Forums and areas.
6. **Supporting Representations:**
 - a. 56 supporting representations or comments have been made which support the principle of the Neighbourhood Forum for the Clifton Area, and the designation of this prospective Forum. However a number of these supporting representations for the Forum consider the boundary of the prospective Forum Area is limited and should cover the Thornhills Area to the northwest of Clifton as well;
7. **Objections:**
 - a. **2 explicit Objections** have been made to the Application for the Forum.
 - i. One (CNP22) on the basis that the Membership of the Forum is not representative of the community as a whole, but rather representative of the affluent NIMBY's in the area;
 - ii. The second objection (CNP225) suggests that the Prospective Clifton Neighbourhood Committee is seeking to set itself up as a planning authority... a situation which is unacceptable in statute and practise.
 - b. **12 Objections to the Area:** these objections supported the designation of a Forum but are generally disappointed that the Thornhills Lane area (to be the Garden Suburb) has been excluded from the applied for area. (Some believe that exclusion of the Garden Suburb is at the Council's insistence).

Continued....

CONSIDERATION

PROSPECTIVE FORUM

8. Section 61F(5) of the 1990 Act states that LPAs may designate an organisation or body as a neighbourhood forum if the following conditions are met:
 - It is established for the express purpose of promoting or improving the social, economic and environmental well-being of an area that consists of or includes the neighbourhood area concerned.
 - Its membership is open to-
 - (i). Individuals who live in the neighbourhood area concerned,
 - (ii). Individuals who work there, and
 - (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.
 - Its membership includes a minimum of 21 individuals, each of whom falls into at least one of the categories in (i) to (iii) above.
 - It has a written constitution.
9. The 1990 Act goes on to state that when the LPA is determining whether to designate an organisation or body as a neighbourhood forum, it must have regard to the following considerations:
 - Whether the organisation or body 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 paragraph 12 above.
 - Whether membership is drawn from different places in the neighbourhood area concerned and from different sections of the community in that area, and
 - Whether the organisation's purpose reflects (in general terms) the character of the neighbourhood area.
10. The Clifton Neighbourhood Forum has been established for the express purpose of promoting or improving the social, economic and environmental wellbeing of the area. The written constitution provides that its purpose is amongst other things "to promote or improve the social, economic and environmental wellbeing of the Clifton Village Area". Its application includes a constitution. It has also at least 21 members each of whom lives, works or is an elected member of the Neighbourhood Area that will be designated. There are over 130 members of the prospective Forum from across the area. These elements of the application satisfy the statutory requirements as set out in paragraph 12 above.
11. Determination of the application is a matter for the Council's discretion having regard to the desirability of designating the prospective Clifton Village Neighbourhood Forum as the neighbourhood forum for the area.

12. The prospective Forum has a written constitution, which meets the requirements of the Regulations.
13. Representations generally support the designation of the prospective Clifton Forum as the Neighbourhood Forum for the area. Objections relating to the representativeness of the Forum have been raised, however these are not considered to be so negative as to undermine the possibility of the Forum acting appropriately as the Forum for the area. Forum Membership can increase, and those opposed to the current Membership can join the Forum to re-balance the membership if they so choose. As a result it is not considered that there are concerns that would warrant a Refusal to designate the Prospective Forum.
14. **The application for the Forum should therefore be Approved.**

AREA TO BE DESIGNATED

15. The application for the area to be designated is as attached as Appendix XX. The application area excludes the strategic allocations of the Thornhills Lane Garden Suburb.
16. It is considered that the prospective Forum could have made the case for including the Thornhills Lane Garden Suburb in their area, however they choose not to include the strategic allocation in their application area.
17. A number of representations have been made suggesting that the Forum's area be extended to include the Strategic Allocation. Any such change in area would need to be re-advertised and could bring forward objections from those who would wish to seek exclusion of the Garden Suburb Strategic Allocation from the area which the Forum can prepare a neighbourhood Plan.
18. There are clear mis-understanding from respondents over the purpose of a Neighbourhood Forum in the context of the Planning Acts. Many respondents wish the Clifton Forum to act as the voice of Clifton to prevent the Council bringing forward the Thornhills Lane Garden Suburb. However, the corollary of designation of a much larger area would mean that the Clifton Forum would have to find land to deliver the 2,000 homes that the Thornhills Lane area could bring forward. As currently proposed there are no Housing Allocations in the prospective Clifton Neighbourhood area and only the Enterprise Zone Employment Area designation with which they will have to contend in bringing forward a Neighbourhood Plan.
19. The area proposed to be designated was selected by the prospective Forum. The Council provided a number of "options" on good quality OS map base so that they could make an informed selection. One of these Options included the Thornhill Lane Garden Suburb in the potential Forum Area. It was suggested that the prospective Forum could establish reasons to include the garden suburb in their area. They however chose not to do so and the resulting application area is shown on the Map at Appendix 2.
20. Had the Area for the Forum been larger and included the Garden Suburbs it is possible that there could have been objections to the inclusion of the strategic allocation in the Forum's area. This would have meant that difficult decisions would have faced the Council in determining the appropriateness of the area for Neighbourhood Planning purposes.
21. **The application for the Area to be designated should therefore be Approved.**

RECOMMENDATION :

22. That under the powers conferred by the 1990 Act, (Section 61F) and as delegated by the Council to the Director and appropriate Cabinet Member, the application submitted by the Clifton Neighbourhood Forum for designation as a Neighbourhood Forum be Approved.
23. That under the powers conferred by the 1990 Act, (Section 61G) and as delegated by the Council to the Director and appropriate Cabinet Member, the application submitted by the Clifton Neighbourhood Forum for designation of a Neighbourhood Area be Approved.

Dated : Recommendation made 3rd July 2018

Service Lead for Planning : Richard Seaman;

AUTHOR : Development Strategy Manager : Phil Ratcliffe (Tel) 01422 392255

DECISION

Cabinet Member for Regeneration and Strategy : Cllr Barry Collins. AGREED the Recommendation
1st August 2018

Director of Regeneration & Strategy : Mark Thompson (Note RICHARD SEAMAN – under delegated powers granted by the Chief Executive AGREED the Recommendation 1st August 2018).

LIST OF APPENDICES :

APPENDIX 1:

This Appendix includes all the relevant elements as set out below:

- i. Application as Submitted;
- ii. Area as Submitted;
- iii. Statement of Compliance as submitted;
- iv. Constitution of the Prospective Forum as Submitted;

APPENDIX 2:

Membership of the Prospective Forum;

APPENDIX 3:

Responses to the Consultation received between 5 May and 18 June 2018;

APPENDIX 4:

Additional Information associated with submitted comments:

- a. Additional Information from **National Farmers Union** 4940666;
- b. Additional Information from **Sport England** 49414014;
- c. Additional Information from **National Grid** 4941467;
- d. Additional Information from **The Coal Authority** 4974449;
- e. Additional information from **Historic England** 4975316;
- f. Additional Information from **Gladman Developments** 4975325;