

 <p>Brent</p>	<p>Cabinet 16 November 2023</p>
	<p>Report from the Corporate Director of Communities and Regeneration</p>
	<p>Lead Member – Cabinet Member for Regeneration, Planning & Growth (Cllr Shama Tatler)</p>
<p>Sudbury Town Residents’ Association application for Neighbourhood Forum Status</p>	
<p>Wards Affected:</p>	<p>Sudbury, Northwick Park and Wembley Central</p>
<p>Key or Non-Key Decision:</p>	<p>Key</p>
<p>Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small></p>	<p>Open</p>
<p>List of Appendices:</p>	<p>Appendix A: STRA Renewal Application Appendix B: Council response to STRA (August 22) Appendix C: STRA response to Council (October 22) Appendix D: STRA Constitution Appendix E: STRA Support Letter Appendix F: STRA Forum Consultation Response Summary Appendix G: STRA Draft Refusal Statement</p>
<p>Background Papers:</p>	<p>None</p>
<p>Contact Officer(s): <small>(Name, Title, Contact Details)</small></p>	<p>Paul Lewin, Team Leader Planning Policy 020 8937 6710 paul.lewin@brent.gov.uk</p>

1.0 Executive Summary.

- 1.1. To apprise Cabinet of the representations received following consultation on Sudbury Town Residents’ Association’s application to be the Neighbourhood Forum for the Sudbury Town Neighbourhood Area with it recommended, as a result, that the Council refuses the application.

2.0 Recommendation(s).

- 2.1 Cabinet considers the representations received following consultation on Sudbury Town Residents’ Association’s (STRA) application to be the

Neighbourhood Forum for the Sudbury Town Neighbourhood Area as set out in Appendix F.

- 2.2 Cabinet confirms that the Council refuses STRA's application to be the Neighbourhood Forum for the Sudbury Town Neighbourhood Area as set out in the refusal statement in Appendix G.

3.0 Detail

3.1 Cabinet Member Foreword

- 3.1.1 Neighbourhood planning is an opportunity for residents and businesses in an area to identify their own policies at a very localised level to be applied to development in their areas. The policies that neighbourhoods can take forward are very much at their discretion, but arguably could encompass some or all of the five strategic priorities set out in the borough plan.
- 3.1.2 A good Neighbourhood Forum as a local democratic body provides a voice for local communities, consistent with the Thriving Communities Priority: Desired Outcome 1 of 'Enabling our Communities'. The Council works with and encourages forums where communities wish to set them up, ensuring that they meet their statutory requirements.

3.2 Background

Neighbourhood Planning

- 3.2.1 The Localism Act 2011 introduced greater statutory provisions for local communities to shape development outcomes in their area through the planning system. Principally through this act, but also through subsequent legislation, provisions within the 1990 Town and Country Planning Act (as amended) (the Act) and the Neighbourhood Planning (General) Regulations 2012 (as amended) (the Regulations) allow communities to:
- A) set planning policies through a Neighbourhood Plan that forms part of the development plan used in determining planning applications, and
 - B) grant planning permission through Neighbourhood Development Orders and Community Right to Build Orders for specific development which complies with the order.
- 3.2.2 Where a community wants to take up the opportunities offered by neighbourhood planning, they can only do so where there is a 'qualifying body'. In non-parish areas, for the delivery of Neighbourhood Plans or Neighbourhood Development Orders, the relevant qualifying body is a neighbourhood forum. The qualifying criteria and processes for establishing a neighbourhood forum are set out in the Act and Regulations.
- 3.2.3 The Act sets out that where designated a Forum ceases to have effect at the end of the period of 5 years beginning with the day on which it is made. To

maintain Forum status, or if it has lapsed, to regain Forum status, the process is the same as that for an application for a new Forum.

STRA 2012-2018

- 3.2.4 STRA was initially designated as a Forum on 12th December 2012. It was one of London's front-runners for taking forward a Neighbourhood Plan. On 10th September 2015, following a positive referendum, the Sudbury Town Neighbourhood Plan was made (adopted). It was only the third in London at that time. In October 2017 STRA subsequently submitted an application to become a forum, which was granted on 8th December 2017, meaning it would and did cease to have effect by 8th December 2022.
- 3.2.5 STRA submitted an application for Forum status on the 8th December 2022. It therefore currently does not have the status of a Forum. STRA has historically worked on projects for the betterment of the Sudbury community and area. This has included producing the Sudbury Town Neighbourhood Plan, environmental projects, such as planters for Sudbury town centre and comments on planning applications. It proposes to continue, as set out in its covering letter for its application submission which is attached as Appendix A of this report.
- 3.2.6 The Council, whilst mindful of the statutory tests and where necessary giving support to neighbourhood planning consistent with the Council's statutory duty set out in the Town and Country Planning Act 1990 and Planning and Compulsory Purchase Act 2004, has historically pursued a light touch approach to Forums. Forums are meant to be organisations for and run by the local communities they serve. There is no set way for them to operate to best deliver neighbourhood planning related community outcomes. As such, they can be different in many respects from area to area.

2018/19 Onwards

- 3.2.7 In late 2018/ early 2019 concerns were raised with the Council about STRA's formal decision making and inclusivity. These were initially raised by local ward councillors (now no longer in those roles). They had also been contacted by a range of people. These included former executive members of STRA, others who were STRA members and some who were not but lived/ worked in the forum area. It was brought to the Council's attention that STRA had changed its constitution without informing the Council. When contacted about this, STRA reverted in early 2019 to the constitution approved by the Council when it designated the forum in December 2017.
- 3.2.8 In May 2019 Council officers and local councillors were initially refused entry to STRA's AGM. At that meeting, which was observed to be fractious between a number of participants, it appeared that relations between some members were poor. Subsequently, officers sought to meet with STRA's Executive to seek to resolve these matters. This was also designed to seek to provide clarity about decision making/ processes the forum followed. Clarity was sought on how these aligned with the conditions by reference to which it was designated. STRA appointed legal advisors, and a meeting occurred in August 2019. STRA's legal

advisors drafted some Terms of Reference for future decision making and working. There was an agreement in principle (subject to consideration by the STRA Executive) to take forward the terms of reference to provide greater clarity on the distinction of the role of the forum and wider STRA organisation and a process for dealing with the forum's representations on planning applications.

3.2.9 Subsequent to this, a meeting occurred with the STRA Executive in September 2019 to further discuss matters. A further subsequent meeting was planned for February 2020 to include local councillors. This was postponed due to a councillor not being available. Another meeting date was not set immediately and subsequently the pandemic intervened. STRA did not organise any formal public meetings, either in person when rules permitted, or on-line, until May 2022. In this period, interaction between STRA and the Council's planning team on the matters previously discussed essentially ceased.

3.2.10 On 3rd May 2022 STRA had its first AGM since 2019 where a new Executive was appointed. Officers subsequently met most of the Forum Executive on 4th July 2022. The issue of STRA's likely application for Forum status towards the end of the year was discussed. In a response to a request from STRA's deputy chair, the Council subsequently sent a letter on 24th August 2022 indicating matters that it considered needed to be addressed to support the retention of Forum status. This is attached as Appendix B. The deputy chair responded on 17th October 2022 (although the email was not received by the intended Council officer recipient). This is attached as Appendix C. This was considered by STRA (in Appendix A) to deal with all the points raised in the officer's letter. The Council separately offered support to STRA on 15th September 2022 to assist with the intended Forum application process. STRA did not take up this offer and submitted the application material included in this report's Appendices A - E.

Information required to support an application for Neighbourhood Forum status

3.2.11 The Regulations set out what is required when an organisation 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.

3.2.12 Each of the criteria have been met within the submission material set out in this report's appendices. On this basis the Council considered the application valid to consult upon and subsequently determine.

Consultation responses

3.2.13 Consultation took place on the Neighbourhood Forum application between 12th January 2023 and 23rd February 2023. In total 30 responses were received. Seven were in support of STRA's designation, sixteen objected and seven, generally statutory consultees, had no opinion. A summary of the consultation responses is set out in Appendix F of the report. Those who supported STRA identified its positive work to date and potential to influence new development coming forward. Unlike the two earlier STRA forum applications which were met with almost unanimous support, this time around the majority of responses were predominantly unsupportive. Numerous issues were identified in the consultation responses including:

- a) Transparency – timing of notifications and availability of information on meetings, their minutes and the openness of decision-making/ ability to speak/ hostility towards certain members.
- b) Lack of meetings in the period 2019-2022 and consistency with constitution on their frequency and other decision making.
- c) Lack of focus on neighbourhood planning activities, planning in general or clarity on forum business and wider residents' association business and lack of work programme.
- d) Lack of diversity of membership.
- e) Website updates not occurring and lack of public access to many parts.
- f) Lack of political impartiality and in some cases misinformation on some councillors' positions on matters; and
- g) Requiring a membership fee and lack of clarity on how fees and other donations were being spent.

3.2.14 As part of the consultation responses another prospective Forum for the Sudbury Neighbourhood Area, 'Sudbury Matters', submitted their own application material for them to be the designated Neighbourhood Forum (note, legally it is only possible for one Forum to exist in an area). They wished this application to be held in abeyance in terms of formal consultation until they had discussed the matter further with the Council.

3.2.15 Mindful of this alternative application the Council wrote to STRA in March 2023 asking it to withdraw its application. STRA subsequently submitted a further response to the Council's Appendix B letter. This was identified as 'private and confidential' and STRA has not, when subsequently requested, indicated that this can be released into the public domain. This response essentially, however, does not make significant progress on the points to indicate any fundamental change in approach to the matters raised.

3.2.16 Taking account of the consultation responses received and the limited progress made with STRA in response to concerns raised since 2019, the Council considered third party impartial support from specialists was required. This was done using Locality; a body that supports local community organisations. It is part funded by DLUHC to support neighbourhood planning. Locality appointed Urban Vision, independent consultants with expertise on arbitration, to assist.

Their remit was to help find an agreed and inclusive process for taking forward a Neighbourhood Forum for Sudbury Town.

3.2.17 The consultant identified to the Council that the proposed STRA constitution was essentially not fit for purpose. They had specific concerns about a Residents' Association being identified as a Neighbourhood Forum, rather than the two being distinct. They were concerned about the application of a membership fee. In addition, they identified the fact that two prospective Forums with wide memberships were being promoted for the same area as an indication that the STRA application did not have sufficient local community support/ consensus for it to be regarded as acceptable. On this basis the consultant sought to work with STRA and Sudbury Matters to create a new single organisation that wasn't identified as a Residents' Association, with an appropriate constitution, capable of applying for and attaining neighbourhood forum status.

3.2.18 Mindful of the consultation responses, Urban Vision's opinion and a lack of real progress against the points raised in the Council's Appendix B letter, STRA was again requested to withdraw its Forum application in July 2023. It refused, so as set out in paragraph 3.2.12, an application which meets the minimum criteria set in regulations has been submitted by STRA, the Council has a statutory duty to determine it.

Authorisation to act in relation to Neighbourhood Areas – consideration of matters set out in the Act

3.2.19 The Act sets out in 61F(5) that the Council may designate a forum if it is satisfied that it meets the following conditions:

- a) 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 (whether or not it is also established for the express purpose of promoting the carrying on of trades, professions or other businesses in such an area),
- b) its membership is open to—
 - (i) individuals who live in the neighbourhood area concerned,
 - (ii) individuals who work there (whether for businesses carried on there or otherwise), 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,
- c) its membership includes a minimum of 21 individuals each of whom—
 - (i) lives in the neighbourhood area concerned,
 - (ii) works there (whether for a 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.

3.2.20 Also of particular relevance is Section 61F(7)(a), which sets out when determining whether the applicant has met subsection (5), the local authority has to have 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 subparagraphs (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, and
- (iii) whose purpose reflects (in general terms) the character of that area...

3.2.21 Reflecting the likely diversity of scenarios across the country of how communities might want to deliver neighbourhood planning, legislation and national practice guidance on how Forums should operate is light touch. In determining an application for forum status, the Council needs to consider consistency with the statutory tests set out in primary (the Act) and secondary legislation (the Regulations).

Consistency of STRA application against the statutory tests - Section 61F(5) assessment

3.2.22 In relation to 61F(5) (a), (c) and (d) It is considered that sufficient information has been submitted to pass the tests.

3.2.23 In relation to (b), the openness of membership, due to the proposed constitution wording is considered to not satisfactorily meet the test. This is because membership is identified as being subject to payment of a fee for households (£8) and businesses (£10). Admittedly this has not changed from 2017 when the last constitution was approved. However, this has been raised as a potential barrier to participation through comments received by the Council in 2019. The Council has made it consistently clear to STRA that this is an issue that it wished to be addressed in any future application. STRA in March 2023 did indicate that it was willing to waive payment on a temporary basis but did not propose a permanent change to the constitution. Given the on-going issues associated with the cost-of-living crisis, any prospective barrier to membership caused by a fee, no matter how small, is not considered appropriate. On this basis the constitution is not considered to be evidenced to allow membership to be genuinely open to any individual who lives or works in the area and therefore is considered to fail 61(5)(b) in this respect.

Section 61(F)(7)(a)

3.2.24 In relation to Section 61(F)(7)(a)(i), it appears that at least one representative of each of the categories of person set out in 61F(5)(c) (residents, worker and elected member) has been achieved. In relation to 61F(7)(ii) notwithstanding the number of members STRA identified, the sample mix as presented did not satisfactorily evidence that STRA's membership is drawn from different places in the Neighbourhood Area concerned and from different sections of the community in that area. Further information was sought to show that STRA

either fulfils appropriate representation, or if not, that attempts to get this representation have been pursued. This has been presented on a geographic basis, rather than identifying the characteristics of the sections of the community of the members. As such, it is unclear if it is reflective of sections of the community. As identified, the application of a fee as set out in the constitution could well limit the extent to which those with financial pressures/ the most deprived might be able to be members.

3.2.25 The potential reflectiveness of the membership of the area due to the actions of STRA in the past is also a concern in relation to a number of matters associated with the constitution. The residents' concerns raised to the Council in 2019, as well as (former) local councillor concerns and consultation responses indicate that a significant minority do not feel comfortable with previous conduct of some of the STRA Executive in relation to other STRA Executive members or other STRA members, or the way business is conducted at STRA meetings. Without any proposed changes, they have no confidence in the ability of the organisation to address this satisfactorily. Taking account of these factors, it is considered the application does not meet the 61(7)(a)(ii) test.

Other matters in relation to the 61F(5) decision to designate

3.2.26 The Act in Section 61F(5) in identifying that the Council may designate a Neighbourhood Planning Forum, gives some discretion on whether it decides to do so or not. In doing so, the Council considers it appropriate to take into account its interactions with STRA since 2019 and also the consultation responses received.

3.2.27 The level of dissatisfaction amongst some existing and former ordinary members is so great that it has been one of the contributing factors to a rival 'Sudbury Matters' submission. This indicates a significant unease in the community with STRA continuing to be a Neighbourhood Forum. STRA has not to any significant degree sought to allay the concerns, either in the material supplied in support of the application, or positive and meaningful on-going engagement with the Urban Vision independent representative who has sought to bring greater consensus on a prospective forum for the area. The matter of respect of members views and behaviours has not been sufficiently addressed in the application. Therefore, there is no expectation that such issues will not remain in affecting the accessibility and transparency of the organisation, likely disenfranchising people who would otherwise want to be active in taking forward neighbourhood planning in the area.

3.2.28 The issue of the differentiation between Neighbourhood Forum business and that of the Residents' Association has not been satisfactorily addressed in the application. The Council has consistently raised this with STRA since 2019. This is important due to the statutory status of neighbourhood forums and their role in planning matters. STRA operates across a wider area than just the designated Sudbury Town Neighbourhood Area and also draws its membership from that wider area. At STRA meetings there is no clear differentiation between what is Forum business and what is Residents' Association business. With regards to voting there is no clear understanding of who can be regarded as

one of the STRA members consistent with the qualifying criteria of where the membership should be drawn from for a forum and those outside. This could adversely impact on decision making, with the opportunity for those outside the qualifying criteria if they vote in sufficient numbers, being given more weight than those who do meet the statutory tests. This could raise unnecessarily issues around the legitimacy of statutory forum related decisions and associated activities, e.g submitting a neighbourhood plan for examination.

3.2.29 Notwithstanding its large membership, the capacity of STRA to fulfil its constitutional obligations is, based on previous performance, uncertain. Whilst the pandemic did impact and effectively meant there were no public meetings from March 2020 to May 2022, there appear to have been no subsequent formal STRA meetings called post the 2022 AGM. This can be regarded as inconsistent with STRA's constitution, which sets out an Ordinary Meeting or Public Meeting of the officers and members will be held at least three times a year. On this basis, there would have been a reasonable expectation that two additional public meetings would have occurred in the six months period to December 2022. The Council is not aware that any such meeting occurred. The website is very dated, and details of meetings minutes are not publicly available on it; the last one being the 2018 AGM. As such, its openness and accountability are unclear.

3.2.30 The five-year timescale of a designated Forum precludes another Forum setting up in an area. Some of the consultation responses indicate little progress on neighbourhood planning matters for some considerable time. To ensure that Neighbourhood Forum activities are therefore effectively addressed, rather than a Forum attaining a designated status and doing little else, the Council has sought clarification on STRA's likely activities or a draft work programme. Again, this has not been forthcoming. This does not give confidence that the prospective Forum will fulfil significant outputs which for the purpose of promoting or improving the social, economic and environmental well-being of an area. In attaining the forum status there is the potential that it would undermine the opportunity for an alternative statutory forum that would be better suited/ more motivated to deliver these outcomes.

3.2.31 Notwithstanding the work that STRA has historically done in taking forward a Neighbourhood Plan, given the issues raised and on-going discussions with STRA since early 2019, plus the responses to the consultation the above issues cannot be regarded as minor, and STRA given the benefit of the doubt that these limitations will resolve themselves. Taking account of the factors set out in paragraphs 3.2.27-3.2.30, it is considered that it would not be appropriate to approve STRA's application as a Neighbourhood Forum.

Conclusion

3.2.32 Overall, therefore, it is considered that in respect of 61F(5)(b) the application fails as membership is not open as set out in paragraph 3.2.23. In respect of 61F(7)(a)(ii) the application fails with regards to membership draw for the reasons set out in paragraph 3.2.24-3.2.25. With regards to the issues identified in paragraphs 3.2.27-3.2.30 around respect of members views and behaviours,

lack of clarity on neighbourhood area vs wider Sudbury issues and associated decision making, and capacity to take forward neighbourhood planning business, these are matters that also indicate STRA's application should not be approved.

Options

3.2.33 There are three options reasonably considered to be open to the Council. These are to:

- a) approve the application as submitted,
- b) seek to continue to negotiate with STRA to resolve outstanding issues with a view to be in a position to positively determine the application or
- c) to refuse the application.

Option a) approve the application as submitted

3.2.34 For the reasons set out in 3.2.23-3.2.31 it is not considered that the application as submitted is sufficiently robust and consistent with the statutory tests to be considered acceptable. It is unlikely to serve the neighbourhood planning interests of the Sudbury Town Neighbourhood Area well. There is a reasonable prospect that a significant minority of local people will feel unable to openly participate as members of a forum. Issues raised previously by the Council could be perpetuated in the future. It is considered this outcome would be exposed to challenge. On this basis this is not the recommended course of action.

Option b) seek to continue to negotiate with STRA

3.2.35 Ideally if circumstances had allowed it, the Council would have got a position where appropriate changes were proposed by STRA by now which would have allowed a positive recommendation to be made. STRA has had over a year to consider and address the matters set out in the Council's August 2022 (appendix B) letter, with limited progress made. STRA gives no real indication of being able to meet the Council's requests. Officers have little confidence that such changes will be forthcoming if additional time is given. The Council has a statutory duty to determine an application within 13 weeks (unless more than one application for the same area is submitted). The application cannot be held in abeyance indefinitely. On this basis this is not the recommended course of action.

Option c) refuse the application

3.2.36 The application due to its inconsistency with the statutory tests and STRA's inability to give confidence from material submitted and actions to date, mean that it is unlikely to change sufficiently to overcome these issues. On this basis it is recommended that the course of action should be for the Council to refuse the application. A draft refusal statement, as required by the regulations, that is a statement setting out the decision and the reasons for making that decision, is set out in Appendix G of the report.

3.2.37 Once the decision is made the Council has to publish a statement on its website and any other manner it considers appropriate. The decision will be sent to the applicants and those who made representations and left their contact details.

4.0 Stakeholder and ward member consultation and engagement

4.1 The application was subject to consultation for a six-week period. Notifications were sent to all statutory consultees as required in regulations and those on the Council's planning policy database. The application material was made available in the Council's main library at Wembley. Councillors were made aware through the members' bulletin. STRA indicated that they separately had been in contact with each of the ward members from the three respective wards within the neighbourhood area.

5.0 Financial Considerations

5.1 It is not anticipated that making the recommended decision will result in any immediate budgetary impacts. If any legal challenge is subsequently made, this cost will be met from existing planning policy budget reserves.

6.0 Legal Considerations

6.1 This paper has been reviewed by the Council's legal services and its content is considered to be robust from a legal standpoint. STRA may seek to challenge the decision. This can be done on the core grounds for bringing judicial review which are based on a number of connected principles, including lawfulness, reasonableness and fairness.

6.2 The legal implications and statutory framework has been set out in section 3 of this report.

6.3 The Council may use its discretion in designating the Neighbourhood Forum.

7.0 Equality, Diversity & Inclusion (EDI) Considerations

7.1 The Equality Act 2010 introduced a new public sector equality duty under section 149. It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Council must, in exercising its functions, have "due regard" to the need to:

1. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
2. Advance equality of opportunity between people who share a protected characteristic and those who do not.
3. Foster good relations between people who share a protected characteristic and those who do not.

7.2 The Neighbourhood Forum membership would be expected to be as representative as possible of the diversity of the local population it represents.

The Council has sought evidence that statutory tests have been complied with and this would be the case if any prospective forum were approved.

8.0 Climate Change and Environmental Considerations

8.1 None directly relevant to this decision. Neighbourhood Forums can progress Neighbourhood Plans which might set out policies or neighbourhood development orders that impact on climate or environmental considerations. Any such work would be subject to Council scrutiny and decision-making with any such impacts likely to be subject to Strategic Environmental Assessment where significant impacts might be anticipated.

9.0 Communication Considerations

9.1 As indicated, the decision is likely to be publicised in accordance with the methods set out in 4.1 and 5.1. Engagement will occur with the communications team regarding any wider social media items/ press releases.

Related document(s) for reference:

[Cabinet Member for Regeneration and Planning 6th January 2023 Publication of Sudbury Town Residents' Association Application for Neighbourhood Forum Status.](#)

Report sign off:

Zahur Khan

Corporate Director of Communities and
Regeneration