

	Cabinet Member for Regeneration, Planning & Growth 20 th March 2023
	Report from the Corporate Director Communities and Regeneration
Publication of Sudbury Matters Application for Neighbourhood Forum Status.	

Wards Affected:	Northwick Park, Sudbury and Wembley Central
Key Decision:	No
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	Three Appendix A: Application Letter Appendix B: Sudbury Matters Constitution Appendix C: Members List
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Paul Lewin, Team Leader, Planning Policy 020 8937 6710 paul.lewin@brent.gov.uk

1.0 Purpose of the Report

- 1.1 The purpose of the report is to present and seek the Cabinet Member for Regeneration Planning & Growth's approval to publish Sudbury Matters' application for Neighbourhood Forum status. The application will be subject to a minimum six-week consultation. Following consideration of the representations received, the Council will need to determine whether to approve or refuse the application.

2.0 Recommendations

- 2.1 That the Cabinet Member for Regeneration Planning & Growth approves the publication for consultation of Sudbury Matters' application for Neighbourhood Forum Status.

3.0 Detail

Neighbourhood Planning

- 3.1 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 Where a community wants to take up the opportunities offered by neighbourhood planning, they can only do so where this 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.

Sudbury Town Neighbourhood Area and Associated Forum

- 3.3 On the 6th January 2023 the Cabinet member for Regeneration and Planning was presented with a [paper and made the decision to consult on Sudbury Town Residents' Association \(STRA\) application to become neighbourhood forum for that area](#). The consultation was for a 6-week period from 12th January 2023 until 23rd February 2023.
- 3.4 Cabinet in due course will consider whether a forum should be designated for the area. However, in response to the STRA application consultation, a group of interested people have submitted a separate neighbourhood forum application. Appendix A is the notice of application, Appendix B sets out the constitution and neighbourhood area it applies to, and Appendix C sets out an initial list of members. This covers the same neighbourhood area of Sudbury Town as STRA's application.
- 3.5 The statutory framework for neighbourhood planning only allows one forum to be designated and operate in any neighbourhood area. It is unusual, but not unheard of, for there to be alternate applications for neighbourhood forum status for the same area. National planning practice guidance has limited information on how to proceed in such cases. It does, however, identify that where there are two or more groups, that ideally, they will seek to work together to overcome their differences with a view to supporting a single forum.
- 3.6 Officers have sought to work with both STRA and Sudbury Matters to try to resolve the issue of the alternate applications. Both have been asked to

consider withdrawing their applications and seek third party support, and if necessary, mediation through agencies such as Planning Aid with a view to taking forward a single forum application. It is unclear if either organisation will seek to do so. In the meantime, due to statutory requirements, the Council has to consider any valid application that it has submitted to it.

- 3.7 Sudbury Matters submitted an application for forum status on the 23rd February 2023.

Information required to support an application for neighbourhood forum status

- 3.8 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.

- 3.9 The first four criteria have been met within the submission material set out in this report's appendices. In relation to e) the following are the most relevant aspects of 61F(5) are:

- 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.

- 3.10 Also of particular relevance is Section 61F (7), 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...
- a) In relation to 61F(5) (c) 58 members are identified in Appendix C. This is clearly a more than the minimum statutory requirement and is likely to contain a broad cross-section of the population and parts of the area. The sample mix as presented however does not satisfactorily address 61F(7)(ii) in evidencing it is reflective of a representative range of different places and different sections of the community. Further information will have to be sought and provided that shows Sudbury Matters either fulfils appropriate representation, or if not, that attempts to get this representation have been pursued.

Options

3.11 There are essentially two options open to the Council:

- a) Do not publish the application, or
- b) Publish the application for consultation for a minimum six-week period.

Do not publish the application

3.12 The application is considered to have met the minimum statutory tests. As identified in relation to the membership in paragraph 3.11 additional information will have to be provided for the Council to consider it compliant.

3.13 To resolve these matters, the Council could seek to not publish the application and revert to Sudbury Matters to provide this information. The Council has a statutory duty from publication of the application for its determination within 13 weeks. The main benefit of this option is that in not publishing the application, the statutory timetable for determination of the application does not begin until all outstanding matters have been resolved.

Publish the application for consultation for a minimum six-week period.

3.14 As indicated notwithstanding the outstanding issues related to membership, arguably Sudbury Matters has provided what could be termed the minimum required to meet the basis tests for submission set out in legislation. This allows for publication and consultation to occur. Those making representations can comment on the material as it stands. If the representations identify inadequacies or concerns within the application material, then these can be addressed by the Council and Sudbury Matters before the Council makes a decision on how to proceed with its determination of the application. This may extend the final decision date well over the statutory 13 weeks period allowed.

- 3.15 On balance, notwithstanding the outstanding issues raised in relation to membership it is considered that option b) should be pursued. This option will only occur however if Sudbury Matters do not withdraw their application prior to the consultation period starting (probably likely to be 30th March 2023).

Next stages

- 3.16 The Council will publish the application included the material provided in Appendices A-C of this report for a minimum of six weeks, consistent with regulations and the Council's Statement of Community Involvement. It will be advertised on the Council's website and notifications sent to statutory consultees and those on the Local Plan consultation list. The documents will be made available in Brent Council libraries. It is likely, that Sudbury Matters will notify all its members of the application.

Post Consultation Process

- 3.17 The Council will consider all of the responses received. These will be summarised, responded to and where appropriate recommended actions to amend any issues of concern will be identified. If there are any issues that are considered so significant that not addressing them would likely cause the Council to refuse the application, Sudbury Matters will be provided with an opportunity to deal with these prior to any formal decision being made.
- 3.18 This work will be contained within a Consultation Statement that will be made publicly available once a decision is made.
- 3.19 If after the consultation has concluded the Council is still faced with two valid applications, it will have to consider what is the best solution. As identified, statute only allows for one forum. Ideally the two groups will work together to form one forum that has a wide range of support from the local community. If not, Cabinet will consider a report that is reflective of where discussions have got to and recommends what is the most appropriate course of action for the Council to pursue.
- 3.20 Due to the timing of Cabinet and the internal processes associated with preparation of reports for that meeting, plus the two alternative applications it is likely that the Council will exceed the usual 13-week statutory deadline. Where there are two applications for the same area however, the 13-week statutory deadline is no longer required to be met.

4.0 Financial Implications

- 4.1 The consultation is likely to be limited in its resource requirements, covering matters such as printing of consultation material and officer time. Addressing the legal complications of two applications for the same area may require external legal advice. This expenditure has been accounted for in the existing planning policy budgets.

5.0 Legal Implications

5.1 The Neighbourhood Planning (General) Regulations 2012 (as amended) set out the processes that need to be followed by the Council in publishing and then determining a forum's application. The Council will follow these processes. The forum status if approved lasts for five years. It may be withdrawn by the Council where it considers that the forum no longer meets the conditions by reference to which it was designated, or any other criteria to which the authority were required to have regard in making the designation. The complications of two applications for the same area may require external legal advice.

6.0 Equality Implications

6.1 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.

6.2 Due to the statutory role forums have, they must also reflect the above in their everyday actions and decision making. The Council in having oversight of forums has the ability to remove forum status if it considers the forum is not acting in accordance with the Act.

7.0 Consultation with Ward Members and Stakeholders

7.1 A briefing note has been prepared for ward members on the application. As indicated, formal consultation includes a range of statutory bodies plus local interested parties on the Council's local plan consultation database.

Report sign off:

Zahur Khan

Corporate Director of Communities
and Regeneration