



Report for: ACTION/INFORMATION
Item Number: 12

Contains Confidential or Exempt Information	NO
Title	Central Ealing Neighbourhood Forum
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Author(s)	Steve Barton, Strategic Planning Manager and Sam Cuthbert, Principal Policy Planner
Portfolio(s)	Cllr Peter Mason
For Consideration By	Cabinet
Date to be Considered	16 th October 2018
Implementation Date if Not Called In	29 th October 2018
Affected Wards	All, but in particular Ealing Broadway, Ealing Common, Hanger Hill and Walpole.
Keywords/Index	Local development Plan, Local development Framework, Neighbourhood Planning, Localism.

Purpose of Report:

This report provides an update on Neighbourhood Planning in Ealing. Although it is intended primarily as an information report to raise awareness of progress, authority is sought to 1) renew the designation of Central Ealing Neighbourhood Forum, and 2) put in place some necessary future governance arrangements in relation to neighbourhood planning.

1. Recommendations

It is recommended that Cabinet:

- 1.1 Notes the updates on the development of national legislation and guidance relating to neighbourhood planning, and of neighbourhood plans within the Borough.
- 1.2 Notes the results of the 6 July to 17 August 2018 consultation on the renewal of the Central Ealing Neighbourhood Forum and agree to the renewal of the Forum for another fixed period of 5 years as set out in paras 3.9-3.11.
- 1.3 Agree to the neighbourhood planning principles set out in para 3.8 below and, in particular, to delegate authority to the Executive Director of Regeneration and Housing to designate a neighbourhood forum or area (including whether it is to include a business forum) following consultation with the Lead Member for Planning and the councillors for any wards that are included in the proposed area and any other necessary arrangements to enable the Council to meet its obligations under the Neighbourhood Planning (General) Regulations 2012 (as amended).

2. Reason for Decision and Options Considered

- 2.1 Further to the report to Cabinet of 25th July 2012 that set out Ealing's approach to neighbourhood planning, this report provides an update on progress and legislative change in the interim, as well as seeking authority to update the Council's governance arrangements for neighbourhood planning.

3. Key Implications

- 3.1 A neighbourhood plan is a community-led framework for guiding the future development of an area. Once adopted it becomes part of the statutory development plan for an area and provides policies which are used to help determine planning applications. The body responsible for the preparation of a Neighbourhood Plan is a Neighbourhood Forum which is formally designated by the Council in its role as the Local Planning Authority following a formal period of public consultation.
- 3.2 Subsequent to the measures for neighbourhood planning introduced by the Localism Act 2011, Ealing Council designated the Central Ealing and West Ealing Centre Neighbourhood Forums on 27 March 2013 and subsequently Greater Central Acton Neighbourhood Forum on 20 January 2016.
- 3.3 Central Ealing Neighbourhood Plan came into force on 13 October 2017 following the successful votes at neighbourhood and business area referenda the previous day. West Ealing Centre Neighbourhood Plan came into force on 4 May 2018 following the successful votes at neighbourhood and business area referenda the previous day. Both Fora lapsed after their 5-year period of designation ended on 27 March 2018. Central Ealing Neighbourhood Forum (CENF) applied on 28 June 2018 to be designated for another 5 years, and West Ealing Centre Neighbourhood Forum has indicated that it will not apply for redesignation. The proposal for redesignation of CENF is discussed below in paras 3.9-3.11.

- 3.4 In addition, since the original Cabinet report, the Old Oak and Park Royal Mayoral Development Corporation (OPDC) has come into being as the Local Planning Authority for a portion of the North-East corner of the Borough as well as sections of neighbouring LB Brent and LB Hammersmith and Fulham. On 26 November 2015 OPDC designated the Harlesden Neighbourhood Forum (which lies largely within Brent but includes one site in Ealing), and on 9 February 2018, OPDC designated the Old Oak Neighbourhood Forum which lies wholly within LB Ealing. Responsibility for the Local Planning Authority planning functions of these two neighbourhood areas rests entirely with LB Brent and OPDC, however, the eventual referendum for Old Oak Common Neighbourhood Plan will be the responsibility of LB Ealing in co-ordination with OPDC.
- 3.5 Development of neighbourhood plans is not led by the Council, but it does sit within the broader statutory planmaking process. Development of the evidence base for Ealing's Local Plan is currently well underway and the Local Development Scheme anticipates this will be completed at the end of 2018. This will then be followed by two stages of public and stakeholder consultation in Autumn of 2019 and early 2020, before Examination in Public in Spring 2020, and final adoption currently anticipated in Summer 2020.
- 3.6 New forms of public engagement will be particularly important to the development of the local plan to ensure that hard to reach groups are involved in the process as well as other residents, stakeholders, businesses, investors, and landowners. Officers are currently developing a strategy for consultation that harnesses a range of new online and social media to involve the broadest possible range of people in the new local plan.
- 3.7 There have also been numerous legislative changes since the original Cabinet report. These are set out in the Neighbourhood Planning (General) (Amendment) Regulations 2015, the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, and the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2017 all of which amend the Neighbourhood Planning (General) Regulations 2012.
- 3.8 These changes to legislation have been complex but their main effect in respect of neighbourhood planning procedures for Local Planning Authorities has been the imposition of a statutory time limit upon;
- the designation of a neighbourhood area.
 - the designation of a neighbourhood forum.
 - the decision by a local planning authority on whether to put a neighbourhood plan or order proposal to referendum following receipt of the report of the independent examiner.
 - the time period for a local planning authority to seek further representations and make a final decision, where they propose to make a decision which differs from that recommended by the examiner.

- the time period within which the referendum must be held, following the decision that the plan or Order proposal should be put to referendum;
 - the time period for a local planning authority to make a neighbourhood plan or Order after it has been approved in each applicable referendum.
 - the time period for a local planning authority to make a modified neighbourhood plan following receipt of the report of the independent examiner, where the modifications do not change the nature of the plan.
- 3.9 In many of these cases, where a decision is not made within the statutory time period the right of the Council to make the decision is forfeited, and the proposal proceeds by default. It is therefore essential that the Council's decision making process for neighbourhood planning is made more efficient in order that proper scrutiny of these decisions is still possible.
- 3.10 It is therefore proposed that Ealing introduces two primary stages for decision making on neighbourhood planning:

- Stage 1 – Designation of a neighbourhood forum or area:

Authority for the decision to designate a neighbourhood forum or area including whether it is to include a business forum is proposed be delegated to the Executive Director for Regeneration and Housing following consultation with the Lead Member for Planning and the Councillors for any wards that are included in the proposed area. Where a decision is made under this delegation an update report setting out the decision and justification will follow at the next suitable meeting of Cabinet.

- Stage 2 – Submission of a neighbourhood plan or development order:

This is the only major decision stage in the neighbourhood planning process not to be circumscribed by a statutory time period and it is therefore proposed that it becomes the Council's principal decision making stage on the form and content of the plan. It is proposed that upon the receipt of a correctly prepared plan or order and supporting documentation a full report will be brought to Cabinet setting out the recommended approach to the plan or order and the provisions that it contains. The report will seek appropriate delegations to the Executive Director for Regeneration and Housing to allow the subsequent stages in the examination, referendum, and adoption process to be completed within their statutory time periods.

Submission of the plan to the LPA is the first point at which it is available to officers in the final form which will be submitted for independent examination. This stage is therefore the earliest and best point at which to seek Cabinet approval for the proposed approach to the plan, and to set out how officers should respond to the subsequent stages of its examination, referendum and adoption.

- 3.11 In line with the proposals set out above it recommended that Cabinet agree to the redesignation of the Central Ealing Neighbourhood Forum within the same boundaries that it operated for 5 years between 27 March 2013 and 27 March 2018.
- 3.12 A correctly prepared application and supporting documents were received by the Council on 28 June 2018 and a public consultation was subsequently run for 6 weeks from 6 July to 17 August. A total of 23 responses were received, 21 of which supported the redesignation of the Forum for another 5-year period, 1 of which expressed support for the implementation of the Central Ealing Neighbourhood Plan but did not mention the renewal of the Forum, and one of which (a response from statutory consultee Natural England) expressed no view on the renewal of the Forum but provided a list of resources useful to neighbourhood planning.
- 3.13 Given the positive response to the consultation and the lack of any changes to the Forum boundary, which coincides with the adopted Central Ealing Neighbourhood Plan, it is recommended that Cabinet agrees to the designation of the Forum.

4. Financial

- 4.1 There are no direct financial implications arising from this report.

5. Legal

- 5.1 Chapter 3 of Part 6 of the Localism Act 2011 creates a new neighbourhood planning regime in England mainly by inserting new provisions into the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004 (see Part 1 of Schedule 9, and Schedules 10 and 11, for the provisions inserted into the 1990 Act, and Part 2 of Schedule 9 for the provisions inserted into the 2004 Act).
- 5.2 The 1990 Act provides that within a designated neighbourhood area a parish council or a designated neighbourhood forum may propose a neighbourhood development order and Schedule 4B (as read with the modifications in Schedule 4C for community right to build orders (which are a particular type of neighbourhood development order)) sets out the framework for making such orders.
- 5.3 The 2004 Act provides that within a designated neighbourhood area a parish council or a designated neighbourhood forum may propose a neighbourhood development plan and Schedule 4B to the 1990 Act (as applied, with modifications, by section 38A of the 2004 Act) sets out the framework for making such plans.

- 5.4 The Neighbourhood Planning (General) Regulations 2012 (as amended) came into force on April 6th 2012 and set out the detailed provisions for the setting up and administration of neighbourhood areas.
- 5.5 The Regulations require that the Neighbourhood Forum and Area must, inter alia, have a constitution, at least 21 members representative of the area and no part of the proposed Neighbourhood Area may overlap with any other designated Neighbourhood Area.
- 5.6 A local planning authority may designate an organisation or body as a neighbourhood forum if the authority is satisfied (amongst other things) that it 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 purpose of promoting the carrying on of trades, professions or other businesses in such an area).
- 5.7 A Neighbourhood Plan must meet certain “basic conditions” including having regard to national planning policy, contribute to the achievement of sustainable development, be in general conformity with the strategic policies in the development plan for the local area, be compatible with human rights requirements and EU obligations. In his examination of the plan the independent examiner concludes that: “the plan does contribute to the achievement of sustainable development and is just sufficient to meet the Basic Conditions” (Para 4.6).
- 5.8 A Neighbourhood Plan must comply with certain legal requirements which in summary include whether it has been prepared and submitted for examination by a qualifying body; has been prepared for an area that has been properly designated; meets the requirements that they must not have excluded development; relates to more than one neighbourhood area; and, relates to the development and use of land. In his examination of the plan the independent examiner concludes that the Plan meets these legal requirements.
- 5.9 Following receipt of the Examiner’s report the LPA must itself decide whether it wishes to bring the Plan into force and if it decides to do so must first make arrangements for the necessary referendums to take place. The rules relating to the process for the referendum are contained in the Neighbourhood Planning (Referendum) Regulations 2012.
- 5.10 If the outcome of the referendums is split the LPA must itself decide whether or not the Plan should be brought into force. The criteria recommended to be taken into account in that scenario are set out in paragraphs 3.21 and 3.22 above.
- 5.11 If the outcome of the referendums supports the Plan then it must be brought into force within 8 weeks of the referendum.

6. Value for Money

This report does not entail any further direct financial commitments.

7. Sustainability Impact Appraisal

The Council will conduct appropriate assessment or screening of neighbourhood plans to determine whether or not they require Strategic Environmental Assessment. The independent Examiner concluded that the plan meets the basic conditions which include contributing towards sustainable development.

8. Risk Management

None arising directly from this report but see Para 3.7.

9. Community Safety

None arising directly from this report.

10. Links to the 3 Key Priorities for the Borough

Neighbourhood plans can help to contribute to all of the Key Priorities but the extent to which this can be achieved will ultimately depend on the scope of any individual plan.

11. Equalities, Human Rights and Community Cohesion

- 11.1 The Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights. It also complies with the Human Rights Act 1998. CENF has been advised by Ealing Council that it does not need to produce an Equalities Impact Assessment.
- 11.2. The Central Ealing Neighbourhood Forum and the Council have, at all times, sought to ensure that all sections of the community have been given the opportunity to get involved in making the plan and have had the opportunity to express their views on the plan. The process of drawing up the plan, and the work of the Forum since its inception, is set out in the separate Consultation Statement and its operation is governed by the approved constitution. The Consultation Statement details the extensive consultation and engagement on which the Plan has been based.
- 11.3 Subsequent to the receipt of the Examiner's report, guidance states (NPPG 092 Reference ID: 41-092-20161116) that the LPA must then decide what action to take in response to each of the report's recommendations. If the authority proposes to make a decision which differs from that recommended by the examiner, it must notify the following people or groups of their proposed decision (and the reason for it) and invite representations. Officers do not recommend any departure from the recommendations made by the examiner, and modifications contained in the annexed version of the plan are

limited to clarifications and technical revisions designed to implement these recommendations.

12. Staffing/Workforce and Accommodation implications

There are no direct staffing implications arising from this report.

13. Property and Assets

There are no property implications arising from this report.

14. Any other implications

There are no other implications arising from this report.

15. Consultation

None arising directly from this report.

16. Timetable for Implementation

For decision by Cabinet on 16th October and to be implemented by 28th October 2018 if not called in.

17. Appendices

Appendix 1 – Central Ealing Neighbourhood Forum Application including Constitution

18. Background Information

The following documents are relevant to this report. Most can be viewed on the internet site at www.ealing.gov.uk/planpol (Ealing Council) or www.communities.gov.uk (the Department of Communities and Local Government) or www.london.gov.uk (the Mayor of London). Alternatively, contact the author of this report.

(i) In respect of the legislative framework:

- Localism Act, 2011
<http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>
- Communities and Local Government information and guidance
<http://www.communities.gov.uk/localgovernment/decentralisation/localismbill/>
- Neighbourhood Planning Regulations, 2012
<http://www.legislation.gov.uk/uksi/2012/637/made>
- The Neighbourhood Planning (Referendums) Regulations 2012 as amended
<http://www.legislation.gov.uk/ukdsi/2012/9780111525050/contents>
- Neighbourhood Planning (General) (Amendment) Regulations 2015
<http://www.legislation.gov.uk/uksi/2015/20/contents/made>

- Neighbourhood Planning (General) and Development Management Procedure (Amendment)
<http://www.legislation.gov.uk/uksi/2016/873/contents/made>
- The Housing and Planning Act 2016
<http://www.legislation.gov.uk/ukpga/2016/22/section/141/enacted>
- Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2017
<http://www.legislation.gov.uk/uksi/2017/1243/made>

(ii) In respect of previous reports on the Localism Act considered by LBE:

- The Localism Act, Report to Cabinet, January 10th 2012
- The Localism Act 2011: Some Implications for Planning Policy, Report to Local Development Framework Advisory Committee, January 18th 2012
- Neighbourhood Planning, Report to Cabinet, July 25th 2012

(iii) In respect of the Planning Policy framework:

- Ealing's Adopted Development (or Core) Strategy, April 3rd 2012.
- Ealing's Adopted Development Sites DPD and Development Management DPD (together with an associated Adopted Policies map), December 10th 2013.
- Ealing's Planning for Schools DPD – Submission Version July 2015.
- Authorities' Monitoring Reports, Ealing Council, 2005, 2006, 2007, 2008, 2009, 2010, 2011 2012, 2013 and 2014.
- Statement of Community Involvement, June 2006 and July 2011.
- Ealing's Sustainable Community Strategy, 2006, updated 2008 and 2011.
- Ealing's Local Area Agreement, 2008.
- Southall Opportunity Area Planning Framework, July 2014
- The London Plan, March 2015.
- Localism Act, 2011.
- National Planning Policy Framework, July 2018.
- Town and Country Planning (Local Development) (England) (Amendment) Regulations 2012.

There is also a number of background and evidence base reports that have informed the local planning process and these can be accessed at:

http://www.ealing.gov.uk/info/200921/local_plans/614/evidence_base

In addition, there are a number of reports relating to previous rounds of community and stakeholder consultation including reports on representations made and the council's responses. This can be accessed at:

http://www.ealing.gov.uk/info/200921/local_plans/1242/previous_consultations

Consultation

Name of consultee	Post held	Date sent to consultee	Date response received	Comments appear in paragraph:
Tony Clements	Executive Director Regeneration and Housing	13.09.18		
Lucy Taylor	Director of Regeneration and Planning	13.09.18	13.09.18	
David Scourfield	Borough Planner	13.09.18		
Jackie Adams	Head of Legal (Property & Regulatory)	13.09.18	19.09.18	1.3
John Prince	Interim Finance Business Partner for Regeneration & Housing	13.09.18	20.09.18	4.1

Report History

Decision type:	Urgency item?
Key decision	Yes
Report no.:	Report author and contact for queries:
	Steve Barton, Strategic Planning Manager, bartons@ealing.gov.uk