

CABINET MEMBER DELEGATED DECISION 2 JUNE 2021

Report title: Application to re-designate the Kennington, Oval and Vauxhall Neighbourhood Forum

Wards: Bishop's, Oval and Prince's

Portfolio: Cabinet Member for Planning, Investment and New Homes: Councillor Matthew Bennett

Report Authorised by: Eleanor Purser and Sara Waller: Strategic Directors for Sustainable Growth and Opportunity

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REPORT SUMMARY

In September 2020, an application was received from Kennington, Oval and Vauxhall Neighbourhood Forum for re-designation as the neighbourhood forum for the Kennington, Oval and Vauxhall neighbourhood area. The neighbourhood forum was originally designated on 13 July 2015. In accordance with the statutory provisions the designation expired after five years on 13 July 2020. Once a designation has expired a new application for designation is necessary if the neighbourhood forum wishes to continue to be able to carry out its role in the preparation of a neighbourhood development plan.

The application was publicised for a period of six weeks from 11 January to 22 February 2021 in accordance with the Neighbourhood Planning (General) Regulations 2012.

It is recommended that the Cabinet Member approves the application for the re-designation of Kennington, Oval and Vauxhall Neighbourhood Forum as the neighbourhood forum for the relevant neighbourhood area.

FINANCE SUMMARY

The revenue costs associated with the re-designation of the neighbourhood forum were funded through existing resources.

RECOMMENDATIONS

- 1) To approve the application at Appendix 1 for the re-designation of Kennington, Oval and Vauxhall Neighbourhood Forum as the neighbourhood forum for the Kennington, Oval and Vauxhall neighbourhood area.

- 2) That the Cabinet Member delegates to officers the publication of the decision and the preparation of any associated documents required arising from recommendation (1) in accordance with the statutory requirements

1. CONTEXT

- 1.1 The Localism Act 2011 introduced the opportunity for local communities to produce Neighbourhood Development Plans (NDPs), Neighbourhood Development Orders and Community Right to Build Orders. NDPs allow communities to shape development and growth in their local areas and form part of the statutory development plan for the area they cover, once made.
- 1.2 The first stage of preparing a NDP is the designation of a neighbourhood forum and a neighbourhood area. The process for designating a neighbourhood forum is set out in the Town and Country Planning Act 1990 (as amended by the Localism Act 2011) and the Neighbourhood Planning (General) Regulations 2012. Neighbourhood plans can be led by parish or town councils, neighbourhood forums or community organisations. Where there are no parish or town councils, a group or organisation can apply to the local planning authority to be designated as a neighbourhood forum. A neighbourhood forum designation expires after five years.
- 1.3 Under the Town and Country Planning Act 1990 and the Neighbourhood Planning (General) Regulations 2012, once a local planning authority receives an application for a neighbourhood forum designation, they are required to publicise it and invite comments for a minimum period of six weeks. The legislation includes no specific provisions relating to applications for the re-designation of neighbourhood forums. In those circumstances it is necessary to follow the same process as for the original forum designation
- 1.4 Kennington, Oval and Vauxhall Neighbourhood Forum (which is generally referred to, including in this report, as 'KOV') was first designated as a neighbourhood forum by Lambeth on 13 July 2015 alongside the designation of the Kennington Oval and Vauxhall Neighbourhood Area. The neighbourhood forum designation expired on 13 July 2020.
- 1.5 KOV undertook pre-submission consultation on its draft NDP in Spring 2018. The draft NDP has not been submitted to the Council.
- 1.6 The current application is concerned only with the renewal of the neighbourhood forum designation.
- 1.7 An application to re-designate Kennington, Oval and Vauxhall Neighbourhood Forum was submitted to the Council on 28 September 2020. The application was considered by officers to meet the statutory requirements for designation of a neighbourhood forum. The application is included at Appendix 1.
- 1.8 In accordance with the relevant regulations the application was publicised and comments were invited for a period of six weeks between 11 January and 22 February 2021.
- 1.9 This report considers the KOV neighbourhood forum re-designation application in relation to the statutory requirements for designation of neighbourhood forums and the representations on the application received by the Council during the publication period.

2. PROPOSAL AND REASONS

2.1 The requirements for considering neighbourhood forum applications are set in the Town and Country Planning Act 1990 and the Neighbourhood Planning (General) Regulations 2012. The requirements for a neighbourhood forum application are set out below, followed by an assessment of the KOV application against these requirements and consideration of comments made in the consultation responses.

Requirements for a neighbourhood forum application

- 2.2 The Neighbourhood Planning (General) Regulations 2012 require that an application to designate a neighbourhood forum 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 map which identifies the area;
 - d) The contact details of at least one member of the proposed neighbourhood forum to be made public; and
 - e) A statement which explains how the proposed neighbourhood forum meets the conditions contained in section 61F (5) of the Town and Country Planning Act 1990.
- 2.3 The conditions contained in section 61F(5) of the Town and Country Planning Act 1990 are that:
- a) The neighbourhood forum 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;
 - b) 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;
 - c) Its membership includes a minimum of 21 individuals each of whom
 - i) Lives in the neighbourhood area concerned,
 - ii) Works there, 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; and
 - d) It has a written constitution.
- 2.4 Section 61F(7)(a) of the Town and Country Planning Act 1990 sets out that when determining whether to designate a neighbourhood forum, the authority must 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 the categories set out above;
 - 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 which reflects (in general terms) the character of the neighbourhood area.
- 2.5 Only one organisation or body can be designated as a neighbourhood forum for each neighbourhood area.

Consideration of the Kennington, Oval & Vauxhall Neighbourhood Forum re-designation application against statutory requirements

- 2.6 An assessment has been made of the application to re-designate the Kennington, Oval and Vauxhall Neighbourhood Forum against the requirements of the Town and Country Planning Act 1990 and the Neighbourhood Planning (General) Regulations 2012. This assessment is set out in Table 1, Appendix 2 and concludes that the application meets all the requirements.
- 2.7 In summary, KOV's application includes the information required under the Neighbourhood Planning (General) Regulations 2012. This includes a statement which explains how the proposed neighbourhood forum meets the conditions contained in sections 61F (5) and 61F (7)(a) of the Town and Country Planning Act 1990. This statement demonstrates that the neighbourhood forum is established for the express purpose of promoting or improving the social, economic and environmental well-being of the KOV neighbourhood area. KOV's application also includes a statement that membership is open to individuals who live or work in, or who are elected members of the London Borough of Lambeth for wards any part of which falls within, the neighbourhood area.
- 2.8 The statement sets out that KOV has over 750 members, all of whom live or work in the area or are an elected member. A list of 21 named members was provided as part of the application, detailing their connection to the designated neighbourhood area. Of the 21 members, 18 live in the area, two work in the area and one is an elected member of Lambeth Council. This satisfies the requirements in section 61F(7)(a)(i) concerning the desirability of having at least one member from each of the three categories specified in the legislation.
- 2.9 Address information was provided for the 20 members who live or work in the neighbourhood area. Analysis of the locations of the 20 addresses provided shows that those members are drawn from different places in the neighbourhood area. Information about the postcodes of the wider membership was not supplied with the application.
- 2.10 With regard to the desirability that KOV's membership is drawn from different sections of the community in the KOV neighbourhood area, the application states that "members are drawn from across the area, the socio-economic spectrum, and the range of ethnicities, ages, faith groups etc, in this particularly diverse area of inner London" and that "the list of some 750 members demonstrates the diversity with individuals drawn from the full range of residential types represented in the KOV area." The supporting statement also describes measures taken to help ensure that members are drawn from different sections of the community, such as ensuring a KOV presence at a variety of community events; holding consultations and presentations at a range of locations across the neighbourhood area including churches and community centres; ensuring that leaflets reached individual households within the area's social housing estates, as well as street properties (including those in multiple occupation) to encourage representation from across the community. No information has been provided about when these activities took place.
- 2.11 No demographic or other statistical evidence has been provided regarding the location within the neighbourhood area of the Forum's members beyond the group of 20 members, or about the composition of KOV's membership by, for example, age, ethnicity or socio-economic group. It is noted that the requirement of section 61F(7)(a)(ii) is for the local planning authority to have regard to the desirability of designating an organisation whose membership is drawn from different places in the neighbourhood area and from different sections of the community. The results of the postcode analysis indicate that in relation to the 20 members, there is a distribution across the neighbourhood area. The Forum has provided narrative information about the locations of the

broader membership. Narrative information has also been provided about the make-up of the Forum's membership and the steps taken by the Forum to promote itself at various community events. Taking account of all the information provided, officers are satisfied that the re-designation of the Forum is in accordance with section 61F(7)(a)(ii).

- 2.12 Turning to section 61F(7)(a)(iii), the neighbourhood area is characterised by a mix of commercial and residential uses with a historic and diverse built environment. KOV's written constitution states that the forum's purpose is to foster public involvement in policy making and service provision at community level and promote and improve the social economic and environmental well-being of the area. Specific objectives include protecting the historic and diverse character of the area, and involving local people in shaping Council policies, having regard for the wide diversity of the community in the area. KOV have also produced an initial Draft Neighbourhood Plan which seeks to achieve these objectives. Officers therefore consider that KOV's stated purpose reflects in general terms the character of the area.

Consideration of consultation responses on the Kennington, Oval and Vauxhall Neighbourhood Forum re-designation application

- 2.13 A total of 116 written representations were received during the publication period for the application, submitted via email or an online form. A further forty-five online forms were submitted where the contact details section had been completed but space for written comments had been left blank. These forms have not been included in the total.
- 2.14 The majority of representations submitted (92, or 79%) were wholly in support of the application to re-designate the neighbourhood forum. Ten representations wished to make no comments on the application or were neutral. Three representations commented on matters that were not related KOV's re-designation application. Eleven responses contained some element of objection to the re-designation of KOV as a neighbourhood forum.
- 2.15 A full schedule of the representations received and an officer response to the representations that have been classed as objections is included in Appendix 3. A summary of the concerns raised within the eleven representations classed as objecting to the re-designation application, and officer consideration of these points, is set out below.
- 2.16 Firstly, the following issues were identified with the list of 21 members:
- The list is out of date
 - Some of the named members are no longer active in the area
 - Only a few individuals are involved in preparing the neighbourhood plan

Following receipt of these comments, officers met with a representative from KOV to ask for further information about the list of 21 members. The representative advised that the list of members was compiled shortly before the re-designation application was submitted, and that all named members had been contacted and had given their permission to be included. KOV's representative also explained that the 21 members had various levels of involvement, with some having been more closely involved in preparation of the draft neighbourhood plan via a Neighbourhood Plan Steering Group at various stages. On the basis of this additional information, officers are satisfied that the list of 21 members is accurate and up-to-date, and that therefore KOV's application for designation meets the requirements of section 61F(5)(c) of the Town and Country Planning Act 1990.

- 2.17 A second set of concerns relates to the general representativeness of the wider membership of KOV. As stated in paragraph 2.11 above, officers have considered the information provided in the

supporting statement for the application and have concluded that reasonable endeavours have been made to address the desirability of KOV's wider membership being drawn from different sections of the community.

- 2.18 The final set of concerns relate to the management and organisation of the KOV neighbourhood forum, specifically that:
- The activities listed in the constitution (including an AGM) had not taken place for several years; and
 - There is a perceived lack of transparency in how meetings, events and decisions have been publicised in the local community.
- 2.19 Views about the management and organisation of a neighbourhood forum are not considered relevant to the criteria against which the re-designation application must be assessed under the Town and Country Planning Act 1990 and the Neighbourhood Planning (General) Regulations 2012. Therefore this set of comments has not been taken into consideration in the assessment of the application.

Recommendation in respect of the re-designation of the neighbourhood forum

- 2.20 In light of the considerations set out above, officers consider that the criteria for re-designation of the forum have been met and it is therefore recommended to approve the re-designation of Kennington, Oval and Vauxhall Neighbourhood Forum as the neighbourhood forum for the Kennington, Oval and Vauxhall neighbourhood area.
- 2.21 The Cabinet Member is asked to note that the Regulations state that a local planning authority must determine an application to designate a neighbourhood forum within 13 weeks beginning with the day immediately following that on which the application is first publicised.
- 2.22 In this case, it was necessary to give the applicant the opportunity to respond to the concerns raised through the consultation, before making a recommendation on the application. It was not possible to complete this exercise within the 13 week timescale from first publication allowed for by the Regulations. The 13 week period expired on 13 April 2021 and so the application is being determined six weeks later than this. In the case of the designation of a neighbourhood forum, the Regulations do not specify any default outcome if the decision is taken later than the 13 week period. KOV has been informed that the decision will be made after the 13 week period and has not objected to this.

3. FINANCE

- 3.1 The revenue costs associated with the re-designation of the neighbourhood forum were funded through existing resources.

4. LEGAL AND DEMOCRACY

- 4.1. The requirements for designation of neighbourhood forums are set out in the Town and Country Planning Act 1990 and in the Neighbourhood Planning (General) Regulations 2012. The legislation does not provide a specific process for re-designation of a neighbourhood forum after the expiration of the initial designation. In those circumstances, it is necessary to follow the same process that applies in the case of an application for initial designation.

- 4.2. The report explains the criteria that need to be applied in relation to an application for neighbourhood forum designation and whether these are considered to be satisfied in this case. The legislation (section 61F of the Town and Country Planning Act 1990) indicates that a local planning authority 'may' designate a neighbourhood forum if it is satisfied that the forum meets the criteria laid down in the legislation. Whilst this amounts to a discretion, it is not considered that the exercise of this discretion would entitle the local planning authority to assess the application against its own criteria that depart from the conditions set out in the legislation and which an organisation applying for designation would not have been directed to address in its application. Where a forum can demonstrate that its application complies with the conditions in s61F(5) and where the local planning authority has also had regard to the extent to which the application satisfies the additional matters specified in s61F(7), it is considered that there would need to be a very specific and objectively-founded reason to decline to designate a forum in those circumstances.
- 4.3. The Planning Practice Guidance regarding the designation of neighbourhood forums states as follows (paragraph: 016 Reference ID: 41-016-20140306):

What is a designated neighbourhood forum?

A designated neighbourhood forum is an organisation or group empowered to lead the neighbourhood planning process in a neighbourhood area where there is no town or parish council.

A group or organisation must apply to the local planning authority to be designated as a neighbourhood forum (a forum application). Those making a forum application must show how they have sought to comply with the conditions for neighbourhood forum designation. These are set out in section 61F(5) of the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004.

To be designated a neighbourhood forum must have a membership that includes a minimum of 21 individuals who either:

*live in the neighbourhood area
work there; and/or*

are elected members for a local authority that includes all or part of the neighbourhood area

- 4.4. The 2012 Regulations were amended in 2016 to introduce prescribed timescales for the determination of neighbourhood forum applications, requiring the local planning authority to determine the application within 13 weeks from when the application is first publicised in the manner required by Regulation 9 of the 2012 Regulations. The reasons for the delay are noted in paragraph 2.22 of the report.
- 4.5. The 2012 Regulations do not contain any form of default outcome in the event that the local planning authority fails to meet the 13 week timescale for determination of an application for neighbourhood forum designation. This is in contrast to the position in relation to neighbourhood area designation applications. For neighbourhood area applications, the Regulations provide that if the local planning authority fails to determine the neighbourhood area application in time, it is then required to secure the designation of the whole of the neighbourhood area applied for subject only to the exceptions provided for in the relevant Regulation. There is no equivalent provision in relation to neighbourhood forum applications. The Planning Practice Guidance does not contain any commentary on this specific issue.

- 4.6. The power to designate a neighbourhood forum is contained in primary legislation (s61F of the Town and Country Planning Act 1990). In view of this, and given the absence of any alternative outcome being specified in the legislation where the timescale is not adhered to, it is considered that the local planning authority retains the power to be able to designate the neighbourhood forum albeit that it does so after the expiry of the 13 week period. .
- 4.3. This proposed key decision was entered in the Forward Plan on 24 August 2020 and the necessary 28 clear days' notice has been given. In addition, the Council's Constitution requires the report to be published on the website for five clear days before the proposed decision is made by the Cabinet Member. Any representations received during this period must be considered by the decision-maker before the decision is taken. A further period of five clear days, the call-in period, must then elapse before the decision is enacted. If the decision is called-in during this period, it cannot be enacted until the call-in has been considered and resolved.

5. CONSULTATION AND CO-PRODUCTION

- 5.1. The Neighbourhood Planning (General) Regulations 2012 require that a neighbourhood forum application is published by the local planning authority as soon as possible for comment. This must include making available online and in such manner as is likely to bring the application to the attention of people who live, work or carry on business in the area concerned, a copy of the application, details of how to make representations and the date by which those representations must be received, which must be within no less than 6 weeks.
- 5.2. In accordance with the regulations, the re-designation application was published on the Council's website for a 6 week period from 11 January to 22 February 2021. The following measures were taken to publicise the application and invite comments:
- Publication on the Council's neighbourhood planning and consultation webpages
 - A notification email to all those on the planning policy consultation database
 - A notification email to residents and businesses in Oval, Prince's and Bishops wards, and to the Lambeth Forums Network.
 - A Love Lambeth blogpost
 - Promotion on the Council's social media channels
- 5.3. The response to the consultation is summarised in section 2 above and set out in full in the schedule in Appendix 3.

6. RISK MANAGEMENT

- 6.1 The steps that have been taken in relation to the designation application follow those laid down in legislation, with the exception of the requirement to determine the application within 13 weeks of first publication
- 6.2 It is noted in paragraph 2.22 that the neighbourhood forum is aware that the 13 week timescale has not been adhered to and has not objected. It is further noted in section 4 of the report that it is considered that the Council has the power to designate the forum despite needing to go beyond the 13 week timescale, provided that the forum application meets the statutory requirements.

- 6.3 There is a possibility that a third party (other than the forum) itself might disagree with the decision to designate the forum, either generally or because of the expiry of the 13 week period. If that were to happen the position would need to be re-assessed at that point.

7. EQUALITIES IMPACT ASSESSMENT

- 7.1 An Equalities Impact Assessment (EIA) is provided in Appendix 4 and concludes that there is the potential for the re-designation to have a positive impact, because it means a wide range of local people may potentially be able to become more closely involved in local planning issues. .

8. COMMUNITY SAFETY

- 8.1 No impact.

9. ORGANISATIONAL IMPLICATIONS

Environmental

- 9.1 None

Health

- 9.2 None

Corporate Parenting

- 9.3 None

Staffing and accommodation

- 9.4 None

Responsible Procurement

- 9.5 None

10. TIMETABLE FOR IMPLEMENTATION

- 10.1 The Neighbourhood Planning (General) Regulations 2012 require that as soon as possible after designating a neighbourhood forum, the local planning authority must publish the following on their website and in such other manner as they consider is likely to bring the designation to the attention of people who live, work or carry on business in the neighbourhood area: 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 designation relates; and contact details for at least one member of the neighbourhood forum.
- 10.2 If an application for neighbourhood forum designation is refused, the Council must publish a document setting out the decision and a statement of reasons for the decision as soon as possible after the decision is made.
- 10.3 It is anticipated that the information required will be published on the Council's website during June 2021. The expected timetable for implementation is set out below:

Activity	Proposed Date
Date published on Forward Plan	24.08.20
Publication on Decisions online	24.05.21
End of Publication Period	24.05.21
Cabinet Member Decision	24.05.21
End of call-in period	02.06.21
Publication of required information on Council's website	May 2021

Audit Trail				
Name and Position/Title	Lambeth Directorate	Date Sent	Date Received	Comments in paragraph:
Councillor Matthew Bennett	Cabinet Member for Planning, Investment and New Homes	12.05.2021	19.05.2021	
Eleanor Purser and Sara Waller, Strategic Directors	Sustainable Growth and Opportunity	11.05.2021	12.05.2021	
Rob Bristow, Director - Planning, Transport and Sustainability	Sustainable Growth and Opportunity	10.05.2021	11.05.2021	
Catherine Carpenter, Head of Policy and Placeshaping	Sustainable Growth and Opportunity	15.04.2021	28.04.2021	Throughout
Matthew Gaynor, Finance	Finance and Property	29.04.2021	04.05.2021	3.1
Susan Boucher, Legal Services	Legal and Governance	23.04.2021	06.05.202	Throughout
Nazyer Choudhury, Democratic Services	Legal and Governance	29.04.2021	04.05.2021	Section 2, Section 10.

Report History	
Original discussion with Cabinet Member	10.08.20
Report deadline	12.05.21
Date final report sent	12.05.21
Part II Exempt from Disclosure/confidential accompanying report?	No
Key decision report	Yes
Date first appeared on forward plan	24.08.20
Key decision reasons	3. Meets community impact test.
Background information	Town and Country Planning Act 1990 Neighbourhood Planning (General) Regulations 2012
Appendices	Appendix 1 – <i>KOV Neighbourhood Forum Re-designation application</i> Appendix 2 - <i>Assessment of Redesignation Requirements</i> Appendix 3 - <i>Schedule of Representations</i> Appendix 4 - <i>Equalities Impact Assessment</i>

APPROVAL BY CABINET MEMBER OR OFFICER IN ACCORDANCE WITH SCHEME OF DELEGATION

I confirm I have consulted Finance, Legal, Democratic Services and the Procurement Board, and taken account of their advice and comments in completing the report for approval:

Signature: _____ **Date:** _____

Post: Amy Tanner
Principal Policy Planner

I approve the above recommendations:

Signature: _____ **Date:** _____

Post: Councillor Matthew Bennett
Cabinet Member for Planning, Investment and New Homes

Any declarations of interest (or exemptions granted): None

Any conflicts of interest: None

Any dispensations: None