



REPORT OF:	HEAD OF PLACES & PLANNING
AUTHOR:	Catherine Rose
TELEPHONE:	01737 276766
E-MAIL:	catherine.rose@reigate-banstead.gov.uk
TO:	EXECUTIVE
DATE:	25 JUNE 2015
EXECUTIVE MEMBER:	COUNCILLOR T SCHOFIELD

KEY DECISION REQUIRED:	YES
WARD (S) AFFECTED:	TADWORTH & WALTON

SUBJECT:	APPLICATION FOR DESIGNATION OF NEIGHBOURHOOD AREA AND NEIGHBOURHOOD FORUM, TADWORTH
-----------------	--

RECOMMENDATIONS:

- (i) Support the principle of a Neighbourhood Forum for Tadworth, but refuse the application for designation of the Tadworth Forum as a Neighbourhood Forum, for the reason that the Council cannot be satisfied that the group meets the conditions and tests for designation set out in section 61F (5) and (7) of the Town and Country Planning Act 1990 (as amended).
- (ii) Do not determine the application for designation of a Neighbourhood Area for Tadworth by the Tadworth Forum for the reason that the Tadworth Forum are not a relevant body for the purposes of section 61G the Town and Country Planning Act 1990 (as amended), and the application is therefore not valid.
- (iii) Advise the Tadworth Forum that for their application for designation of a Neighbourhood Area to be valid, further information demonstrating that they are capable of being designated as a Neighbourhood Forum should be provided.

REASONS FOR RECOMMENDATIONS:

Recommendation (i): The principle of establishing a Neighbourhood Forum in Tadworth for the purposes of preparing a Neighbourhood Plan is supported. However the current application fails to demonstrate that the conditions and tests for designation of a Neighbourhood Forum set out in the Town and Country Planning Act 1990 (as amended) have been met. Specifically, the Council cannot be satisfied that:

- a. the Forum has been established for the express purpose of promoting the social, environmental and economic well-being of the area through the neighbourhood plan making system, or that it has a purpose that reflects the general character of the area
- b. the Forum's membership is genuinely open to individuals who live in, work in or are elected members for, the area concerned
- c. the Forum will operate in a manner consistent with the requirement for a minimum of 21 members

- d. the Forum has a written constitution that has been properly agreed by the Forum
- e. the Forum has a representative membership drawn from different places in the area concerned and from different sections of the community.

Recommendation (ii): Assessment of the application information provided by the Tadworth Forum has concluded that the Council cannot be satisfied that the conditions for designation of a Neighbourhood Forum have been met. The Tadworth Forum in its current form is therefore not capable of being designated as a Neighbourhood Forum. As such, it is not a relevant body for the purposes of the Town and Country Planning Act 1990 (as amended). The Neighbourhood Area application is not valid and there is no legal duty on the Council to determine the application or designate a Neighbourhood Area for Tadworth at this stage.

Recommendation (iii): Further information is required from the Tadworth Forum to demonstrate that it is a relevant body, in order to make the Neighbourhood Area application valid.

EXECUTIVE SUMMARY:

In those parts of the borough without a Parish Council, the first stage in the preparation of a Neighbourhood Development Plan is for the local community to make applications to the Council for designation of a Neighbourhood Area and a Neighbourhood Forum.

Applications for designation of a Neighbourhood Area and Forum have been submitted to the Council by the Tadworth Forum, and publicised by the Council. It now falls to the Executive to make a decision on the applications.

Neighbourhood Forum: The Council may only designate a Neighbourhood Forum if it is satisfied that the proposed body meets a number of criteria and conditions, including being established for the express purpose of promoting or improving the social, economic and environmental wellbeing of an area, having at least 21 members, being representative of the local community and having a written constitution.

Information submitted by the Tadworth Forum in its application to be designated as a Neighbourhood Forum has been assessed against these criteria. It is concluded that the current application fails to demonstrate that a number of the requirements have been met. On that basis it is recommended that the application for designation of the Tadworth Forum as the Neighbourhood Forum for Tadworth (giving it the authority to prepare a Neighbourhood Plan) is refused.

The Council must designate a Neighbourhood Area if it receives a valid application, and if some or all of the area applied for has not yet been designated. For an application to be valid, it must be made by either a parish council or an organisation of body which is, or is capable of being, designated as a Neighbourhood Forum. In the light of the finding that the Tadworth Forum has not met a number of the conditions or tests for designation, it is concluded that it has not demonstrated that it is capable of being designated as a Neighbourhood Forum. The current Neighbourhood Area application is not a valid application and the Council should not therefore determine it at this stage.

There is no objection in principle to the community in Tadworth developing a Neighbourhood Plan, and it is open to the Tadworth Forum to provide further information

about how it meets the relevant conditions and tests and is capable of being designated as a Neighbourhood Forum.

Executive has authority to approve the above recommendations

STATUTORY POWERS

1. Neighbourhood Planning was introduced by the Localism Act 2011. It gives local people greater power to shape the communities in which they live, by allowing for the preparation of Neighbourhood Development Plans by local community groups.
2. The Neighbourhood Planning (General) Regulations 2012 (as amended) make provisions in relation to the process for preparing a Neighbourhood Development Plan. The first stages in the preparation of a Neighbourhood Development Plan are for the local community to:
 - a. make an application to the local planning authority (LPA) for designation of a Neighbourhood Area (the area which a future Neighbourhood Development Plan can cover) and
 - b. make an application to the LPA for designation of a Neighbourhood Forum (the community group with responsibility for preparing the Neighbourhood Development Plan).
3. On receipt of the above, the Council is required to publicise the applications, and to take a decision as to whether to designate the potential Neighbourhood Area and Neighbourhood Forum applied for. It is these two decisions to which this report relates.

BACKGROUND

4. The applications for designation of a Neighbourhood Area and Neighbourhood Forum in Tadworth have been made to the Council by the Tadworth Forum, a recently established community group in the Tadworth area.
5. Following early discussions between officers and a group of residents and business owners from Tadworth, the Tadworth Forum made an initial submission to the Council. Officers requested further information from the Tadworth Forum with a view to assisting the group to meet the conditions set out in legislation. On receipt of additional information, and at the request of the Tadworth Forum, the Council undertook statutory publicity required by the Regulations. The application documents are available on the Council's website at www.reigate-banstead.gov.uk/TadworthNP.
6. The publicity period commenced on 27 March 2015 and ran for a period of just over 6 weeks, until 12 May 2015. A summary of the publicity undertaken is included as a background paper.
7. Following the close of the publicity period, the representations received were analysed. A summary of these representations is included as a background paper.

KEY INFORMATION

APPLICATION FOR DESIGNATION OF A NEIGHBOURHOOD FORUM

The Council's powers in relation to designating a Neighbourhood Area

8. The LPA may only designate one organisation or body as the Neighbourhood Forum for a particular Neighbourhood Area and must give reasons if it refuses an application for designation of a Neighbourhood Forum.
9. A LPA may designate an organisation as a Neighbourhood Forum only if it is satisfied that the organisation meets a number of conditions (set out in section 61F(5) of the Town and Country Planning Act 1990 (as amended) ('the 1990 Act')), and tests (set out in section 61F(7) of the 1990 Act) . A detailed assessment has been undertaken of the extent to which these conditions have been applied. This is included as a background paper and summarised below.

Assessment of Forum proposals against designation conditions and tests

10. **Being established for the express purpose of promoting or improving the social, economic and environmental well-being of an area¹**: Whilst information submitted in support of the Neighbourhood Forum application states that the Tadworth Forum has been established for the express purpose of promoting or improving the social, environmental and economic wellbeing of the area, no information has been provided that the Forum's objectives have been developed in consultation with the local community. Other references in supporting documentation, some of the representations received through the publicity exercise, and recent media coverage, suggest that the Tadworth Forum is more focused on reacting to current planning applications in the area than developing a positive plan for the future of the area.
11. On the basis of the information submitted, and representations received through the publicity exercise, it is concluded that the authority cannot be satisfied that the Forum has been established for the *express purpose* of promoting the social, environmental and economic well-being of the area through the neighbourhood plan making system.
12. **Having a membership that is open to individuals who live in the area, work there or who are elected members for the area²**: The Written Constitution provided by the Tadworth Forum identifies that "Membership shall be open to anyone who has a legitimate interest in assisting the Forum in achieving its objectives and is willing to adhere to this Constitution"; and that "Where the Management Committee considers that it would be detrimental to the objectives of the Forum and/or its Constitution to accept a particular applicant for membership, it shall have the power to refuse to accept such membership".
13. These references appear to introduce caveats of a subjective nature to the membership of the Forum, which raises concerns that the Forum may not operate in a truly open manner. It is therefore concluded that the Constitution as submitted does not appear fully consistent with the requirement for open membership.
14. **Having a membership which includes a minimum of 21 members each of whom lives or works in the area or who is an elected member for the area³**: The

¹ Section 61F (5)(a) of the 1990 Act

² Section 61F (5)(b) of the 1990 Act

³ Section 61F (5)(c) of the 1990 Act

Constitution identifies that “the membership of the Forum as at the date of this Constitution consists of 21 people who are residents of Tadworth and/or do business or trade in Tadworth and/or are elected Councillors for Tadworth.” It also states that “At least three members must be present at a Formal meeting [of the Forum]”.

15. Information has been provided by the Tadworth Forum that it currently has at least 21 members from the Neighbourhood Area applied for. However, the Constitution does not include any commitment to maintaining a membership of 21 and only requires three members to be present at a meeting for it to be quorate. There can therefore be no certainty that the Forum will continue to operate having a membership of at least 21 members.
16. **Having a written constitution**⁴: A Written Constitution has been included as part of the Forum application material. Following initial receipt of the Constitution, the Council requested (on 13 March) further information that it had been adopted by the Forum
17. Minutes have been provided by the Forum applicants recording the approval of the Constitution at an Extraordinary General Meeting on 14 March. However this meeting was convened at less than 24 hours notice, it is not clear where the meeting was held, and there is some evidence to suggest that not all named Forum members were invited to attend the meeting. As such, whilst a Constitution has been provided, it cannot be concluded with any confidence that this has been properly agreed by the Forum.
18. **The desirability of designating an organisation or body which has secured, or taken reasonable steps to secure, membership including at least one individual of each of the identified groups** (living in, working in or being an elected member for, the area)⁵: The application material provided outlines a number of steps that have been taken to publicise the Forum. However, no supporting evidence in relation to these activities has been provided.
19. Whilst it is not therefore possible to conclude whether the steps have been taken to secure membership from the identified groups are ‘reasonable’, membership from across the required groups appears to have been secured from within the Neighbourhood Area applied for. At least one local Councillor has been approached and has agreed to participate in the Forum.
20. **The desirability of designating an organisation or body whose membership is drawn from different places in the neighbourhood area concerned and from different sections of the community**⁶:
21. ‘Different places’: Some information is provided about the locations where Forum members live and/or work. However it is not clear that there is resident representation from all parts of the proposed Neighbourhood Area, particularly the eastern parts of the proposed Neighbourhood Area.
22. ‘Different parts of the community’: Short biographies have been provided for some Forum members, although not all. No information has been provided by the Tadworth Forum about how the characteristics of the local community have been considered or how members are representative of these characteristics. In the absence of this

⁴ Section 61F (5)(d) of the 1990 Act

⁵ Section 61F (7)(a)(i) of the 1990 Act

⁶ Section 61F (7)(a)(ii) of the 1990 Act

information, an analysis has been carried out by Council officers. This suggests that younger and older age groups and non-retail local business owners may be under-represented on the Forum. It is not clear whether levels of economic activity amongst members of the group is reflective of that across the local area.

23. These assessments are based on the limited information provided by the Tadworth Forum, and have required some assumptions to be made. It is recognised that people cannot be forced to join a potential Neighbourhood Forum, and that some parts of the community may be less able or inclined to do so. However, no evidence has been provided by the Tadworth Forum to demonstrate whether lack of representation from certain parts of the area and from certain sections of the community is due to an unwillingness of people to engage or a failure to promote the proposed Forum across the whole proposed Area.
24. It is not therefore possible to conclude with any confidence that genuine or reasonable efforts have been made to secure Forum membership from different places in the area and different sections of the community. In addition, the low number of Forum members required to be present for the Forum to be quorate (stated in the Constitution as being three) does not provide certainty that Forum decisions will be taken by a representative cross section of the local community.
25. **The desirability of designating an organisation or body whose purpose reflects that (in general term) the character of the area⁷:** The Constitution identifies a primary objective to improve Tadworth “in terms of parking, rat running and speeding, sustainable and relevant development, road and aircraft noise, the protection locally of greenfield sites, public open spaces, recreational areas and school playing grounds, village greens, the Green Belt, AGLV, Areas of Outstanding Natural Beauty, common land, the Tadworth section of Banstead Heath (and its upkeep)...”
26. It is not clear how the stated objectives have been arrived at. Limited evidence has been provided to suggest work has been undertaken (beyond responding to planning applications) to developing an understanding of the character of the area, local community or the challenges faced which could be addressed by a Neighbourhood Development Plan; or whether this objective has been developed in consultation with the community.

Conclusions in relation to the Neighbourhood Forum application

27. The National Planning Practice Guidance⁸ explains that a group or organisation making a Neighbourhood Forum application must show how they have sought to comply with the conditions for Neighbourhood Forum designation.
28. Whilst the aspirations of the local community in Tadworth to prepare a Neighbourhood Plan should be supported, the current Neighbourhood Forum application is limited in detail, and appears hastily put together. It does not provide sufficient detail to enable a full understanding of the efforts that have been made by the Tadworth Forum to meet the criteria for designation and as such there is not sufficient certainty that these criteria have been satisfied.
29. It is therefore recommended that the application for designation of a Neighbourhood Forum should be refused, because on the basis of the information supplied as part of

⁷ Section 61F (7)(a)(iii) of the 1990 Act

⁸ <http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning>

the application, the Council cannot be satisfied that the following relevant conditions and tests set out in legislation have been met:

- a. the Forum has been established for the express purpose of promoting the social, environmental and economic well-being of the area through the neighbourhood plan making system, or that it has a purpose that reflects the general character of the area
 - b. the Forum's membership is genuinely open to individuals who live in, work in or are elected members for, the area concerned
 - c. the Forum will operate in a manner consistent with the requirement for a minimum of 21 members
 - d. the Forum has a written constitution that has been properly agreed by the Forum
 - e. the Forum has a representative membership drawn from different places in the area concerned and from different sections of the community.
30. It is open to the Tadworth Forum – should it wish – to revisit its application, rectify the identified shortcomings and re-apply to the Council for designation at a later date.

APPLICATION FOR DESIGNATION OF A NEIGHBOURHOOD AREA

The Council's powers in relation to designating a Neighbourhood Area

31. A LPA must designate a Neighbourhood Area if it receives a valid application, and if some or all of the area applied for has not yet been designated⁹. For an application to be valid, Regulation 5 of the Neighbourhood Planning (General) Regulations 2012 requires:
- a. A map which identifies the area to which the application relates
 - b. A statement explaining why this area is considered appropriate to be designated as a Neighbourhood Area
 - c. A statement that the organisation or body making the application is a relevant body.
32. A relevant body is defined as either a parish council or an organisation of body which is, or is capable of being, designated as a Neighbourhood Forum¹⁰.
33. The first test is therefore if the Neighbourhood Area application is valid.

Assessment of Neighbourhood Area application against validity requirements

34. The application from the Tadworth Forum includes a map of the area applied for, and a limited amount of information about why the Tadworth Forum considers the Tadworth area to be appropriate to be designated as a Neighbourhood Area.
35. No specific statement is included that the Tadworth Forum is a 'relevant body' for the purposes of a Neighbourhood Area application. However the submitted documentation includes information about the group. This has been taken to be evidence in support of both the Neighbourhood Forum and Neighbourhood Area applications.

⁹ Para (5) of Section 61G, Town and Country Planning Act 1990 (as amended)

¹⁰ Para (2) of Section 61G, Town and Country Planning Act 1990 (as amended)

36. National Planning Practice Guidance makes it clear that – in applying for designation of a Neighbourhood Area – the organisation or body should be able to demonstrate that it is capable of meeting the conditions for designation set out in section 61F(5) of the Town and Country Planning Act (as amended).
37. The earlier sections of this report, and supporting background paper, assess the Tadworth Forum's application against these conditions. This assessment has concluded that on the basis of the information provided the Council cannot be satisfied that a number of the section 61F(5) conditions have been met (see para 28).

Conclusions in relation to the Neighbourhood Area application

38. The Tadworth Forum was provided with advice on how to comply with the relevant conditions and tests for designation of a Neighbourhood Forum and a Neighbourhood Area. Detailed assessment of the revised Tadworth Forum application has concluded that the Council cannot be satisfied that the required conditions for designation of a Neighbourhood Forum have been met.
39. On this basis, it is concluded that that Tadworth Forum is not – in its current form - capable of being designated as a Neighbourhood Forum. It is not a relevant body for the purposes of section 61(G) of the 1990 Act, and the Neighbourhood Area application is not therefore valid.
40. It is open to the Tadworth Forum to provide further information in support of their Area application, addressing the concerns set out in this report to demonstrate that they are capable of being designated as a Neighbourhood Forum.

OPTIONS

41. Neighbourhood Forum application: The following options have been identified
 - a. Option 1: Designate the Tadworth Forum as the Neighbourhood Forum for Tadworth. This option is not recommended. Whilst the principle of the local community in Tadworth establishing a Neighbourhood Forum in order to prepare a Neighbourhood Plan is supported, the detail of the current Neighbourhood Forum application does not provide sufficient certainty that the relevant criteria for designation have been satisfied.
 - b. Option 2: Do not designate the Tadworth Forum as the Neighbourhood Forum for Tadworth. This is the recommended option. The current application fails to demonstrate that a number of the criteria for designation of a Neighbourhood Forum have been met (see paragraph 28 above). The reasons for this recommended option will be communicated to the Tadworth Forum, allowing the community – should it wish - to re-visit its application, rectify the identified shortcomings and re-apply to the Council for designation at a later date.
 - c. Option 3: Defer the decision about whether to designate the Tadworth Forum. This option is not recommended. The Forum application has been publicised and assessed on the basis of the information provided by the Forum and it is important that a timely decision is made on the application. There are a number of substantive areas that need to be addressed, such that a new application will be required.
42. Neighbourhood Area application: Legislation requires that a LPA must designate a Neighbourhood Area if it receives a valid application (made by a relevant body), and if some or all of the area applied for has not yet been designated. For the reasons

identified above it has been concluded that the Tadworth Forum is not a relevant body, and the application is therefore not valid. The only option open to the Council is therefore not to determine the application until further information is provided by the Tadworth Forum that it is a relevant body.

LEGAL IMPLICATIONS

43. Designation of a Neighbourhood Area and Neighbourhood Forum is the first stage for a local community (in un-parished areas) in preparing a Neighbourhood Plan. Legal considerations in relation to the consideration of Neighbourhood Forum and Neighbourhood Area applications by the Council are set out above.
44. Once a Neighbourhood Forum for an area is designated, the Council has a duty to give advice or assistance to that body in relation to the preparation of its Neighbourhood Plan. This includes ensuring that that any future Neighbourhood Plan meets the “basic conditions” set out in Schedule 4B of the Town and Country Planning Act 1990; including:
 - a. Having regard to national policies and advice
 - b. Contributing to the achievement of sustainable development
 - c. Being in general conformity with the strategic policies contained in the Council’s Development Plan
 - d. Being compatible with EU obligations.

FINANCIAL IMPLICATIONS

45. The publicity exercise in relation to the current Neighbourhood Area and Neighbourhood Forum applications has been funded using money from the Local Plan contingency budget.
46. Financial implications for the Council would arise from any neighbourhood plans that are progressed in the borough, and would arise from the level of support and assistance that the Council is required to provide as part of the plan development process.
47. However at this early stage, and in the light of the report recommendations, no financial implications have been identified.

EQUALITIES IMPLICATIONS

48. Consideration has been given above to the need for the Neighbourhood Forum to be representative of the local area and population.
49. Whilst no requirement has been identified for an Equalities Impact Assessment at this stage, public consultation requirements associated with Neighbourhood Plan preparation would require the wider community to be engaged in the preparation of any future Neighbourhood Plan.
50. The requirement for Equalities Impact Assessment on any future Neighbourhood Plans considered by the Council will be determined on a case-by-case basis.

RISK MANAGEMENT CONSIDERATIONS

51. A key priority in the Council’s five year plan is making the borough a great place to live and work. Neighbourhood Plans have the potential to contribute to the

achievement of this objective. However, any body responsible for preparing a Neighbourhood Plan must be properly representative and accountable, or there is a risk that any future Neighbourhood Plan will not deliver sustainable development in a manner that benefits all parts of the local community.

52. It is right that the Council ensures that the initial proposals by the local community for a Neighbourhood Forum are fit for purpose (eg consistent with the scope of, and national expectations in relation to, neighbourhood planning). In this way they will provide an appropriate foundation from which a robust Neighbourhood Plan can be prepared.

OTHER IMPLICATIONS

53. No other implications have been identified.

CONSULTATION

54. A publicity exercise on the Neighbourhood Area and Neighbourhood Forum applications was carried out for a period of 6 weeks. The representations received as part of this publicity exercise are summarised in a background paper to this report and have been taken into account in formulating the recommendations set out above.
55. Consultation on this report has been undertaken as follows:
- a. Consultation with the Council's Legal and Finance Teams
 - b. Consultation with the Council's Management Team
 - c. Consultation with the Planning Policy Portfolio Holder
 - d. Consultation with Executive members.

POLICY FRAMEWORK

56. There are no issues of direct relevance to the Council's Policy Framework.

Background Papers:

1. Neighbourhood Area and Neighbourhood Forum application documents (www.reigate-banstead.gov.uk/TadworthNP)
2. Summary of publicity activities
3. Summary of publicity exercise
4. Assessment of Neighbourhood Forum application