



City of Westminster Cabinet Member Report

Decision Maker:	Cabinet Member for Business and Planning
Date:	10 February 2020
Classification:	General Release
Title:	Fitzrovia West Neighbourhood Forum Re-designation
Wards Affected:	Marylebone High Street, West End
City for All:	This decision contributes to the delivery of a 'City that celebrates its communities' by empowering residents of Fitzrovia West to continue to actively contribute to their community through the development of a neighbourhood plan for their area.
Key Decision:	No
Financial Summary:	Costs of re-designating the Neighbourhood Forum will be met from existing budgets.
Report of:	Executive Director of Policy, Performance and Communication.

1.0 EXECUTIVE SUMMARY

- 1.1 Westminster City Council designated Fitzrovia West Neighbourhood Forum as the responsible body for preparing a neighbourhood plan for Fitzrovia West on 5th February 2015. Under section 61F of the Town and Country Planning Act 1990 (as amended by the Localism Act 2011), Neighbourhood Forum designations expire after 5 years. The existing designation therefore expires on 5th February 2020, and the Forum have applied to be re-designated.

2.0 RECOMMENDATIONS

- 2.1 That the Cabinet Member for Business and Planning agrees to re-designate the Fitzrovia West Neighbourhood Forum for a further period of 5 years and a

formal designation notice is published under delegated authority of the Director of Policy and Projects.

3.0 REASONS FOR DECISION

3.1 Section 61F (7) of the Town and Country Planning Act 1990 (as inserted into the Act by the Localism Act, Schedule 9) sets out the conditions that a neighbourhood forum must meet, as well as the considerations that a local planning authority must take into account when determining an application for the designation of a neighbourhood forum. These legislative aspects are set out in greater detail in Section 6 of this report.

3.2 The legislation states that a local planning authority may designate an organisation or body as a neighbourhood forum if the authority is satisfied that a number of conditions (in the table below) have been met. The existing Fitzrovia West Neighbourhood Forum meets all of these conditions, and there has been no change in this since the original designation.

Condition	Met?
Established for the express purpose of promoting or improving the social, economic or environmental well-being of an area?	Yes
Membership open to individuals who live or work in the area (or are elected members of the City Council);	Yes
Membership includes a minimum of 21 individuals each of whom lives or works (or is an elected member) in the area?	Yes
The neighbourhood forum has a written constitution?	Yes

3.3 The City Council is also required to have regard to whether membership is drawn from different places in the neighbourhood area concerned and from different sections of the community in that area. The application submitted by the Forum indicates that membership of the Fitzrovia West Neighbourhood Forum stands at over 200 members, and that the Forum represents the interests of local residents and businesses, including the New West End Company (NVEC). The list of members has also been provided by the Forum.

3.4 The City Council is also required to assess whether the *purpose* of the neighbourhood forum reflects (in general terms) the character of the area. The application submitted by the Forum for re-designation states that the Forum was established to promote, enhance and improve the social, economic and environmental wellbeing of the area. It also makes clear that the continued preparation of a neighbourhood plan that addresses planning and development matters, public realm improvement projects, and environmental policies, is a priority for the Forum. The Forum has already carried out significant work on the neighbourhood plan and have carried out consultation on a draft plan in the Summer 2019. The main purpose for the existence of the Fitzrovia West Neighbourhood Forum is therefore stronger now than when it was initially designated.

3.5 Consultation on the re-designation of the Fitzrovia West Neighbourhood Forum highlighted support for the application, no objections, or competing applications. Further details are provided in section 9 of this report.

4.0 BACKGROUND, INCLUDING POLICY CONTEXT

4.1 The Localism Act November 2011 and Neighbourhood Planning Regulations April 2012 enable communities to undertake neighbourhood planning. In particular this includes the opportunity to develop a statutory neighbourhood plan that will become part of the planning framework for their area, and also establish 'permitted development' rights for certain types of new development ('neighbourhood development order'). To be able to undertake neighbourhood planning, a local community group has to firstly apply to designate a neighbourhood area; and then secondly apply to be designated as the representative neighbourhood forum. The process for re-designating a neighbourhood forum (necessary once an original designation has expired) is identical for that for the original designation. A summary of the process is set out below.

4.2 Neighbourhood forums should consist of a minimum of 21 individuals who live or work (or are elected members of the local authority) within the area and have 'open' membership. The forum should represent the diversity and character of the community, with a wide range of members including residents, businesses, amenity societies, local interest groups, and voluntary sector members. Neighbourhood forum applications should contain a 'written constitution' setting out how the neighbourhood forum intends to operate as well as a statement setting out how the forum meets the legislative requirements (minimum of 21 members etc – see section 6). Once a neighbourhood forum application has been received, the City Council has to publicise the application for a six-week period to enable representations to be made before the neighbourhood forum can be formally designated.

4.3 Once a neighbourhood forum is in place, they can formally undertake neighbourhood planning, and begin to formally prepare their neighbourhood plan or neighbourhood development order. The neighbourhood plan is a community-led framework which sets out policies in relation to the development and use of land in the whole or any part of a particular neighbourhood area specified in the plan.

4.4 Whilst it is up to the community (the 'neighbourhood forum') to decide upon the content of the neighbourhood plan, there are a number of principles that a neighbourhood plan should adhere to:

- neighbourhood planning policies should be 'in general conformity' with the City Council's strategic planning policies, currently contained in the Westminster City Plan (2016), saved UDP policies, the London Plan, and have regard to national planning policies;
- it should contribute to the achievement of 'sustainable development';
- it should address *local*, neighbourhood issues;

- neighbourhood planning policies should be about the shaping the development of a local area in a *positive* manner, and should not be used to prevent development; and
- it should not breach, and should be compatible with EU obligations, Human Rights etc.

4.5 As the neighbourhood plan will be a statutory planning document there are a number of formal stages that have to be completed in its production. The government is clear that it is the neighbourhood forum that produces the neighbourhood plan (not the local planning authority), following community involvement and information gathering. Once submitted, it is the local planning authority's responsibility to undertake a statutory period of formal consultation, and to submit the plan for examination by an independent examiner. Following successful completion of the examination, the neighbourhood plan is subject to a referendum whereby all those on the electoral register within the neighbourhood area are eligible to vote. Only after a positive referendum outcome can the plan be 'made' i.e. adopted, by the City Council.

4.6 The Fitzrovia West Neighbourhood Plan is currently at advanced drafting stage and have already been subject to an initial round of consultation carried out by the Forum. Officers will continue to offer advice to the Forum as they prepare the plan for formal submission to the City Council.

5.0 City for All

5.1 The ability to enable and empower others to take responsibility for themselves and actively contribute to their community is one of the key tenets of the City Council's 'City for All' commitments. In particular, continuing to support neighbourhood planning in Westminster meets the City Council's aspirations of 'A City that celebrates its communities' whereby everybody with a stake in the city can actively contribute to their community.

6.0 FINANCIAL IMPLICATIONS

6.1 The expenditure of re-designating the Neighbourhood Forum is expected to be immaterial and will be met from existing budgets. Aside from minimal printing costs of making application material publicly available, tasks associated with checking the application and preparing the necessary reports equate to approximately 1-2 days of officer time.

7.0 LEGAL IMPLICATIONS

7.1 Section 61F of the Town and Country Planning Act 1990 as amended by the Localism Act 2011 ('the 'Act') states that a local planning authority may designate an organisation or body as a neighbourhood forum if satisfied that it meets the following conditions:

- i) It is established for the express purpose of promoting or improving the social, economic or environmental well-being of an area;
- ii) Its membership is open to individuals who live or work in the area (or are elected members of the City Council);

- iii) Its membership includes a minimum of 21 individuals each of whom lives or works in the neighbourhood area concerned;
- iv) It has a written constitution; and
- v) Such other conditions as may be prescribed.

7.2 The Act also states that in determining whether to designate a neighbourhood forum, the local planning authority must have regard to the desirability of designating an organisation or body which has:

- secured (or taken steps to secure) membership from each of the required categories (i.e. people who live, work or are elected members);
- membership that is drawn from different places in the neighbourhood area concerned and from different sections of the community in that area; and
- a purpose that reflects (in general terms) the character of the area.

7.3 Regulation 10 of the Neighbourhood Planning (General) Regulations 2012 states that as soon as possible after designating a neighbourhood forum, the City Council must publish the following on our website (and in such other manner considered likely to bring it to the attention of those who live, or work 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.

7.4 If deciding to 'refuse' to designate a neighbourhood forum then the City Council must publish a statement setting out the decision and the reasons for making that decision, as well as details of where and when the refusal statement may be inspected.

7.5 It is intended that a formal designation notice will be published under the delegated authority of the Director of Policy and Projects following the Cabinet Member decision in relation to the Fitzrovia West Neighbourhood Forum.

7.6 A neighbourhood forum designation ceases to have effect five years after the date that the designation was made. At this point an organisation or body would be able to re-apply for neighbourhood forum status.

7.7 A designated neighbourhood forum can also give notice to the City Council that it no longer wishes to be designated as the neighbourhood forum for a neighbourhood area. In this instance the City Council would have to withdraw the formal designation of the neighbourhood forum and must publish a statement setting out the details of the withdrawal (and details of where this statement can be inspected).

7.8 In addition, the City Council can also withdraw a neighbourhood forum designation if it is considered that the body is no longer meeting the conditions to which it was designated or any other criteria that the City Council had regard to in making the designation.

8.0 STAFFING IMPLICATIONS

- 8.1 There are implications on staff resources in respect of carrying out the City Council's duty to support neighbourhood planning, in terms of managing the neighbourhood area and forum application processes, but also providing support to the prospective neighbourhood forums in the development of their neighbourhood plans. In addition, the City Council will be obliged to carry out the legal compliance assessment of any neighbourhood plans produced, support the examination (by independent examiner), and undertake the referendum.
- 8.2 The City Council's obligation to support is intensified compared to other local authorities by the large number of neighbourhood areas and forums within Westminster. There are currently six officers supporting the delivery of neighbourhood planning in Westminster.

9.0 CONSULTATION

- 9.1 As required by the legislation, the neighbourhood forum application for Fitzrovia West was formally published on the City Council's website for a six-week period between 2nd December 2019 and 13th January 2020. Notices were also made available at reception at Westminster City Hall, and emails sent to ward councillors, and relevant contacts from the City Council's 'Planning Consultation Database.'
- 9.2 35 letters of support for the re-designation were received. No letters of objection or competing applications have been forthcoming.

10.0 EQUALITIES IMPLICATIONS

- 10.1 Under the Equalities Act 2010 the council has a "public sector equality duty". This means that in taking decisions and carrying out its functions it must have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the 2010 Act;
- to advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it; and to
 - foster good relations between persons who share a relevant protected characteristic and those who do not share it.
- 10.2 The City Council is also required to have due regard to the need to take steps to take account of disabled persons' disabilities even where that involves more favourable treatment; to promote more positive attitudes toward disabled persons; and to encourage participation by disabled persons in

public life. The 2010 Act states that “having due regard” to the need to promote equality of opportunity involves in particular having regard to:

- the need to remove or minimise disadvantages suffered by persons sharing a protected characteristic;
- take steps to meet the needs of persons sharing a protected characteristic that are connected with it;
- take steps to meet the needs of persons who share a protected characteristic that are different from those who do not; and
- encourage persons with a protected characteristic to participate in public life or any other activity in which participation by such persons is disproportionately low.

10.3 The courts have held that “due regard” in this context requires an analysis of the issue under consideration with the specific requirements set out above in mind. It does not require that considerations raised in the analysis should be decisive; it is for the decision-maker to decide what weight should be given to the equalities implications of the decision.

10.4 The equalities impacts of re-designating the Fitzrovia West Neighbourhood Forum have been considered and it is concluded that there are none.

11.0 BUSINESS PLAN IMPLICATIONS

11.1 None.

12.0 IMPACT ON THE ENVIRONMENT

12.1 None.

13.0 HEALTH, WELLBEING IMPACT ASSESSMENT INCLUDING HEALTH AND SAFETY IMPLICATIONS

13.1 None.

If you have any queries about this Report or wish to inspect any of the Background Papers please contact: Michela Leoni at mleoni@westminster.gov.uk

APPENDICES

Appendix 1 is the Fitzrovia West Neighbourhood Forum application for re-designation

BACKGROUND PAPERS

None

Appendix 1: Application to re-designate the Fitzrovia West Neighbourhood Forum

Cabinet Member for Business and Planning: Councillor Matthew Green

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed: _____ Date: _____

NAME: _____

Cabinet Member for Business and Planning

State nature of interest if any

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(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled **Fitzrovia West Neighbourhood Forum Re-designation** and reject any alternative options which are referred to but not recommended.

Signed

Cabinet Member for Business and Planning

Date

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

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If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, Director of Legal Services, Strategic Director Finance and Performance and, if there are resources implications, the Strategic Director of Resources (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.