

## Planning Committee

24<sup>th</sup> July 2019



**Title**

**Re-designation of Mill Hill  
Neighbourhood Plan Area and Forum**

**Report of**

Deputy Chief Executive

**Wards**

Mill Hill and Hale

**Status**

Public

**Urgent**

No

**Key**

Yes

**Enclosures**

Appendix 1: Application for MHNP Area  
Appendix 2: Application for MHNP Forum  
Appendix 3: Mill Hill Neighbourhood Forum Constitution  
Appendix 4: MHNF Re-designation Responses and  
Representations Report

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### Summary

This report seeks a decision on the re-designation of the Mill Hill Neighbourhood Plan Area and Forum. Under the Localism Act the Mill Hill Neighbourhood Forum and Area was initially designated in September 2014 for a period of five years. The specific remit for the Forum was to produce and finalise a Neighbourhood Development Plan within that period. Production of the draft Plan remains underway and the Forum has therefore applied for re-designation.

The Neighbourhood Plan Regulations require that for designation or re-designation the group must satisfy the Council that it has met a statutory set of basic conditions including

membership, constitution and an express purpose of promoting well-being in the neighbourhood area. The application for re-designation has been subject to a six-week period of publicity. This has generated a mixed response from residents between those who highlight the Forum’s achievements and those who object to the existing management of the Forum.

To be designated as a Neighbourhood Forum the group 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. The Council is aware that membership of the Forum has now dropped below 21 individuals and that it fails to meet the basic conditions for re-designation.

## **Officers Recommendations**

### **1. That the Committee:**

- a) Note the responses (as set out in Appendix 4) to the application for the re-designation of the Mill Hill Neighbourhood Plan Area and Forum;**
- b) Note the content of the Mill Hill Neighbourhood Forum Constitution;**
- c) Refuse the re-designation of the Mill Hill Neighbourhood Plan Area as shown edged black in Appendix 1 for the reason set out in this report;**
- d) Refuse the re-designation of the Mill Hill Neighbourhood Plan Forum as set out in Appendix 2 for the reason set out in this report.**

### **1. WHY THIS REPORT IS NEEDED**

- 1.1 The Localism Act 2011 introduced a new right for communities in England to undertake Neighbourhood Planning. The Act places duties on local planning authorities to support the preparation of Neighbourhood Development Plans.
- 1.2 Neighbourhood Development Plans are statutory planning documents which are prepared by a Parish Council, a community group or an organisation or body known as a “Neighbourhood Forum”. To be designated a neighbourhood forum, the organisation or body should be inclusive and must be made up of a minimum of 21 people who live or work in the area or are elected local authority councillors in the area.
- 1.3 Neighbourhood Development Plans can establish general planning policies for the development and use of land in a neighbourhood, setting a vision for the future of the area and addressing issues such as the type, design, location and mix of new development. Plans can be detailed, or general, depending on what local people want; and, if appropriate, they can focus on a single planning issue.

- 1.4 Neighbourhood Development Plans must support growth and should not be used to block development. They must be in general conformity with the strategic policies in the existing development plan (in Barnet this consists of the Local Plan 2012 and the London Plan). They must also comply with other relevant legislation, including EU directives and the Human Rights Act.
- 1.5 A summary of the process of Neighbourhood Forum designation and Neighbourhood Development Plan preparation is included in Table 1. It is generally expected on current country wide experience that the adoption of a Neighbourhood Development Plan should be completed within the initial five year designation period. Concerns have been expressed in the representations that the Forum has extended its areas of activity beyond those envisaged under the legislation such as organising festivals and markets, arranging hanging baskets, and securing funding for a town square and local street improvements. Welcome improvements as they may be to the Mill Hill area, the question does arise for members to consider if they consider it relevant is whether involvement in such activities has diverted the Forum's resources and energies from its prime purpose of preparing the Neighbourhood Development Plan.
- 1.6 Following the independent examination stage if it is allowed to proceed the proposed Neighbourhood Development Plan is then subject to a vote by resident's referendum. In this respect, the risk is that if the proposed plan is not substantially supported within the Neighbourhood Area it can potentially lead to it being rejected in the referendum.
- 1.7 In the absence of specific regulations on re-designation of neighbourhood areas or forums, councils are advised to follow the same process as the initial designation.
- 1.8 The Mill Hill Neighbourhood Plan Area and Forum were designated on 17<sup>th</sup> September 2014 by the Planning Committee. Neighbourhood Forum designations expire after 5 years therefore Mill Hill Neighbourhood Forum have had to apply to renew for a further 5 years. The intention of the Forum to renew their status as a 'Qualifying Body' (ie. Neighbourhood Forum) and their associated Neighbourhood Area was publicised by the Council from 25<sup>th</sup> April to 7<sup>th</sup> June 2019.
- 1.9 The Council has been advising and supporting the Forum on the production of a Neighbourhood Development Plan for Mill Hill since 2014. This is set out in the Authorities Monitoring Report). Significant milestones include:
- An initial briefing paper submitted to the Council for discussion in 2016;
  - An initial draft Neighbourhood Development Plan document submitted in August 2017 for feedback from the Council;
  - The final draft Mill Hill Neighbourhood Development Plan and background studies were submitted to the Council in June 2019 prior to formal submission for Council's screening opinion in accordance with the Statutory Regulations.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 In accordance with requirements of the Neighbourhood Planning Regulations 2012 and Section 61(G) and (F) of the 1990 Town and Country Planning Act, the Mill Hill Neighbourhood Forum has submitted its application for Neighbourhood Area and Forum re-designation.

- 2.2 In accordance with the Localism Act the Council has a duty to support Neighbourhood Planning in terms of the following:
- Designation of Neighbourhood Areas and Forums
  - Advising and supporting Neighbourhood Forums in production of Plans
  - Publicise Neighbourhood Development Plan proposals
  - Arrange for independent examination
  - Arrange referendums on the Neighbourhood Development Plan
  - Adopt Neighbourhood Development Plans, where all requirements have been met.

### **Mill Hill Neighbourhood Development Plan Applications**

- 2.3 The MHNP Area application (Appendix 1) includes all of Mill Hill Ward and those parts of Hale Ward within the NW7 postal district. There have been no changes to the boundaries in this application for re-designation.
- 2.4 In accordance with conditions contained in section 61F(5c) of the 1990 Act membership of the Forum must include a minimum of 21 individuals each of whom—
- (i) lives in the neighbourhood area concerned,
  - (ii) works there (whether for a business carried on there or otherwise), or
  - (iii) is an elected member of a London borough whose area falls within the neighbourhood area concerned.
- 2.5 The MHNP **Forum Committee** comprised 24 representatives of local businesses, residents and Councillors across the 2 wards (see Appendix 2) at the time of public consultation in April 2019. On 10<sup>th</sup> July, it was brought to the attention of the Council by the Forum Chairperson that four individuals have left the committee, leaving it with 20 members in total. Additionally, one named member has been expelled by the Forum and the Council was informed through the consultation responses, resulting in 19 recorded members. Consequently, the Committee membership at the time of writing this report falls below the statutory requirement for 21 members. The Committee is required to be representative of the community with involvement by young, middle and older age groups, both genders, and people from different ethnic backgrounds and faiths, including people of differing economic means.

### **Publicity on the applications for Area and Forum re-designation**

- 2.6 Regulation 9 of the Neighbourhood Planning Regulations requires applications to be published on the council's website and in other such manner likely to bring the application to the attention of people living, working or carrying out business in the area.
- 2.7 The renewal application can only be approved if it meets all its basic conditions including membership, constitution, an express purpose of promoting well-being in the neighbourhood area and it complies with the statutory requirements as set out in the Neighbourhood Planning (General) Regulations 2012.
- 2.8 Publicity for the Mill Hill Neighbourhood Area and forum re-designation applications generated more feedback than the initial designation. Feedback consisted of 18 representations of which 8 supported the re-designation; 4 objected; 1 was neutral. The remaining 4 responses were from statutory bodies with no objections to re designation.

- 2.9 Support came from local groups including the Mill Hill Preservation Society; Mill Hill Broadway Website Team; Mill Hill Families Group and local residents. Supportive comments praised the leadership of the Chair of the Forum and highlighted the work done by MHNF in terms of organising events such as markets and festivals in Mill Hill Broadway and arranging improvements around Mill Hill including the creation of a Town Square together with hanging baskets and planters and the renewal of the shopping parade at Salcombe Gardens. It was noted that the MHNF provides regular updates on the neighbourhood through monthly newsletters and an annual area guide. It also was noted to have a track record of responding to planning applications as well as consultations on the London Plan and changes to national planning policy. Supporters have called for the Forum to be re-designated in order to continue its progress.
- 2.10 Objections came from the Chair of the Mill Hill Ward Panel, the former Vice Chair of the Forum, a member of the Mill Hill Residents Association as well as a local business. Objections highlighted a lack of good governance and transparency at the Forum. A number of breaches to the Forum's constitution were raised including the failure to publish minutes, failure to replace the vacant positions of Vice Chair and Secretary, as well as the failure to follow the process for expelling members from the Forum Committee. Although there is no requirement in the Constitution for the Forum to publish accounts this was highlighted as good practice. Objectors also raised the slow progress on the Neighbourhood Development Plan and expressed concern about the Forums engagement in activities that are not connected with production of the Neighbourhood Development Plan. Objectors have called for a complete renewal of the MHNF Committee.
- 2.11 One of the basic conditions that must be met for designation or re-designation is that the Forum must promote the wellbeing of the area through preparing the Neighbourhood Development Plan. The activities of the Forum have demonstrated a commitment to the wellbeing of the Mill Hill area but issues have been raised via the consultation process that members may note in relation to the Forum's focus on its prime purpose of preparing the draft Neighbourhood Development Plan.
- 2.12 The Council has given the Chair of the Forum the opportunity to respond to allegations of breaches to the constitution and also matters relating to the forum membership. In addition, the Council has sought assurance on a commitment to ensure political neutrality by the Forum.
- 2.13 The applications for the Mill Hill Neighbourhood Area and Forum have been assessed against
- the statutory requirements;
  - the responses to the publicity;
  - responses from the Chairperson of the Forum with regards to alleged breaches and the evidence provided during the consultation; and
  - the Legal Advice.
- 2.14 It is considered that the application does not satisfactorily meet all the Basic Conditions and statutory requirements in not having 21 members of the Forum. The proposed Forum has currently secured membership from nineteen individuals who live and work in the Area or are an elected member in the Area. It is therefore recommended that the applications to re-designate the Mill Hill Neighbourhood Area and Forum are refused.

### 3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The alternative option is to re-designate the Neighbourhood Area and Forum for Mill Hill allowing the Forum to continue for another five years. The Council can withdraw the Forum's designation (with reasons) at any time if it is considered that it is no longer meeting the conditions of designation.
- 3.2 Given the failure to meet the requirements of the Regulations, in terms of the basic condition of at least 21 members. proceeding to re-designate the Forum presents a compliance risk.
- 3.3 In addition, the absence of a Vice Chair and Secretary on the Forum Committee, the disengagement of the 5 local ward councillors from the Forum, and the lack of progress with the Neighbourhood Development Plan to date means the Forum in its current guise may no longer be well placed to successfully engage and co-operate with residents, businesses and elected representatives for Mill Hill and Hale in the production of the Neighbourhood Development Plan. Without community support there is a risk that any proposed Neighbourhood Development Plan would not be supported in a Referendum.

### 4. POST DECISION IMPLEMENTATION

- 4.1 If the Re-designation of Area and Forum is refused there will be an opportunity for a new Neighbourhood Forum to come forward through a fresh application for designation as an Area and a Forum. The new Forum should be able to focus its time and resources on the preparation of the Mill Hill Neighbourhood Development Plan in accordance with the Localism Act and Regulations. Once complete, the Plan must be submitted to the Council for public examination and voted on in a local referendum before they can be brought into legal effect by Council resolution.

### 5. IMPLICATIONS OF DECISION

#### 5.1 Corporate Priorities and Performance

- 5.1.1 The **Council's Corporate Plan 2019 - 2024** sets out three main outcomes and eighteen priorities for the Council, these are:
- A pleasant, well maintained borough that we protect and invest in
  - Our residents live happy, healthy, independent lives with the most vulnerable protected
  - Safe and strong communities where people get along well
- 5.1.2 Most of these key priorities that sit underneath each outcome relate to the emerging Neighbourhood Development Plan for Mill Hill Area and will be delivered through Council support with the drafting and adoption of appropriate planning policies for the area. A Neighbourhood Development Plan could provide a more local dimension in Mill Hill that reflects boroughwide Local Plan priorities. A basic condition for a Neighbourhood Forum is that it promotes or improves well-being via adoption of the Neighbourhood Development Plan which can be achieved by giving local people more influence over the future of their area.
- 5.1.3 A key theme in the **Draft Barnet Growth Strategy 2030** is for Barnet to be a great

borough to live in and visit. The Growth Strategy seeks to respond to three guiding principles:

- Need for the Council to provide placemaking leadership across Barnet, whilst focusing its resources on supporting the places most in need of investment;
- Need to increase housing supply to meet the needs of our growing population and to ensure delivery of homes that people can afford;
- Need to capitalise on growth and development to maximise the benefits for residents

5.1.4 The production of the Mill Hill Neighbourhood Development Plan will be guided by these principles.

5.1.5 **Barnet's Housing Strategy 2019 -2024** includes key priorities for increasing housing supply, sustaining quality, particularly in the private rented sector, and delivering homes that people can afford. The Neighbourhood Plan will help provide a local dimension to the delivery of these priorities.

5.1.6 The Neighbourhood Plan has an important role to play in the delivery of **Barnet's Joint Health and Well Being Strategy 2015-2020** by contributing to building resilience and well-being in families and communities within Mill Hill.

## 5.2 **Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.1 To date the primary cost to the Council associated with the MHNP application has been officer support time. This has been absorbed by Re and thus contained within existing budgets. No specific allocation of Council resources has been approved to support expenditure relating to production of Neighbourhood Development Plans or Re-designation of the Forum.

5.2.2 Financial support for local planning authorities in areas where Neighbourhood Development Plans are emerging is currently available from MHCLG. At present this amounts to £30,000 for non-parished areas such as London Boroughs and is payable in instalments as the Neighbourhood Development Plan progresses to adoption. The first payment of £5,000 each will be made following Neighbourhood Area and Forum designations including re-designation. The second payment of £5,000 will be made following submission of the Neighbourhood Development Plan for examination. The third payment of £20,000 will be made on successful completion of the examination. This is to support funding of a referendum. Claims are made retrospectively and there is no guarantee that this funding will continue.

5.2.3 Local planning authorities are not required to financially support production of Neighbourhood Development Plans. According to CLG estimates in 2011 the cost to a Forum of producing a Neighbourhood Development Plan is between £17,000 and £63,000.

5.2.4 Neighbourhood Development Plans may also impact on decisions relating to the allocation of CIL (Community Infrastructure Levy). With benefit of an adopted Neighbourhood Development Plan an area can access 25% of CIL arising from the development that takes place in their area if it is generated as a consequence of the implementation of the Neighbourhood Development Plan. This money will be retained by

the Council but must be spent in accordance with local infrastructure priorities as highlighted in the Neighbourhood Development Plan.

### 5.3 Social Value

- 5.3.1 The Public Services (Social Value) Act 2012 requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits. Neighbourhood Development Plans can help secure such benefits.
- 5.3.2 Social benefits will also be secured by the Neighbourhood Development Plan providing a local dimension to the housing and infrastructure requirements of Local Plan policy.
- 5.3.3 Economic benefits will be delivered through the Neighbourhood Development Plan's focus on the local economy including Mill Hill Broadway town centre as well as shopping parades and employment spaces within Mill Hill.
- 5.3.4 Environmental benefits will be delivered by a Neighbourhood Development Plan's response to resolving to local issues as regards biodiversity, climate change mitigation and adaptation, sustainable travel, flood risk management and improved air and water quality.

### 5.4 Legal and Constitutional References

- 5.4.1 The Neighbourhood Planning (General) Regulations 2012 set out the procedures for designating an organisation or body as a Neighbourhood Forum. These include specifying:
- the content of an application (Reg. 8)
  - what the local planning authority must do to publicise both the application and any designation of a Neighbourhood Forum (Regs 9 and 10)
  - Same Regulation applies for the Re-designation of the Forum and Renewal of the Area applications
- 5.4.2 The Council can designate an organisation or body as a Neighbourhood Forum if it meets the following **Basic Conditions** (s61F, Town and Country Planning Act 1990):
- (i) it is established for the express purpose of promoting or improving the social, economic and environmental well-being of an area that consists of or includes the Neighbourhood Area concerned;
  - (ii) membership is open to individuals living, or working, in the Neighbourhood Area concerned and Councillors representing that area;
  - (iii) there are at least 21 members of whom:
    - lives in the neighbourhood concerned;
    - works there; or
    - is an elected member of the Council representing that area.
  - (iv) there is a written constitution; and
  - (v) meets any other prescribed conditions.
- 5.4.3 Only one Forum can be designated for a Neighbourhood Area. It is open to a Forum to voluntarily withdraw its designation. Otherwise the designation expires after five years.

The Council may withdraw this designation earlier if it considers that the Forum is no longer meeting:

- the conditions by which it was designated.
- any other criteria that the Council were required to have regard to when making the designation.

5.4.4 In accordance with [section 61G\(2\)](#) and [Schedule 4C\(5\)\(1\)](#) of the 1990 Act, the Council should aim to designate the area applied for. It is able to refuse a designation if it considers that a specified area was not an appropriate area to be designated as a neighbourhood area and must set out reasons for doing so. If the Council refuses an application for designation of a neighbourhood area, then section 61G (5) of the 1990 Act requires that it must exercise its power of designation so as to secure that some or all of the specified area forms part of one or more designated neighbourhood areas. Same applies for Renewal or Re-designation applications.

5.4.5 Council Constitution, details the terms of reference of the Planning Committee Responsibility for Functions, Annex A sets out the terms of reference of the Planning Committee which includes responsibility for considering the approval/refusal of 'Designating neighbourhood areas and neighbourhood forums for the purposes of neighbourhood planning'.

5.4.6 National Guidance on Neighbourhood Planning States that "When exercising its responsibilities in relation to relevant parts of the neighbourhood planning process, a local planning authority should make every effort to conclude each stage promptly. Timely decision taking is important particularly at the start and at the end of the process. Certain decisions must be taken within prescribed time periods (13 weeks in case of designating an Area and Forum applications). 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 which amend the Neighbourhood Planning (General) Regulations 2012.

## 5.5 Risk Management

5.5.1 Neighbourhood Planning raises a number of potential risks for the Council to consider. This includes:

- capacity of communities to maintain momentum on Neighbourhood Development Plan production;
- demands on Council resources to support Neighbourhood Planning and fulfil legal duties;
- the risk that Neighbourhood Development Plans could fail at final referendum stage, resulting in community disillusionment with the process; and
- failure to continue with the existing Forum designation, jeopardising the future of the draft Neighbourhood Development Plan work.

5.5.2 Neighbourhood Development Plans may require a Strategic Environmental Assessment during preparation, depending on their focus and content. This will need to be assessed on a case by case basis.

## 5.6 Equalities and Diversity

5.6.1 The Forum preparing the Plan have the opportunity to engage properly with the wider community right through the plan-preparation process, to make sure it genuinely represents the local area. The Council has encouraged the Mill Hill Forum to ensure membership reflects the character and diversity of the local population.

5.6.2 The requirement for equalities impact assessment needs to be considered on a case by case basis as further proposals for Neighbourhood Plans come forward.

## 5.7 Corporate Parenting

5.7.1 N/A

## 5.8 Consultation and Engagement

5.8.1 The Council has a duty to publicise applications for designation or re-designation as well as consult on the emerging Neighbourhood Development Plan and inform public accordingly. A summary of responses to the publicity is set out within Appendix 4.

## 5.9 Insight

5.9.1 N/A

## 6. BACKGROUND PAPERS

6.1 Planning Committee, 17<sup>th</sup> September 2014 (Decision item 13) approved Designation of Mill Hill Neighbourhood Area and Forum applications for adoption.  
<https://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=703&MId=7914>

6.1 Council, 11 September 2012 (Decision item 4.1) approved the Local Plan Core Strategy and Development Management Policies for adoption.  
<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=162&MId=6671&Ver=4>

6.2 [Barnet's Statement of Community Involvement](#), 2018

6.4 Authorities Monitoring Report 2016/2017 <https://www.barnet.gov.uk/planning-and-building/planning-policies/local-plan-review/authorities-monitoring-report>

**Table 1: Summary of the Neighbourhood Development Plan preparation process**