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Sent by email to: [Jenny@tileyard.co.uk](mailto:Jenny@tileyard.co.uk)

18 September 2019

Dear Ms Sinclair,

## London Borough of Islington response to Tileyard Creative Quarter Neighbourhood Area and Forum applications

Thank you for submitting the above applications.

As I am sure you are aware, national planning guidance indicates that a community organisation or neighbourhood planning body should consult the local planning authority before making an area application. The council encourages early engagement prior to the submission of neighbourhood area and forum applications, not least because this can be helpful in resolving potential issues which might otherwise delay the progress of such applications.

In the absence of such engagement in this case, we have given careful consideration to your applications and give our detailed comments by way of this letter. We consider it sensible to resolve these issues with you prior to any future publication of the neighbourhood area and forum applications.

The following checklists (Tables 1 and 2) assess your applications against relevant legislative requirements. There are several parts of your application that raise issues regarding consistency with relevant legislation; however, I would ask you to carefully consider all the comments provided. Where inconsistencies relate to the constitution, further information is provided below.

**Table 1: Required information for neighbourhood area application**

Info required by the Neighbourhood Planning (General) Regulations 2012, Part 2, Section 5; and Section 61G(2) of the Town and Country Planning Act 1990	Has this been submitted?
A map which identifies the area to which the area application relates.	Yes, alongside explanation of boundary route. Application calls area "Tileyard Creative Quarter Neighbourhood Forum Area" but map and parallel forum application call it "Tileyard Creative Quarter Neighbourhood Area". This should be clarified in any further application.

A statement explaining why this area is considered appropriate to be designated as a neighbourhood area.	Explanation of why forum has chosen boundary has been provided.
A statement that the organisation or body making the area application is either: <ul style="list-style-type: none"> <li>a) a parish council, or</li> <li>b) capable of being designated as a neighbourhood forum (requirements for which are set out in Table 2).</li> </ul>	A statement has been included on page 1 of the application which references section 61G of the Act, but the parallel forum application is not consistent with relevant regulations (see Table 2 below). We would want to consider the area application further when we have your response to our comments on the forum application.

**Table 2: Required information for neighbourhood forum application**

<b>Info required by the Neighbourhood Planning (General) Regulations 2012, Part 3, Section 8; and Section 61F(5) of the Town and Country Planning Act 1990</b>	<b>Has this been submitted?</b>
The name of the proposed neighbourhood forum.	Yes, Tileyard Creative Quarter Neighbourhood Forum. Please see our comments below about the proposed name and its relationship to the proposed area.
A copy of a written constitution of the proposed neighbourhood forum.	Yes, submitted as Appendix 1 of forum application
The name of the neighbourhood area to which the application relates.	Yes, Tileyard Creative Quarter Neighbourhood Area
A map identifying the proposed neighbourhood area.	Yes, appendix 2 of forum application (and provided as part of parallel area application) but raises possible conflict with regulations – see below.
The contact details of at least one member of the proposed neighbourhood forum, this will be made public.	Yes, Jenny Sinclair, jenny@tileyard.co.uk
A written statement setting out how the proposed neighbourhood forum meets the following conditions:  it is established for the express purpose of promoting/improving the social, economic and environmental well-being of an area that consists of or includes the Neighbourhood Area concerned(whether or not it is also established for the express purpose of promoting the carrying on of trades, professions or other businesses in such an area), ,	Statement provided in Paragraph 1 of application, with further info in Paragraph 4.
its membership is open to— <ul style="list-style-type: none"> <li>i. individuals who live in the neighbourhood area concerned,</li> <li>ii. individuals who work there (whether for businesses carried on there or otherwise), and</li> <li>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,</li> </ul>	Yes, but the constitution raises possible conflict with regulations – see below.
its membership includes a minimum of 21 individuals each of whom— <ul style="list-style-type: none"> <li>i. lives in the neighbourhood area concerned,</li> </ul>	List of 34 names is provided at Appendix 3 but no addresses or signatures are included.

<p>ii. works there (whether for a business carried on there or otherwise), or</p> <p>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.</p> <p><i>NB: To fulfil this requirement the following information is required for the forum members (this information will not be publicised):</i></p> <ul style="list-style-type: none"> <li>• <i>their name</i></li> <li>• <i>the capacity in which they are involved in the forum i.e. whether they are:</i> <ul style="list-style-type: none"> <li>○ <i>a resident of the area</i></li> <li>○ <i>or work in the area</i></li> <li>○ <i>or are a local councillor</i></li> </ul> </li> <li>• <i>the address of the individual resident or place of work in the area</i></li> <li>• <i>the signatures of all the forum members.</i></li> </ul>	<p>Appendix 3 is not clear about whether individuals who ‘own or run a business’ actually live or work in the area.</p>
<p>it has a written constitution (satisfied by part 2 above),</p>	<p>Yes, although there are a number of concerns regarding inconsistencies with regulations.</p>
<p>such other conditions as may be prescribed</p>	<p>Islington require signatures to accompany the minimum 21 individuals named in application, to demonstrate that the individuals have actively consented to involvement. These have not been provided.</p>

Comments on the Tileyard Creative Quarter Neighbourhood Forum Constitution

In order to designate a neighbourhood forum, the Council must first be satisfied that the conditions set out in section 61F(5) of the Town and Country Planning Act 1990 are met. A number of those conditions (in particular, those relating to the purposes of the forum and the openness of its membership) will depend upon the detailed wording of the written constitution. Although the constitution is a matter for the forum, it must not contravene relevant regulations in respect of the requirements for a forum/area. We have therefore undertaken a detailed assessment of your constitution.

In this case the following potential issues raise concerns. It would be advisable for the forum to resolve these issues prior to publicising the applications, as they are directly relevant to any assessment of whether the applications adequately address the relevant statutory provisions. If they are not addressed, this could lead to the Council refusing the application.

**Paragraph 1.3** – the constitution notes that the working group (WG) may alter the area up to the time that the area is designated; this would be inconsistent with regulations. The area submitted must be the boundary which the relevant body wishes to be publicised. Once publicised, the council will determine whether or not to designate; there is no further scope at this point for the proposed forum to alter the boundary. The wording of the constitution should be revised accordingly, for example as follows (**bold blue** added, deleted struckthrough):

*“The Working Group (as defined in Clause 4 herein) may alter the Area following consultation with the members of TCQ in accordance with this constitution, up to the time that the **proposed** area is **submitted to be publicised** by the London Borough of Islington **to be publicised**.”*

We also question whether the issue of the boundary itself should be a matter for the wider forum, given the significance of the boundary in terms of the role of the forum. If the area is redrawn by the WG, this could result in the exclusion of members of the forum who would no longer live/work/act as an elected member for the redrawn area, without adequate engagement with such members. We consider that this is

inconsistent with the regulations. Further, the forum might be in breach of the regulations in respect of the area as redrawn.

**Paragraph 3.2b)** – further clarity is needed regarding membership of representatives of businesses with a place of business within the Area. The wording suggests that any employee of a business based in the area can be a member, even if they themselves do not physically live or work in the area. The Council considers that this is inconsistent with the regulations, and that for an individual to qualify for membership via the ‘work’ route, they must physically work in the area (although not necessarily on a full time basis).

**Paragraph 3.5** – further information on what constitutes a corporate body should be provided. The wording implies that a corporate body has membership and hence voting rights, which may contravene regulations if it is not a relevant organisation as per the legislative requirements. Ultimately, a corporate body would need to have a presence in the area and would be represented by someone working for the body (who would have a vote in line with legislation).

**Paragraph 3.6** – this paragraph suggests a charge for membership, which is not consistent with regulations. A neighbourhood forum is not a profit-making exercise. Membership should be free and assessed solely against the provision of the regulations, i.e. does the individual live, work or act as elected member for the area.

**Paragraph 3.8** – this paragraph seems to preclude elected members voting on statutory matters, which would not be consistent with regulations.

**Paragraphs 3.10 and 3.11** – eligibility for membership is governed by the regulations, and is not at the discretion of the WG as noted in paragraph 3.10. Paragraph 3.11 notes that membership may be refused/revoked if someone acts contrary to the purposes and objectives of the forum, based on the WG’s ‘reasonable opinion’. The current wording of these paragraphs is in direct contravention of regulations. Paragraph 3.12 recognises the scope of the regulations, and therefore it is confusing that paragraphs 3.10 and 3.11 purport to add additional constraints on membership.

**Paragraph 4.2** – there needs to be more explanation of the election process here. As proposed, the WG has significant discretion, so any mechanism which arbitrarily precludes people joining WG could be seen as undermining the role of the entire forum and could be against the spirit of the regulations. The requirement for each person standing to be nominated and seconded is a very high bar, and a straightforward election process where the AGM votes on any member putting their name forward would be preferable, and would avoid the perception of cronyism.

**Paragraph 4.7** – this paragraph is unclear about whether co-opted members have to be actual forum members. If not, then this is not consistent with regulations as it would give non-forum members voting rights.

**Paragraph 4.8** – ‘good reason’ needs to be defined, as there is too much discretion to remove members of the WG; given the importance of the WG, this could undermine the role of the entire forum. The constitution should set out specific criteria which would lead to expulsion, which would be more transparent. It would also be helpful for the constitution to confirm that any member of WG who is expelled still retains membership of the forum itself – the regulations do not allow the absolute expulsion of forum members.

**Paragraphs 6.1e) and 6.2e)** – there needs to be a clear process for proxy votes, e.g. written confirmation from member with nominated proxy, otherwise this could be susceptible to fraud and would undermine regulations.

**Paragraph 8.2** – “any other appropriate means” must be consistent with the regulations. It cannot include charges for membership or involvement in forum activities. This should be explicit in Paragraph 8.2.

Below we have provided a number of more general comments on constitution which we hope will prove useful in improving the drafting and operation of the constitution;

- **Paragraph 2.2b)** – the Forum will be a stakeholder and entitled to make representations but the wording suggests a role akin to Duty to Co-operate bodies, which is not the case. We suggest rewording this paragraph to make this clear and manage expectations of the wider forum.
- **Paragraph 2.2d)** – for clarity, the Forum will be consulted on CIL spend in the area but will have no direct influence on spending. If and when a neighbourhood plan is adopted, the Council would have regard to any spending priorities set out in the plan when determining spending.
- **Paragraph 3.4** – Affiliate membership is acceptable in principle where it is clear (as in this case) that this comes with no formal voting interest in forum activities.
- **Paragraph 3.7** – We would strongly encourage the forum to register as a data controller with the Information Commissioners Office. Paragraph 3.7 suggests that any member of the forum can request details of any other member, which could be in contravention of data protection regulations, so we suggest this is clarified.
- **Paragraph 4.9** – will elected members be informed of meetings, etc, in same way as other WG members? Paragraph 4.9 is unclear as drafted, and the forum should avoid including clauses in the constitution which could be seen as marginalising particular groups of members.
- **Paragraph 4.10** – we note the 5-year timeline of forum, which would mean only one full term is guaranteed for each WG member. The forum might want to consider a shorter timeframe.
- **Paragraph 5.1** – it is considered sensible for the AGM to determine positions of officers in addition to the actual officers themselves (covered by paragraph 4.1). This should include the chair and vice chair as a minimum.
- **Paragraphs 6.1 to 6.3** – it would be useful to have a terms of reference for each type of meeting, especially the distinction between GM and AGM.
- **Paragraph 10.1** – it would be more appropriate to refer to the Equality Act protected characteristics here, rather than specifying particular characteristics. We note that disability is not cited.
- **Paragraph 11.2** – this paragraph notes that dissolution can be via a General Meeting but then cites Paragraph 6.2 which refers to AGM. Any dissolution would likely need an EGM so we suggest this is stipulated.
- **Paragraph 11.4** – we note that the designation expires after five years, therefore the forum may want to consider a timelier review process if they want to have the opportunity for a seamless continuation of the designation.

#### Other comments

The Council considers that this area would be classed as a business neighbourhood area, as we consider that it is wholly or predominantly business in nature (see section 61H of the Town and Country Planning Act 1990). We would of course be happy to consider any comments you may have concerning this.

We would also ask you to reconsider the proposed name of the area and forum, and whether this is truly reflective of the area proposed. As Tileyard is only one business within the area, the name could send a misleading message regarding the scope of the area, and as a result discourage the wider community - particularly other non-Tileyard businesses - becoming involved in the forum, if they perceive the intent of the forum to be focused on Tileyard or are unaware of the true extent of the area. We are concerned that this will undermine engagement with the totality of the proposed area.

#### Conclusion

We would ask you to carefully consider this feedback. We look forward to your response to the points that we have raised.

The Council would welcome a meeting to discuss the issues outlined above, especially given the lack of engagement prior to submission of the applications. It is our view that a meeting could help to clarify matters and could set out the scope of future engagement and Council input.

If you have any questions regarding any matters raised in this letter, please do not hesitate to contact me.

Yours sincerely,



Ben Johnson  
Planning Policy Team Leader  
Islington Council