

<b>COUNCILLOR GEORGE DAVIES</b> CABINET MEMBER FOR HOUSING AND PLANNING AND DEPUTY LEADER OF THE COUNCIL	<b>DELEGATED REPORT</b>  <b>RE-DESIGNATION OF A NEIGHBOURHOOD PLANNING FORUM AND A NEIGHBOURHOOD PLANNING AREA FOR DEVONSHIRE PARK</b>
--	--

## **REPORT SUMMARY**

The Devonshire Park Neighbourhood Planning Forum has applied to the Council to be formally re-designated as a statutory Neighbourhood Forum, to enable them to continue to prepare neighbourhood planning proposals, including a statutory Neighbourhood Development Plan, for the Neighbourhood Area shown in Appendix 3.

The applications must be determined within 13 weeks of their publication by the Council, which in this case will run out on 3 October 2018.

The application documents, which comply with the relevant statutory requirements, were published for public comment for six weeks between 04 July and 17 August 2018. No comments were submitted during this period to indicate that the designation of the proposed Forum and its associated area boundary should be opposed.

The re-designation of the neighbourhood forum and neighbourhood planning area could potentially support a wide range of Wirral Plan pledges, depending on the content of the proposals prepared by the local community. The proposed Devonshire Park Area is wholly located within the Electoral Ward of Prenton.

The recommendation is not a Key Decision.

## **RECOMMENDATIONS**

- (1) That the Devonshire Park Neighbourhood Planning Forum is formally re-designated as the statutory neighbourhood planning forum for the Neighbourhood Area of Devonshire Park shown in Appendix 3 to this report, subject to the proposed constitution attached at Appendix 2 to this report; and**
- (2) That the re-designation and the associated documents are published and advertised in accordance with Regulation 7 and Regulation 10 of the Neighbourhood Planning (General) Regulations 2012 (as amended).**

## **SUPPORTING INFORMATION**

## REASONS FOR RECOMMENDATIONS

- 1.1 To fulfil the Council's statutory duties for the administration of applications to establish a statutory neighbourhood planning forum and a statutory neighbourhood planning area boundary for an area identified by the local community as Devonshire Park.

## OTHER OPTIONS CONSIDERED

- 2.1 No other option is available to the Council once a valid application has been received.
- 2.2 Neighbourhood planning must be community-led. The members of the proposed Forum have established ties with the proposed neighbourhood area and no other organisation has come forward to apply to act as a neighbourhood forum or to propose to prepare neighbourhood planning proposals for the proposed neighbourhood area.

## BACKGROUND INFORMATION

- 3.1 A previous Delegated Report set out the statutory requirements that must be met for applications to the Council to designate a Neighbourhood Forum and a Neighbourhood Area, to enable statutory neighbourhood planning proposals to be prepared by the local community.
- 3.2 The Council must publish any applications it receives for a statutory period of six weeks for public comment and must determine the applications within 13 weeks of the date of their publication.
- 3.3 Neighbourhood area applications that are not determined within 13 weeks must be designated, in default, without any further amendment.
- 3.4 The applications, attached to this report, from the Devonshire Park Neighbourhood Planning Forum, were published for public comment on 4 July 2018 and the 13-week deadline for the determination of the applications will expire on 3 October 2018.
- 3.5 The previous Delegated Report, which concluded that the applications met all the relevant statutory requirements for publication and designation, can be viewed at <http://democracy.wirral.gov.uk/ieDecisionDetails.aspx?ID=4417>.
- 3.6 Table 1 below sets out the comments that were received within the six week period that expired on 17 August 2018:

Ref Code	Respondent	Comment
DP1	The Bromborough Society	No comments on proposed forum or boundary.
DP2	The Canal and River Trust	The Canal and River Trust do not manage any waterways in the Proposed Area and as such have no comments to make.

<b>Ref Code</b>	<b>Respondent</b>	<b>Comment</b>
DP3	Highways England	No comments on proposed forum or boundary.
DP4	Historic England	No comments on proposed forum or boundary.
DP5	Natural England	No comments on proposed forum or boundary.
DP6	Network Rail	No comments on proposed forum or boundary.
DP7	Gladman Developments	Submission sets out an overview of the processes a Neighbourhood Forum must follow in order to be in line with national and local planning policies. The consultation response offers advice and assistance to the Neighbourhood Forum in preparing a Neighbourhood Plan.

3.7 None of the comments received constitute an objection to re-designating the proposed forum or the proposed boundary to the neighbourhood area and only two respondents set out issues that will need to be addressed by the forum when they come to prepare their future proposals for the area.

3.8 As the proposed Area is mainly residential in character, it will not be necessary to designate the proposed Neighbourhood Area as a business area, to allow a separate referendum of local businesses to take place.

## **Conclusion**

3.9 As the application documents submitted by the Devonshire Park Neighbourhood Planning Forum comply with the relevant statutory requirements; have been published for statutory public consultation; and no comments have been received that would indicate that the proposed forum or neighbourhood area would be unsuitable for re-designation; this report recommends that the Forum is now formally re-designated as the statutory neighbourhood forum for the proposed Neighbourhood Area shown in Appendix 3 and that the decision to re-designate the Forum is published in accordance with the relevant statutory requirements.

## **FINANCIAL IMPLICATIONS**

4.1 The costs associated with publicising the application documents have been met from within existing resources for Economic and Housing Growth.

4.2 A grant of up to £5,000 to cover these costs from the Department of Communities and Local Government is only available to cover the first five neighbourhood areas designated. Prior to this application for re-designation, the Council had already designated five neighbourhood forums and so this grant is no longer available to the Council.

4.3 An additional grant of £20,000 to cover the cost of a future referendum is now only available where a Neighbourhood Plan has not been made in that area. As a Neighbourhood Plan was previously made for the associated Neighbourhood Area proposed in this application, this grant funding is no longer available to the Council.

4.4 Additional grant funding is available to cover the cost of modifications to a neighbourhood plan which is in force. Sums vary according to the scale of modifications proposed.

- 4.5 Modifications which require an examination but no new referendum would mean the Council would be eligible to claim £10,000 once the revised plan came into force following examination.
- 4.6 Where more substantive modifications are required which result in both a new examination and a new referendum taking place, the Council will be eligible to claim £20,000 to cover these costs.
- 4.7 Once a claim to update or modify an existing Neighbourhood Plan has been submitted, further claims for revisions to that specific Neighbourhood Plan will be restricted to one every five years.
- 4.8 Any additional resources to support the Devonshire Park Neighbourhood Planning Forum and the later stages of the neighbourhood planning process, including publishing a draft Plan, arranging an independent examination and holding a local referendum, will need to be met from existing resources held by the Assistant Director for Major Growth Projects & Housing Delivery, less any available grant monies. The costs associated with publication, examination and local referendum are a statutory responsibility.
- 4.9 Recent experience suggests that an independent examination could cost between £10,000 and £15,000, depending on the nature of the proposals submitted.
- 4.10 A local referendum of registered electors within the area boundary proposed is currently expected to cost up to £10,000.

## **LEGAL**

- 5.1 The Council has a legal duty to support local communities in their preparation of statutory neighbourhood planning proposals and must accept and publish proposals for designation that comply with the requirements of the Localism Act.

### Neighbourhood forums

- 5.2 The Council can only refuse to re-designate a forum where it does not meet the prescribed conditions of the Act and must publish the reasons for refusing any application.
- 5.3 When considering whether to re-designate a neighbourhood forum, the Council must have regard to the desirability of designating an organisation or body which has secured or taken reasonable steps to secure that its membership contains at least one individual falling within each of the groups identified as set out in the preceding delegated report (8 July 2018 – Paragraph 3.3 refers); whose membership is drawn from different places and from different sections of the community within the area concerned; and whose purpose reflects in general terms the character of that area.
- 5.4 The nature or merit of any draft or initial proposals is not a relevant consideration in the decision to re-designate a neighbourhood forum.
- 5.5 The Council may only designate one organisation or body as the neighbourhood forum for each neighbourhood area and neighbourhood areas are not allowed to

overlap each other. Once designated, no other organisation or body may be designated for that neighbourhood area until that designation expires or is withdrawn.

- 5.6 The re-designation of the forum will initially last for five years but once re-designated, the Council will only be able to rescind the status of the Devonshire Park Neighbourhood Planning Forum if the Forum no longer meets the statutory conditions for designation as a neighbourhood forum.

#### Neighbourhood areas

- 5.7 The Council can refuse an application to re-designate a neighbourhood area, if they consider that the area is not appropriate to be re-designated as a neighbourhood area but must publish a statement of the reasons for refusing any application to re-designate a neighbourhood area and must exercise its power of designation so as to secure that some or all of the specified area forms part of the area to be designated.
- 5.8 The Council must re-designate all of the neighbourhood area applied for, unaltered, if the Council has not determined the neighbourhood application within 13 weeks of publishing the application for public comment.

#### Post-redesignation

- 5.9 Following re-designation, the Devonshire Park Neighbourhood Planning Forum will be responsible for the preparation of draft proposals, in line with national regulations which provide for statutory public involvement and for submitting the draft plan to the Council for publication and examination by an independent person with appropriate qualifications and experience.
- 5.10 The Forum's proposals must have regard to national policy and must be in general conformity with the strategic policies contained within the Council's adopted Local Plans.
- 5.11 The Council must make the proposed neighbourhood plan part of the statutory Development Plan for Wirral, if it meets the basic conditions set out in national legislation, passes independent examination and is supported by a majority of those voting in a local referendum. The neighbourhood plan must then be used in the determination of individual planning applications within the plan area.
- 5.12 Any local referendum will need to comply with the Neighbourhood Planning (Referendums) Regulations 2012 (SI 2012 No. 2031), as amended. The independent examiner will recommend whether the area for the referendum should extend beyond the designated neighbourhood area and the Council may also, where appropriate, extend the area in which the referendum is to take place.
- 5.13 The Government announced a proposal to give Neighbourhood Forums which have a neighbourhood development plan that has passed referendum, the right to begin the process to create a new town and parish council, without the requirement to submit a supporting petition, in January 2015 but this proposal has not yet been taken any further.

- 5.14 As soon as possible after re-designating a neighbourhood forum or a neighbourhood area the Council must publish 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; a map which identifies the area; and contact details for at least one member of the neighbourhood forum, on the Council's website and in such other manner as the Council consider is likely to bring the designation to the attention of people who live, work or carry on business in the neighbourhood area.

### **RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS**

- 6.1 Statutory consultation was undertaken using existing resources for Economic and Housing Growth and Birkenhead Central Library.
- 6.2 Following re-designation, the Devonshire Park Neighbourhood Forum will be responsible for the preparation of a draft plan, in line with national regulations and policies, including statutory public involvement and the submission of the final draft plan proposals to the Council for independent examination.
- 6.3 The Government currently provides support for communities who choose to prepare neighbourhood plans, in the form of grants of up to £9,000. Groups facing a range of complex issues are also eligible to apply for a further £6,000 and for additional technical support, to help with issues such as assessing housing needs; masterplanning and design; evidence base and policy review; and strategic environmental assessment. Information on how to apply for this funding and support can be viewed at <http://www.mycommunity.org.uk>.
- 6.4 Once a final draft plan has been submitted to the Council, the Council will be required to publish the plan proposals for public consultation and to arrange for the proposals and any comments received to be examined by an independent person with appropriate qualifications and experience.
- 6.5 A local referendum will need to be undertaken if the proposals successfully pass independent examination, using existing resources in Electoral Services, in consultation with the Chief Executive in his role as Returning Officer.

### **RELEVANT RISKS**

- 7.1 As compliance with the national neighbourhood planning regulations is not discretionary, the principal risks to the Council are financial and legal. Financial risks are dependent on the continued availability of Government grants.
- 7.2 A decision not to re-designate the Devonshire Park Neighbourhood Forum as a neighbourhood planning forum or the neighbourhood area as applied for could be subject to legal challenge.
- 7.3 The Council must re-designate all of the neighbourhood area applied for, with no discretion to amend the boundary, if the Council has not determined the neighbourhood application within 13 weeks of publicising an application.

- 7.4 Potentially abortive costs at independent examination and local referendum could be mitigated by working in partnership with the Devonshire Park Neighbourhood Forum to maximise the potential success of their neighbourhood planning proposals.
- 7.5 The principal legal risk is for any decision by the Council on the re-designation of the neighbourhood forum and neighbourhood area to take longer than the statutory deadline of 13 weeks, which has been mitigated by presenting this report as early as possible after the deadline for public consultation has expired.

## **ENGAGEMENT / CONSULTATION**

- 8.1 The Devonshire Park Neighbourhood Planning Forum has engaged with local stakeholders through regular public meetings, monthly newsletters and social media activity since 2006. Throughout that time, residents have been actively campaigning on local planning issues to express their concern to maintain a more balanced mix of housing stock and promote a more sustainable community.
- 8.2 Membership of the Forum will remain open to individuals who live, work or carry out business in the area or who are elected members of Wirral Borough Council whose area falls within the neighbourhood area. The management committee will also make reasonable endeavours to ensure that membership of the forum reflects local diversity.
- 8.3 All three of the Elected Members for Prenton Ward are already members of the Forum. The proposed constitution, set out in Appendix 2 to this report, ensures that all of the Elected Members for Prenton Ward will also be eligible to become members of the Forum.
- 8.4 The Council has advertised the applications for re-designation, including the constitution of the proposed Neighbourhood Forum and the proposed Neighbourhood Area boundary, for not less than six weeks, in accordance with national regulations, to enable other members of the community and other stakeholders to make their views known on the application, area boundary and constitution, before any final recommendation on designation is made.
- 8.5 Paper copies of the application documents, including the application letters, proposed constitution and proposed area boundary, were placed for public inspection on the Council's website and in Birkenhead Central Library and at the South Annexe of Wallasey Town Hall during their normal opening hours.
- 8.6 The consultation was advertised through a planning notice in the free press and the Council's social media. Notification was sent to the consultation bodies listed in Schedule 1 of the Neighbourhood Planning Regulations (as amended); to the Constituency Area Manager for Birkenhead; and to contacts with an interest in the area that are already registered on the Council's Local Plan database. Notification was also sent to local businesses through the Wirral Chamber of Commerce and to other community contacts through the Community Action Wirral newsletter.
- 8.7 Copies of the responses received will be forwarded to the Forum once the decision on designation has been determined, to enable them to be fully taken into account in any future emerging proposals for the area.

- 8.8 Any subsequent proposals prepared by the Devonshire Park Neighbourhood Planning Forum will need to be developed following statutory public involvement and must be submitted to the Council for independent examination and made subject to a local referendum before they can be approved to form part of the statutory Development Plan for Wirral, following a resolution of Full Council.

## **9.0 EQUALITY IMPLICATIONS**

- 9.1 The relevant Equality Impact Assessment has been reviewed and can now be viewed at <https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments/equality-impact-assessments-2017/delivery>
- 9.2 The constitution, object and open membership of the proposed neighbourhood planning forum should have positive equalities implications.
- 9.3 A revised equalities impact assessment will need to be prepared once the neighbourhood planning proposals of the Devonshire Park Neighbourhood Planning Forum have been prepared.

**REPORT AUTHOR:**           **Robert Oates**  
                                      **Senior Planning Officer**  
                                      telephone: (0151) 691 8110  
                                      email: [robertoates@wirral.gov.uk](mailto:robertoates@wirral.gov.uk)

## **APPENDICES**

Appendix 1 – Application Letter  
Appendix 2 – Proposed Constitution  
Appendix 3 – Proposed Area Boundary

## **REFERENCE MATERIAL**

Localism Act 2011 (Part 6, Chapter 3 and Schedules 9 to 12 refer) -  
<http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>

The Neighbourhood Planning Act 2017 (Chapter 20, Part 1, Sections 1 to 7 and Schedule 1 refer) - <http://www.legislation.gov.uk/ukpga/2017/20/contents/enacted>

The Housing and Planning Act 2016 (Chapter 22, Part 6, Paragraphs 139 to 156 refer) -  
<http://www.legislation.gov.uk/ukpga/2016/22/contents/enacted>

The Neighbourhood Planning (General) Regulations 2012 (SI 2012, No. 637) (Regulations 5 to 10 refer) - <http://www.legislation.gov.uk/uksi/2012/637/made/data.pdf>

The Neighbourhood Planning (General) (Amendment) Regulations 2015 (SI 2015, No. 20) (Regulation 2 refers) -  
[http://www.legislation.gov.uk/uksi/2015/20/pdfs/uksi\\_20150020\\_en.pdf](http://www.legislation.gov.uk/uksi/2015/20/pdfs/uksi_20150020_en.pdf)

The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2017 (2017 1243 refers) -  
[http://www.legislation.gov.uk/uksi/2016/873/pdfs/uksi\\_20160873\\_en.pdf](http://www.legislation.gov.uk/uksi/2016/873/pdfs/uksi_20160873_en.pdf)



The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 (SI 2016, No. 873) (Regulation 2 refers) - [http://www.legislation.gov.uk/uksi/2016/873/pdfs/uksi\\_20160873\\_en.pdf](http://www.legislation.gov.uk/uksi/2016/873/pdfs/uksi_20160873_en.pdf)

Neighbourhood Planning (Referendums) Regulations 2012 (SI 2012 No. 2031) - <http://www.legislation.gov.uk/uksi/2012/2031/contents/made>

Neighbourhood Planning (Referendums) (Amendment) Regulations 2014 (SI 2014 No. 333) - [http://www.legislation.gov.uk/uksi/2014/333/pdfs/uksi\\_20140333\\_en.pdf](http://www.legislation.gov.uk/uksi/2014/333/pdfs/uksi_20140333_en.pdf)

Neighbourhood Planning (Referendums) (Amendment) Regulations 2016 (SI 2016 No. 934) - [http://www.legislation.gov.uk/uksi/2016/934/pdfs/uksi\\_20160934\\_en.pdf](http://www.legislation.gov.uk/uksi/2016/934/pdfs/uksi_20160934_en.pdf)

National Planning Policy Framework (CLG, July 2018) (paragraphs 13 to 14 and Section 3 Plan Making refer) - <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

National Planning Practice Guidance (CLG, Neighbourhood Planning pages refer) - <http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/>

Written Ministerial Statement by the Housing and Planning Minister, Gavin Barwell (12 December 2016) - <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-12-12/HCWS346/>

Ministry of Housing, Communities and Local Government (MHCLG) – Letter from Chief Planning Officer - Update on financial support for neighbourhood planning in 2018/19 - [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/717060/180605\\_Chief\\_Planner\\_Letter\\_NPG\\_18-19\\_-\\_revised.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/717060/180605_Chief_Planner_Letter_NPG_18-19_-_revised.pdf)

Further information on the existing Neighbourhood Development Plan for Devonshire Park can be viewed on the Council's website - <http://www.wirral.gov.uk/planning-and-building/local-plans-and-planning-policy/neighbourhood-planning>

### **SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
Delegated – Application for re-designation of a Neighbourhood Planning Forum and a Neighbourhood Planning Area for Devonshire Park	8 June 2018
Council - Neighbourhood Planning – Making of a Neighbourhood Plan for Devonshire Park	14 December 2015 (Minute 81)
Cabinet - Neighbourhood Planning – Making of a Neighbourhood Plan for Devonshire Park	5 November 2015 (Minute 69)