

<b>REPORT TITLE:</b>	<b>RE-DESIGNATION OF A NEIGHBOURHOOD PLANNING FORUM AND A NEIGHBOURHOOD PLANNING AREA FOR DEVONSHIRE PARK</b>
<b>REPORT OF:</b>	<b>ASSISTANT DIRECTOR – CHIEF PLANNER, REGENERATION AND PLACE</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 it to continue to prepare neighbourhood planning proposals, which can include 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 runs out on 15 March 2024.

The application documents, which comply with the relevant statutory requirements, were published for public comment for an extended period of eight weeks between 15 December 2023 and 9 February 2024, to take account of the Christmas and New Year holidays.

The re-designation of the neighbourhood forum and neighbourhood planning area could potentially support delivery under the themes of people focused regeneration, protect the environment, and safe, resilient and engaged communities in the Council Plan: Wirral Working Together 2023-27, depending on the content of the proposals prepared by the local community. The forum has been established with the express purpose of promoting and improving the social economic and environmental wellbeing of Devonshire Park and to foster strong community spirit and encourage civic pride.

The proposed Devonshire Park Neighbourhood Area is wholly located within the Electoral Ward of Prenton but adjoins the Electoral Wards of Birkenhead and Tranmere, and Oxtan.

The recommendation is not a Key Decision.

## **RECOMMENDATION/S**

**That the Director of Regeneration and Place is recommended to approve:**

- (1) the re-designation of the Devonshire Park Neighbourhood Planning Forum 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) the publication of the decision to re-designate and the associated documents in Appendices 1 to 3 of this report, in accordance with Regulation 7 and Regulation 10 of the Neighbourhood Planning General Regulations 2012, as amended.**

## **SUPPORTING INFORMATION**

### **1.0 REASON/S FOR RECOMMENDATION/S**

- 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 area boundary for an area identified by the local community at Devonshire Park.
- 1.2 In the absence of any decision being made in respect of the neighbourhood area application within the statutory timeframe it will be deemed to be approved as made.

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 The Council can refuse an application to designate a neighbourhood area if it considers that the area is not appropriate to be designated as a neighbourhood area, but the Council must publish a statement of the reasons for refusing any application and must ensure that at least some or all of the specified area forms part of the area to be designated. This is not recommended as it is considered that the area that is the subject of the proposed forum is appropriate.

### **3.0 BACKGROUND INFORMATION**

- 3.1 The Localism Act 2011 allows community groups to apply to the Council to be designated as a neighbourhood forum. Designation as a neighbourhood forum allows a qualifying community group to develop land-use planning proposals for a specified area, which can include the preparation of a statutory neighbourhood development plan for that specified area. The designation must be renewed every five years if an existing forum is to continue to exercise these powers for their specified area.

#### **Devonshire Park Neighbourhood Planning Forum**

- 3.2 The Council has received an application to re-designate the existing neighbourhood forum and neighbourhood area at Devonshire Park, to enable statutory neighbourhood planning proposals to continue to be prepared by the local community. The Devonshire Park Neighbourhood Planning Forum has been in operation since April 2013. The designation of the Forum was last renewed in October 2018.
- 3.3 The Forum prepared a Neighbourhood Development Plan for Devonshire Park, which was formally made part of the statutory development plan for Wirral on 14 December 2015, following public consultation, independent examination and a local referendum. The Neighbourhood Plan can be viewed on the Council's website at <https://www.wirral.gov.uk/planning-and-building/local-plans-and-planning-policy/neighbourhood-planning/devonshire-park>. The Neighbourhood Plan has an end date of 2030 but will need to be reviewed, to keep it up to date, once the Wirral Local Plan is adopted.

#### **The Application Documents**

- 3.4 The application documents were published for public comment on 15 December 2023 and the 13-week deadline for the determination of the applications will expire

on 15 March 2024. The application letter, at Appendix 1 to this report and the proposed constitution, at Appendix 2 to this report demonstrate how the relevant statutory requirements set out in section 5 of this report have been met. The proposed neighbourhood area boundary is enclosed as Appendix 3 to this report.

- 3.5 The proposed constitution shows that the proposed forum has been specifically established with the object of promoting and improving the social, economic and environmental well-being of the area, which includes the preparation of a statutory neighbourhood plan for the area, as set out in section 2 of the document. It is drafted with the purpose that the membership of the forum will remain open to all necessary individuals, as set out in point 1 of section 5 of the document; and confirms that the management committee will make the best efforts to publicise the neighbourhood plan and to consult and engage with all stakeholders, utilising meetings, the community newsletter, social media and any other appropriate methods, as set out in point 3 of section 9 of the document. It will also ensure that the result of any vote taken in regard to neighbourhood planning will be invalid if the membership of the forum falls below 21 people, as set out in point 7 of section 5 of the document.
- 3.6 At the time of application, there were 208 registered members of the proposed forum including one elected Member of Wirral Council. Seven of the registered members work but do not live within the area but at least 200 live within the area, as set out in the application letter.
- 3.7 The proposed neighbourhood area boundary is located entirely within the Council's Electoral Ward of Prenton and is bounded by Borough Road, North Road, Greenway Road and Prenton Road East. The proposed neighbourhood area includes approximately 640 residential properties and 10 non-residential addresses and the Grade 2 Listed Building at St Joseph's Church on Willowbank Road and is the same as that previously designated by the Council in April 2013 and renewed in October 2018 and as included in the Neighbourhood Development Plan made part of the statutory development plan for Wirral by the Council in December 2015.
- 3.8 The application letter explains that local residents recognise Devonshire Park as a coherent area, with identifiable characteristics, formed by its history and physical layout and that it is perceived as a distinct local neighbourhood.

### **Results of Consultation**

- 3.9 Table 1 below sets out the five comments that were received within the eight-week consultation period that expired on 9 February 2024. None of the comments received constitute an objection to re-designating the proposed forum or the proposed boundary to the neighbourhood area. Two respondents set out issues that may need to be addressed by the forum when they come to prepare their future proposals for the area, which will be forwarded to the Forum once the decision on designation has been determined.

<b>Ref Code</b>	<b>Respondent</b>	<b>Comment</b>
DP1	Councillor Naomi Graham	Supports the application.
DP2	The Canal and River Trust	No comments on proposed forum or boundary. The designated area does not include any land or assets owned by the Canal and River Trust.
DP3	Merseyside Bat Group	No comments on proposed forum or boundary. Welcomes the ethos of the Forum and the objective to preserve and promote the unique character and identity of the area with particular attention to clean, safe and peaceful environment, green spaces and heritage features. Green spaces can be of great value to bats. Decisions should fully consider the possible presence of bats by requiring developers or other interested parties to commission bat surveys prior to any decision and should minimise lighting, particularly around tree lines, hedgerow, or water bodies. Specialist advice can be provided, where required.
DP4	Natural England	No comments on proposed forum or boundary but provides information that the neighbourhood planning body may wish to use in developing the plan, and to highlight some of the potential environmental risks and opportunities that neighbourhood plans may present.
DP5	Historic England	No comments on the proposed forum or boundary.

## **Conclusion**

- 3.10 The application documents submitted by the Devonshire Park Neighbourhood Planning Forum comply with the relevant statutory requirements and have been published for statutory public consultation. No objections were submitted during this period to the designation of the proposed forum or its associated area boundary. It is therefore proposed that the Forum is formally re-designated as the statutory neighbourhood forum for the proposed neighbourhood area. As the proposed neighbourhood 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.

## **4.0 FINANCIAL IMPLICATIONS**

- 4.1 The costs associated with publicising the application documents have been met from the existing resources of the Regeneration and Place Directorate. No grant is available to cover these costs.
- 4.2 Additional resources will be needed to support the later stages of any future neighbourhood planning process, including publishing any draft proposals, arranging an independent examination and holding a local referendum. The costs associated are a statutory responsibility and can be met from funds already set aside for Devonshire Park.
- 4.3 Recent experience suggests that an independent examination could cost between £10,000 and £15,000, depending on the nature of the proposals submitted. A local

referendum of registered electors within the area boundary proposed is currently estimated by Electoral Services to cost up to £10,000.

- 4.4 Grant funding is currently available to the Council 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. Where more substantive modifications are required, which result in both a new examination and a new referendum taking place, the Council would be eligible to claim £20,000 to cover these costs. Further claims would be restricted to one every five years.
- 4.6 The costs associated with the preparation of any future planning proposals before they are submitted to the Council for examination, which must include consultation with the local community, must be met by the neighbourhood forum. Grant funding and technical support is currently available to qualifying forums, for which the forum will need to make separate independent application. Further information is available at <https://neighbourhoodplanning.org/>

## **5.0 LEGAL IMPLICATIONS**

- 5.1 The Council has a legal duty to support local communities in their preparation of statutory neighbourhood planning proposals, where they have been brought forward in line with the necessary legislation.

### **Neighbourhood forums**

- 5.2 Applications to be designated as a neighbourhood forum must include:
- the name of the proposed forum;
  - a copy of the written constitution of the proposed forum;
  - the name of the neighbourhood area to which the application relates;
  - a map which identifies the area;
  - the contact details of at least one member of the of the proposed neighbourhood forum to be made public; and
  - a statement which explains how the proposed forum will meet the prescribed conditions of the Act, namely that:
    1. the forum is established for the express purpose of promoting or improving the social economic and environmental wellbeing of an area that consists of or includes the neighbourhood area concerned; and
    2. the membership of the forum is open to:
      - individuals who live in the neighbourhood area concerned;
      - individuals who work in the neighbourhood area concerned; and
      - individuals who are elected members for an area that falls within the neighbourhood area concerned; and

3. the membership of the forum includes a minimum of 21 individuals, each of whom:

- lives in the area concerned;
- works in the area concerned; or
- are elected members for any part of the area concerned; and

4. the forum has a written constitution.

- 5.3 When considering whether to 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 in paragraph 5.2.2 above; 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 or previously made 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 Applications to designate a neighbourhood area must include:
- a map to identify the area to which the area application relates;
  - a statement explaining why this area is considered appropriate to be designated as a neighbourhood area; and
  - a statement that the community group making the application is, or is capable of being, a relevant body that meets the prescribed conditions of the Act.
- 5.8 The Council must designate some or all of the area applied for and must designate all of the area applied for, unaltered, if the Council has not determined the neighbourhood area 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 legislation. The Forum's proposals must be prepared in consultation with the local community,

have regard to national policy and legislation and must be in general conformity with the strategic policies contained within the Council's adopted Local Plans.

- 5.10 The Council must make a proposed neighbourhood plan part of the statutory Development Plan for Wirral, if it meets the basic conditions set out in national legislation, passes examination by an independent person with appropriate qualifications and experience, and is supported by a majority of those voting in a local referendum, if either or both are required. The neighbourhood plan must then be used in the determination of individual planning applications within the plan area.
- 5.11 Any local referendum will need to comply with the Neighbourhood Planning Referendums Regulations 2012. 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.
- 5.12 As soon as possible after designating a neighbourhood forum or a neighbourhood area the Council must publish 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:
- 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
  - the contact details for at least one member of the neighbourhood forum.

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

- 6.1 Statutory consultation on the applications was undertaken using existing resources for Regeneration and Place and at Birkenhead Library.
- 6.2 Following re-designation, further support and assistance may be required from Council officers in Regeneration and Place to provide or signpost relevant information, advise on compliance with legislation and comment on the suitability of draft proposals as they emerge.
- 6.3 Once final draft proposals have been submitted to the Council, the Council will be required to publish the proposals for public consultation and, if required, arrange for the proposals and any comments received to be examined by an independent person with appropriate qualifications and experience. A local referendum, if required, 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.

## **7.0 RELEVANT RISKS**

- 7.1 As compliance with the national neighbourhood planning regulations is not discretionary, the principal risks of taking this decision are financial and legal and relate to the limited alternative options available to the Council, as set out in section

2.0 and 6.0 above, which will be monitored throughout the lifecycle of the forum's designation and activities.

- 7.2 A principal 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.
- 7.3 The Council must designate all of the neighbourhood area applied for, with no discretion to amend the boundary, if the Council has not determined the neighbourhood area application within 13 weeks of publicising an application. A decision not to re-designate the Devonshire Park Neighbourhood Planning Forum as a neighbourhood planning forum or not to re-designate the neighbourhood area as applied for could also be subject to legal challenge.
- 7.4 Financial risks are also dependent on the continued availability of Government grants to cover the potential costs of later statutory stages in the preparation of any future neighbourhood planning proposals, which could include public consultation, independent examination and a local referendum as set out in the financial implications, which may no longer be available to the Council at the time any future proposals are brought forward.
- 7.5 Potentially abortive costs at independent examination and local referendum, if they are required, could be mitigated by working in partnership with the Devonshire Park Neighbourhood Planning Forum to maximise the potential success of their neighbourhood planning proposals.

## **8.0 ENGAGEMENT/CONSULTATION**

- 8.1 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.
- 8.2 The Devonshire Park Residents Association under which the Neighbourhood Planning Forum will operate 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.
- 8.3 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 the Council or a Member of Parliament 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.
- 8.4 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 applications, 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 during normal opening hours. Notification was sent to the consultation bodies listed in Schedule 1 of the Neighbourhood Planning Regulations, as amended and to contacts with an interest in the area that are already registered on the Council's Local Plan database and a news item was published on Wirral View.
- 8.6 Copies of the responses received will be forwarded to the Forum once the decision on designation has been determined, to enable them to be taken into account in any future emerging proposals for the area.
- 8.7 The Forum must consult the local community when they prepare any future neighbourhood planning proposals, before they are submitted to the Council and depending on the scale of any changes proposed, may also need to be subject to independent examination and a local referendum before they can be brought into legal effect.

## **9.0 EQUALITY IMPLICATIONS**

- 9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity.
- 9.2 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>
- 9.3 The constitution, object and open membership of the proposed neighbourhood planning forum should have positive equalities implications. Membership of a neighbourhood forum is voluntary and will remain open to all people working or resident within or elected to represent the area, who may comment on the application to designate and who may also comment on any emerging neighbourhood planning proposals, whether they are members of the forum or not. Residents and representatives of businesses located outside the proposed neighbourhood area will not be eligible to become members of the proposed forum and would not qualify to vote on emerging neighbourhood planning proposals in a future local referendum, unless the referendum area was later extended but would still be able to comment on any relevant consultations as they occur.
- 9.4 Businesses within the proposed neighbourhood area would not qualify to vote on any emerging neighbourhood planning proposals in a future local referendum unless the nature of any proposals leads an independent examiner to recommend that a separate referendum of local businesses should be undertaken before the proposals are confirmed but local businesses would still be able to comment on any relevant consultations as they occur.

9.5 A revised equalities impact assessment will need to be prepared once any revised or updated neighbourhood planning proposals have been prepared.

## **10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS**

10.1 The content and/or recommendations contained within this report are not expected to have an impact on emissions of Greenhouse Gases.

10.2 The Forum has been established with the express purpose of promoting and improving the social, economic and environmental wellbeing of Devonshire Park, as set out in point 1 of section 2 of their proposed constitution and any future proposals will need to be brought forward in line with the Council's strategic policies for the environment and climate change to be contained within the Council's Local Plan.

## **11.0 COMMUNITY WEALTH IMPLICATIONS**

11.1 There are no community wealth implications arising directly from this report but any neighbourhood planning proposals following on from a decision to re-designate the forum would be prepared by the local community.

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## **APPENDICES**

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

The PDF files may not be suitable to view for people with disabilities, users of assistive technology or mobile phone devices. Please contact [forwardplanning@wirral.gov.uk](mailto:forwardplanning@wirral.gov.uk) if you would like these documents in a more accessible format.

## **BACKGROUND PAPERS**

National Planning Practice Guidance – Neighbourhood Planning, DLUHC, September 2020

Links to the relevant legislation are set out in an Endnote to the Background Note that accompanies the consultation, which can be viewed at <https://www.wirral.gov.uk/planning-and-building/local-plans-and-planning-policy/neighbourhood-planning/devonshire-park>

## **TERMS OF REFERENCE**

This report is being considered by the Director of Regeneration and Place in accordance with Part (c) of the Committee's Terms of Reference:

“developing and adopting or recommending (if reserved to Council) other spatial planning documents, including but not limited to:

- (i) Supplementary Planning Documents (SPD) and planning policy advice notes;
- (ii) Master Plans and development briefs;
- (iii) The Infrastructure Delivery Plan; and
- (iv) The Community Infrastructure Levy.”

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
None	