

# WIRRAL COUNCIL

## DELEGATED DECISION

<b>SUBJECT:</b>	<b>APPLICATION FOR THE DESIGNATION OF A NEIGHBOURHOOD PLANNING FORUM AND A NEIGHBOURHOOD PLANNING AREA FOR BIRKENHEAD AND TRANMERE</b>
<b>WARDS AFFECTED:</b>	<b>BIRKENHEAD AND TRANMERE; OXTON; AND ROCK FERRY</b>
<b>REPORT OF:</b>	<b>STRATEGIC DIRECTOR FOR REGENERATION AND THE ENVIRONMENT</b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	<b>COUNCILLOR PAT HACKETT - ECONOMY</b>
<b>KEY DECISION</b>	<b>YES</b>

### 1.0 EXECUTIVE SUMMARY

- 1.1 The Birkenhead & Tranmere Neighbourhood Planning Forum has applied to the Council to be formally designated as a statutory Neighbourhood Forum, to enable them to prepare a statutory Neighbourhood Development Plan for parts of Birkenhead and Tranmere.
- 1.2 Their application includes a supporting statement, their proposed constitution and a proposed Neighbourhood Area boundary, which covers the Electoral Ward of Birkenhead & Tranmere, with small additional areas around the Williamson Art Gallery and Museum in Oxton Ward; and at Holborn Square, Holt Road and Sidney Road in Rock Ferry Ward.
- 1.3 The Council must now comply with a legal process set out in national regulations. This report therefore recommends that the application documents are advertised for statutory public consultation for a period of six weeks and that a further report, outlining the results of that consultation, is prepared before the final designation of a neighbourhood forum and a neighbourhood area boundary is considered.
- 1.4 It also recommends that the final designation of a neighbourhood forum and of a neighbourhood area boundary is confirmed by a resolution of Cabinet, rather than (as previously) by a resolution of Full Council, to facilitate the new statutory requirement to determine any area application within 13 weeks of the publication of the proposals.
- 1.5 Any future Neighbourhood Development Plan to be prepared by the proposed Forum must have regard to national policy and be in general conformity with the strategic policies contained within the Council's adopted Local Plans and can only be legally made following statutory consultation, independent examination and a majority vote of local Electors in a local referendum.

### 2.0 BACKGROUND AND KEY ISSUES

- 2.1 The Localism Act 2011 and accompanying regulations, allow communities to have more control over planning and development within their area. Using these new

powers, community groups can apply to the Council to be designated as a neighbourhood forum, to allow them to develop land-use planning proposals for their area which can include the preparation of a statutory Neighbourhood Development Plan.

2.2 The Council has already approved the designation of three other Neighbourhood Forums and Neighbourhood Areas at Devonshire Park and at Hoylake (Council 30 April 2013, Minute 147 refers) and at Leasowe (Council, 14 July 2014, Minute 28 refers).

2.3 To be valid, 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:
    - i. individuals who live in the neighbourhood area concerned;
    - ii. individuals who work in the neighbourhood area concerned; and
    - iii. 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:
    - i. lives in the area concerned;
    - ii. works in the area concerned; or
    - iii. are elected members for any part of the area concerned; and
  - (4). the forum has a written constitution.

2.4 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.

2.5 In accordance with national regulations, valid applications to the Council must be published for public comment, as soon as possible after receipt, for a period of not less than six weeks on the Council's website and in such other manner as the Council considers is likely to bring the application for designation to the attention of those who live, work or carry on business in the area.

2.6 Since February 2015, applications for the designation of a neighbourhood area must be determined within 13 weeks of the application being publicised by the Council for public comment. It is therefore recommended that any future decision on final designation is confirmed by a resolution of Cabinet, rather than as previously by a resolution of Full Council (paragraph 9.12 below, also refers), to allow the new statutory 13-week deadline to be complied with.

### **3.0 APPLICATION BY BIRKENHEAD & TRANMERE NEIGHBOURHOOD PLANNING FORUM**

3.1 The proposed Forum originates from an earlier group of local residents, formed in 2011, who met monthly with the aim to improve their neighbourhoods by collective action under the name of "These Streets are Our Streets". In 2014, the group considered the opportunity of preparing a neighbourhood plan to address issues of concern to local residents, which was supported by 21 residents at a public meeting. An inaugural meeting of the prospective Forum was held at St Catherine's Community Centre on 8 December 2014, to agree a draft Constitution. The proposed members of the Forum include people already actively involved in other groups and services within the area.

3.2 The proposed Birkenhead & Tranmere Neighbourhood Planning Forum has now therefore formally applied to the Council for designation as the statutory Neighbourhood Planning Forum for the Neighbourhood Area shown on the plan attached at Appendix 3 to this report.

#### **Application Letter and Draft Constitution**

3.3 The application letter and draft constitution, attached at Appendix 1 and at Appendix 2 to this report, demonstrate how the relevant statutory requirements set out in section 2 of this report have been complied with.

3.4 The draft 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 (Appendix 2, section 2 refers).

3.5 The draft constitution also ensures that the membership of the forum will remain open to all the necessary individuals (Appendix 2, section 4 refers); confirms that forum meetings will be publicised to non-members (Appendix 2, section 8 (g) refers); and confirms that all neighbourhood plan consultations will be open to anyone who lives or works in the area, whether members of the forum or not (Appendix 2, section 10 (b) refers).

3.6 The draft constitution will also ensure that the forum will be composed of no fewer than 21 individual people and that the result of any vote taken in regard to neighbourhood planning will be invalid if membership falls below 21 persons (Appendix 2, section 4 and section 10(f) refer).

3.7 At the time of application, there were 26 registered members of the proposed Forum, including two elected Members of Wirral Council. Five of the members work within the area and 21 live within the area. Additional supporting information has also been

provided to demonstrate that the initial membership is broadly representative of the different parts of the community within the proposed neighbourhood area (Appendix 1, section 3 refers).

### **Draft Area Boundary**

- 3.8 The map showing the proposed neighbourhood area boundary, attached at Appendix 3 to this report, shows that the proposed neighbourhood area will extend between the Birkenhead docklands, at Twelve Quays in the north, to Victoria Park in the south and as far as the Williamson Art Gallery and Museum in the east.
- 3.9 The application letter explains why this particular boundary has been chosen, based on the traditional areas of Birkenhead and Tranmere and the interdependence between the residents of one part of the proposed area and the employment, shops and services provided in the other parts of the area (Appendix 1, section 6 refers).
- 3.10 The proposed area boundary is primarily based on the Electoral Ward of Birkenhead & Tranmere but includes a small area around the Williamson Art Gallery and Museum and the surrounding streets in Oxton Ward, to allow policies for the development of art and culture to be included (including approximately 80 residential properties in Ball's Road, Slatey Road, Mather Road and Princess Terrace, Wirral Christian Centre (at the former Oxton Road Congregational Church), Ball's Road Oxton Health Centre and the Lookers Garage at Woodchurch Road); and a small area at Holborn Square, in Rock Ferry Ward, including the eastern parts of Holt Road and Sidney Road, to support proposals to re-open and develop the "Tranmere Tunnels" and to include the contiguous residential areas to the west of Old Chester Road (approximately 40 additional residential properties).
- 3.11 The boundary excludes the large strategic site at Cammell Lairds and the previously designated Neighbourhood Area at Devonshire Park. Victoria Park has also been excluded, following representations from a Councillor representing Rock Ferry Ward.
- 3.12 Residents outside the proposed Neighbourhood Area will not be eligible to become members of the proposed Neighbourhood Forum and would not qualify to vote on any emerging neighbourhood planning proposals in a future local referendum but would be able to comment on any relevant consultations, as they occur.
- 3.13 The boundary currently includes approximately 8,500 residential properties and almost 1,800 business and commercial addresses and will include Birkenhead Town Centre, Hamilton Square, Woodside, the industrial areas between the town centre and Twelve Quays (part of which falls within the nationally designated Mersey Waters Enterprise Zone), the industrial and commercial areas at Hind Street, Rock Retail Park, Monks Ferry and Priory Industrial Estate, the entrance to the Queensway Road Tunnel and St Catherine's Hospital.
- 3.14 The application letter therefore also addresses the issue about whether the proposed neighbourhood area should also be designated as a business area, to allow an additional referendum of local businesses to take place before any neighbourhood plan is formally adopted (Appendix 1, section 5 refers).

- 3.15 The application letter concludes that it will not be necessary to designate the proposed neighbourhood area as a business area, as at least half the land area is mainly residential in character and the area within the proposed area boundary is not therefore “wholly or predominantly business in nature” (which is the test set out in the relevant legislation).

### **Conclusion**

- 3.16 At this stage, this report is only recommending that statutory public consultation is undertaken on the application documents. A final recommendation on formal designation, which will be the subject of a further separate report, will only be made once the responses to public consultation have been received and analysed.
- 3.17 On this basis, it is therefore recommended that the application documents are accepted as appropriate for publication for statutory public consultation.

## **4.0 RELEVANT RISKS**

- 4.1 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.
- 4.2 Potentially abortive costs at public examination and local referendum could be mitigated by working in partnership with Birkenhead & Tranmere Neighbourhood Planning Forum to maximise the potential success of their neighbourhood planning proposals.
- 4.3 The principal legal risk is for any decision by the Council on the designation of the neighbourhood area to take longer than the statutory deadline of 13 weeks, which could be mitigated by allowing any final decision to be confirmed through a resolution of Cabinet rather than Full Council.

## **5.0 OTHER OPTIONS CONSIDERED**

- 5.1 There is no other option available to the Council once a valid application has been received.
- 5.2 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.
- 5.3 There is potential for non-strategic proposals equivalent to proposals prepared by the local community to be included as part of one of the Council’s own statutory Local Plans but no statutory Local Plan at this level of detail is currently being prepared and the preparation of proposals at an equivalent level of detail for each individual area of the Borough would be financially and procedurally prohibitive.
- 5.4 The potential availability of alternative planning powers will be a matter to be considered by the proposed forum in consultation with the Council as their neighbourhood planning proposals are prepared.

## **6.0 CONSULTATION**

- 6.1 Birkenhead & Tranmere Neighbourhood Planning Forum was established following the distribution of 3,000 leaflets to homes and businesses across the area. The Forum has already also contacted the commercial director of The Grange and The Pyramids shopping centres and the co-ordinator of the Birkenhead Business Improvement District.
- 6.2 Two of the Elected Members for Birkenhead & Tranmere Ward are already members of the proposed Neighbourhood Planning Forum. Elected Members for Oxtan and Rock Ferry will also be eligible to become members of the Forum.
- 6.3 The Council is required to advertise the application for designation, including the proposed constitution and proposed Neighbourhood Area boundary for not less than six weeks, in accordance with national regulations, to enable other members of the community and stakeholders to make their views known on the application, area boundary and constitution. The results of public consultation will be reported before any final recommendation on designation is made.
- 6.4 Paper copies of the application documents, including the application letter, proposed constitution and proposed area boundary, will be placed for public inspection on the Council's website, in Birkenhead Central Library and at the North Annexe of Wallasey Town Hall.
- 6.5 The consultation will be advertised through a planning notice in the free press and the Council's social media. Notification will be sent to the consultation bodies listed in Schedule 1 of the Neighbourhood Planning Regulations (as amended); to the Constituency Area Manager for Birkenhead; and contacts with an interest in the area that are already registered on the Council's Local Plan database. Notification will also be sent to local businesses through Business Wirral and the Wirral Chamber of Commerce.
- 6.6 Any subsequent proposals prepared by the Birkenhead & Tranmere 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 by a resolution of Full Council.

## **7.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

- 7.1 Membership of the Birkenhead & Tranmere Neighbourhood Planning Forum is voluntary, has engaged a number of people already actively involved in other groups and services within the area and will remain open to other voluntary, community and faith groups, working or resident within the area, who may also comment on their application when it is published by the Council for public comment.

## **8.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

- 8.1 The costs associated with publicising the application documents, analysing the responses received and advertising the Council's final decision on designation can be met from within existing resources in Regeneration and Planning.

- 8.2 An unringfenced grant of £10,000 is available to the Council from the Department of Communities and Local Government, to cover these costs, if the designation of the neighbourhood forum and area is confirmed before the end of 2015/16.
- 8.3 Future grants of up to £25,000, which are currently available to help councils with costs associated with publishing a submitted draft Neighbourhood Plan, arranging an independent examination and holding a local referendum, may not be available during 2016/17.
- 8.4 Any additional resources to support Birkenhead & Tranmere 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 Strategic Director for Regeneration and the Environment, less any available grant monies.
- 8.5 Recent local experience suggests that an independent examination could cost between £10,000 and £15,000, depending on the nature of the proposals to be contained within the proposed Neighbourhood Plan.
- 8.6 A local referendum of registered electors within the area boundary proposed is currently expected to cost up to £10,000.

## **9.0 LEGAL IMPLICATIONS**

- 9.1 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.
- 9.2 The Council can only refuse to designate a forum where it does not meet the prescribed conditions of the Act and must publish the reasons for refusing any application.
- 9.3 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 2.3(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.
- 9.4 The nature or merit of any draft or initial proposals is however not a relevant consideration in the decision to designate a neighbourhood forum.
- 9.5 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.
- 9.6 The Council can refuse an application to designate a neighbourhood area, if they consider that the area is not appropriate to be designated as a neighbourhood area but must publish a statement of the reasons for refusing any application to 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.

- 9.7 In areas which are wholly or predominantly business in nature, the Council must also consider whether the area should also be designated as a business area, to allow an additional referendum of local businesses to be held alongside the referendum of local electors.
- 9.8 Following designation, the Birkenhead & Tranmere Neighbourhood Planning Forum would be responsible for the preparation of a draft plan, 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.
- 9.9 The Council must make the proposed neighbourhood plan part of the statutory Development Plan for Wirral, if it passes the examination and is supported by a majority of those voting in a local referendum. If an additional business referendum is held and a majority in favour is only obtained in one of the two referendums, the Council may but need not approve the making (or adoption) of the proposed neighbourhood plan.
- 9.10 The designation of the forum will initially last for five years. Once designated, the Council will only be able to rescind the status of the Birkenhead & Tranmere Neighbourhood Planning Forum if the Forum no longer meets the statutory conditions for designation.
- 9.11 Any local referendum will need to comply with the Neighbourhood Planning (Referendums) Regulations 2012 (SI 2012 No. 2031) and the Neighbourhood Planning (Referendums) (Amendment) Regulations 2013 (SI 2013 No. 798).
- 9.12 The requirement to determine any area application within 13 weeks of the application being publicised by the Council will require any final designation to be confirmed by a resolution of Cabinet (rather than as previously by a resolution of Full Council), which is permitted under the Responsibility for Executive Functions as set down in the Council's Constitution, in line with the Local Authorities (Functions and Responsibilities) Regulations 2000.
- 9.13 The Government announced the 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.

## **10.0 EQUALITIES IMPLICATIONS**

- 10.1 Has the potential impact of your proposals been reviewed with regard to equality?  
(a) Yes and the impact review can be accessed at:  
<https://www.wirral.gov.uk/my-services/community-and-living/equality-diversity-cohesion/equality-impact-assessments/eias-april-2014/eias-regeneration-envir> under the heading "Regeneration and Planning"
- 10.2 It is concluded that the constitution, object and open membership of the proposed neighbourhood planning forum could have positive equalities implications. A new equalities impact assessment will, however, need to be prepared once the

neighbourhood planning proposals of Birkenhead & Tranmere Neighbourhood Planning Forum have been prepared.

## **11.0 CARBON REDUCTION IMPLICATIONS**

11.1 It is a legal requirement that neighbourhood planning proposals must contribute towards the achievement of sustainable development.

## **12.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

12.1 If designated, Birkenhead & Tranmere Neighbourhood Planning Forum will be responsible for the preparation of draft neighbourhood planning proposals in line with national regulations including national policy.

12.2 Subject to passing independent examination and a majority vote in a local referendum, any Neighbourhood Plan will become part of the Council's statutory Development Plan alongside the Unitary Development Plan, the Joint Waste Local Plan for Merseyside and Halton and, once adopted, the emerging Core Strategy Local Plan and must be used in the determination of individual planning applications.

12.3 Birkenhead & Tranmere Neighbourhood Planning Forum must demonstrate that their final proposals will meet the basic conditions set out in national legislation. The Forum must have regard to the National Planning Policy Framework and any proposals must be in general conformity with the Council's strategic land use planning policies, which include the Council's Unitary Development Plan, the joint Waste Local Plan for Merseyside and Halton and, once adopted, the emerging Core Strategy Local Plan.

## **13.0 RECOMMENDATIONS**

13.1 That the application by Birkenhead & Tranmere Neighbourhood Planning Forum, to be designated as the neighbourhood planning forum for the neighbourhood area identified on the map attached at Appendix 3 to this report, is advertised for statutory public consultation for a period of not less than six weeks.

13.2 That the final designation of the neighbourhood planning forum and the neighbourhood area boundary is subject to a further report, to Cabinet, once public consultation has been completed.

## **14.0 REASONS FOR RECOMMENDATIONS**

14.1 To fulfil the Council's statutory duties for the administration of an application to establish a statutory neighbourhood planning forum and a statutory neighbourhood planning area boundary for Birkenhead and Tranmere.

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## APPENDICES

- Appendix 1 - Letter of Application
- Appendix 2 - Proposed Constitution
- Appendix 3 - Proposed Area Boundary
- Appendix 4 - Geographical Distribution of Initial Membership
- Appendix 5 - General Distribution of Land Uses

## REFERENCE MATERIAL

- [Localism Act 2011](#) (Part 6, Chapter 3 and Schedules 9 to 12 refer)
- [The Neighbourhood Planning \(General\) Regulations 2012 \(2012, No. 637\)](#), Regulations 5 to 10 refer
- [The Neighbourhood Planning \(General\) \(Amendment\) Regulations 2015 \(2015, No. 20\)](#), Regulation 2 refers
- [Neighbourhood Planning \(Referendums\) Regulations 2012 \(SI 2012 No. 2031\)](#)
- [Neighbourhood Planning \(Referendums\) \(Amendment\) Regulations 2013 \(SI 2013 No. 798\)](#)
- [National Planning Policy Framework \(CLG, March 2012\)](#), paragraphs 183 to 185 refer
- [National Planning Practice Guidance](#) (CLG, Neighbourhood Planning pages refer)

## SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Neighbourhood Planning Designations - Devonshire Park and Hoylake (Cabinet, Minute 221)	14 March 2013
Neighbourhood Planning Designations - Devonshire Park and Hoylake (Council, Minute 147)	30 April 2013
Delegated Decision - Application for the Designation of a Neighbourhood Planning Forum and a Neighbourhood Planning Area for Leasowe	26 February 2014
Designation of a Neighbourhood Forum and Neighbourhood Area for Leasowe (Cabinet, Minute 32)	7 July 2014
Designation of a Neighbourhood Forum and Neighbourhood Area for Leasowe (Council, Minute 28)	14 July 2014