

WIRRAL COUNCIL

CABINET

27 JULY 2015

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

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 a proposed Neighbourhood Area based on the Electoral Ward of Birkenhead & Tranmere, with small additional areas around the Williamson Art Gallery and Museum in Oxtan Ward; and at Holborn Square, Holt Road and Sidney Road in Rock Ferry Ward.
- 1.2 The Neighbourhood Area applied for, as shown on the map in Appendix 1 to this report, includes Birkenhead Town Centre, Hamilton Square and a large part of the surrounding commercial areas. The Area includes approximately 8,500 residential properties, up to 1,800 non-residential commercial and business properties and has an estimated resident population of 12,900.
- 1.3 Public consultation has taken place in accordance with the Delegated Decision published on 7 May 2015, to comply with national regulations. The application for the designation of the Neighbourhood Area must be determined within 13 weeks of the application being publicised, which in this case expires on 19 August 2015.
- 1.4 This report recommends that the application for the neighbourhood area, as applied for, is refused but that a reduced area is designated to the south and east of Borough Road, to better reflect the delineation of local communities and the character of the area.
- 1.5 The Neighbourhood Area that is recommended to be designated, as shown in Appendix 2 to this report, would still include approximately 5,160 residential properties and up to 200 non-residential properties and would have an estimated residential population of 10,200.
- 1.6 The Council cannot refuse to designate a neighbourhood planning forum that meets the minimum statutory requirements (which include a written constitution, with a purpose to promoting or improving the social, economic and environmental wellbeing of an area; and an open membership, with a minimum of 21 individuals who live or

work or are elected to represent the area) and the Council must designate some or all of the neighbourhood area applied for, unless they consider that the specified area is not an appropriate area to be designated as a neighbourhood area. The reasons for refusing or amending an application must be published and can be challenged in the courts.

- 1.7 Once designated, no other organisation or body may be designated for that neighbourhood area until that designation expires or is withdrawn.
- 1.8 Any future Neighbourhood Development Plan (for any area) must have regard to national policy and must 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 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 a defined neighbourhood area, which can include the preparation of a statutory Neighbourhood Development Plan and neighbourhood development orders.
- 2.2 A previous Delegated Report (published on 7 May 2015) considered the application submitted to the Council by the Birkenhead & Tranmere Neighbourhood Planning Forum to establish a Neighbourhood Forum and a Neighbourhood Area for Birkenhead and Tranmere. The Delegated Report concluded that the application documents complied with the relevant statutory requirements and were appropriate for publication for statutory public consultation, which took place between 20 May and 3 July 2015.
- 2.3 The Council must now complete the legal process for designation, taking into account the comments received on the applications. The application for the neighbourhood area must be determined within the 13-week deadline set out in national regulations, which expires on 19 August 2015.
- 2.4 Only areas that fall within the final designated neighbourhood area will be subject to the future proposals of the neighbourhood forum.

Designation of a Neighbourhood Forum

- 2.5 The Council must have regard to the desirability of designating an organisation or body which has secured or taken reasonable steps to attempt to secure that its membership includes at least one person who lives in the area, one person who works there and one person who has been elected to represent the area; whose membership is drawn from different places in the neighbourhood area concerned and from different sections of the community in that area; and whose purpose reflects (in general terms) the character of that area. The forum is not, however, required to have a member from each membership category in order to be designated.

- 2.6 The designation of a neighbourhood forum lasts for five years, from the date of designation.
- 2.7 Only one body can be designated as a neighbourhood forum for each neighbourhood area and the Council can only withdraw the designation of a neighbourhood forum if the body no longer meets the conditions by reference to which it was designated or no longer meets any other criteria to which the authority were required to have regard in making their decision to designate.
- 2.8 If an application to designate a neighbourhood forum is refused, the Council must publish a refusal statement setting out the decision and their reasons for making that decision, which can be subject to challenge in the courts.

Designation of a Neighbourhood Area

- 2.9 The authority can refuse an application for a neighbourhood area if they consider that the specified area is not an appropriate area to be designated as a neighbourhood area but must exercise the power of designation so as to secure that some or all of the area specified in the application forms part of one or more areas designated (or to be designated) as neighbourhood areas.
- 2.10 Whenever a local planning authority exercise their powers to designate an area as a neighbourhood area, they must also consider whether they should designate the area concerned as a business area (which would allow the proposals to be tested by not one but two referendums, one for residents and an additional one for businesses operating within the area) but can only do this if they consider that the area is wholly or predominantly business in nature.
- 2.11 The Council can only amend the boundary of a neighbourhood area, after it has been designated, if the Council is responding to a new application for a neighbourhood area to be designated.
- 2.12 If an application to designate a neighbourhood area is refused (or amended), the Council must publish a decision document setting out the decision and their reasons for making that decision, which can be subject to challenge in the courts.

3.0 THE REPRESENTATIONS RECEIVED

- 3.1 The applications for Birkenhead and Tranmere have received a number of representations, which are summarised in Appendix 3 to this report.
- 3.2 This includes objections from a retail franchise; the Pyramids Shopping Centre; Wirral Chamber of Commerce; and from the Steering Group of representatives of local businesses who are currently developing separate proposals for a proposed Business Improvement District for Birkenhead Town Centre and its associated commercial areas.

4.0 THE PROPOSED NEIGHBOURHOOD FORUM

- 4.1 The Town and Country Planning Act (as amended) places few limitations on the remit of a neighbourhood forum, providing that it is established for the express purpose of promoting or improving the social, economic and environmental

wellbeing of the area; its membership is open to everyone who lives, works or has been elected to represent the area; and any future proposals comply with the necessary legislation.

- 4.2 The general tenor of the representations received, nevertheless, appear to indicate a general concern about the freedom and involvement of the business community, in particular, in any future planning proposals for the area.
- 4.3 Information submitted as part of the application shows that only 5 of the initial membership of 26 can currently be classified as working within the area (the proposed forum now has 34 registered members, with 5 further applications for membership under consideration).
- 4.4 In terms of representation, the Act requires only 21 members (each of whom live in or work in or are elected to represent the area) and an open membership.
- 4.5 The proposed Constitution will commit the Forum to engaging with the Council and with all statutory agencies, businesses, voluntary sector groups and community associations with an interest in the area and will require the management committee to work collaboratively with any other interested party (Sections 2(b) and 10(d) refer).
- 4.6 The proposed Constitution would also ensure that all neighbourhood plan-related consultations will seek to involve everyone who lives or works in the area and would be open to anyone who lives or works in the area, whether members of the Forum or not (Sections 10(b) and 10(c) refer).
- 4.7 Subject to recommendation (3) below, there is therefore nothing in the initial membership or in the proposed Constitution of the proposed Forum that could prevent the Council from concluding that the Forum would be an appropriate qualifying body, suitable for designation for the purposes of neighbourhood planning.

5.0 THE PROPOSED NEIGHBOURHOOD AREA

- 5.1 “An appropriate area to be designated as a neighbourhood area” is not defined in national legislation or policy. It is therefore a matter for the Council to determine what an appropriate area is, taking into account the objectives of the legislation and all the relevant specific circumstances.
- 5.2 National Planning Practice Guidance indicates that Electoral Ward boundaries can be a useful starting point and that the following could be considerations when deciding the boundaries of a neighbourhood area:
 - village or settlement boundaries, which could reflect areas of planned expansion
 - the catchment area for walking to local services such as shops, primary schools, doctors’ surgery, parks or other facilities
 - the area where formal or informal networks of community based groups operate
 - the physical appearance or characteristics of the neighbourhood, for example buildings may be of a consistent scale or style

- whether the area forms all or part of a coherent estate either for businesses or residents
- whether the area is wholly or predominantly a business area
- whether infrastructure or physical features define a natural boundary, for example a major road or railway line or waterway
- the natural setting or features in an area
- the size of the population (living and working) in the area

5.3 Although the current application has been based on the Electoral Ward boundary for Birkenhead and Tranmere, the boundaries to the area applied for do not fully reflect the boundaries to many of the associated local communities.

5.4 The application, as submitted, would for example:

- include only parts of the larger residential communities to the west of Borough Road, which are more associated with the wider community in Oxtun;
- include only parts of the residential community around the Williamson Art Gallery (in Oxtun Ward);
- include only parts of the communities that are within the immediate catchment of the Key Town Centre and the Traditional Suburban Centres at Grange Road West and Oxtun Road; and would
- exclude a large part of the community, to the south and east of Mersey Park (in Rock Ferry Ward), which may, following independent examination, need to be added as part of any future referendum.

5.5 Of all these areas, the residential community to the south and east of Borough Road would appear to be the best defined.

5.6 The area applied for is also large and complex, taking in the following designations in the Unitary Development Plan:

- the Key Town Centre of Birkenhead, identified as the main sub-regional shopping centre for the Borough;
- the Traditional Suburban Centres at Grange Road West and at Oxtun Road;
- the Primarily Commercial Area around Hamilton Square, including Hamilton Square Conservation Area;
- the Employment Development Site at Europa Boulevard;
- the Primarily Industrial Areas and employment sites at Woodside; Hind Street, Priory Industrial Estate and Monks Ferry;
- parts of the Primarily Industrial Areas at Twelve Quays and Cleveland Street, including part of the nationally designated Mersey Waterfront Enterprise Zone, to the west of Tower Road;

- part of the Primarily Residential Area to the south of Borough Road, as far south as Victoria Park, including Clifton Park Conservation Area;
- parts of the Primarily Residential Areas to the west of Borough Road, as far as the Williamson Art Gallery;
- the smaller Primarily Residential Areas at Church Street and Priory Wharf and at Brook Street East; and
- parts of the Primarily Residential Areas to the north and west of the Town Centre and Europa Boulevard, between the town centre and Birkenhead Park.

5.7 Parts of these areas are also subject to existing regeneration programmes, which have already been the subject of public involvement.

5.8 Although the initial membership of the proposed Forum meets the minimum statutory requirements, the information provided in the application shows that the Forum does not yet have a representative from each of these many areas and that most of the initial members are from within the residential area to the south and east of Borough Road.

5.9 The area applied for also straddles the boundary between two of the Settlement Areas identified in the emerging Core Strategy Local Plan, which separate the main commercial areas in Settlement Area 2 - Commercial Core from the surrounding residential areas in Settlement Area 3 - Suburban Birkenhead.

5.10 Draft Core Strategy Policy CS5 sets out the Council's vision and strategic priorities for the Commercial Core of Birkenhead (the commercial areas including Cleveland Street, Twelve Quays, Woodside, Hamilton Square, Birkenhead Town Centre, Europa Boulevard, Hind Street, Monks Ferry and Cammell Lairds), including establishing a new city neighbourhood at Wirral Waters; safeguarding and enhancing the vitality and viability of Birkenhead Town Centre as the Borough's principal focus for retail, office and town centre uses; and promoting the physical enhancement and economic regeneration of the surrounding commercial hinterlands. Initial modifications also refer to a mixed use development at Woodside.

5.11 Draft Core Strategy Policy CS6 sets out the vision and strategic priorities for Suburban Birkenhead (the residential areas to the south and west of the main commercial areas, to the east of the M53 Motorway), including providing attractive residential areas, with good access to Birkenhead, Liverpool and the M53 Motorway; supporting market renewal to reduce the number of vacant properties and previously developed sites in Birkenhead and Tranmere; and supporting integration with the new city neighbourhood at Wirral Waters, while maintaining a clear interface between the residential suburbs and the commercial areas to the north and east in Settlement Area 2.

5.12 The Broad Spatial Strategy (Draft Core Strategy Policy CS2) also makes Wirral Waters; the Mersey Heartlands Enterprise Zone and its surrounding industrial and commercial hinterland; Birkenhead Town Centre including Hamilton Square and Woodside; and the industrial and commercial areas along the A41 Corridor in Tranmere; the primary focus for new jobs to support the economic revitalisation of the Borough.

5.13 As it is a legal requirement that any future neighbourhood planning proposal must be in general conformity with the strategic policies contained within the Council's adopted Development Plan, it could be misleading and frustrating to community expectations if areas that are clearly likely to be subject to wider strategic proposals, such as Birkenhead Town Centre, which could not be influenced by the content of any future neighbourhood plan, were to be included.

5.14 The comments received also raised four further issues:

Wirral Waters and Partnership Neighbourhoods

5.15 The area applied for includes small parts of the area subject to the outline planning consent for Wirral Waters, related to parts of the surrounding access roads and junctions, including the public highways at Tower Road and Rendell Street.

5.16 The 'partnership neighbourhoods', which were identified as areas where closer integration would be required to support the wider strategic investment framework for Wirral Waters, were subsequently identified as Focus Areas in the Integrated Regeneration Study for Birkenhead and Wirral Waters Strategy Report.

5.17 The area applied for would include parts of six of these separate Focus Areas and the residential areas to the south of Borough Road are identified as a separate Focus Area (South Birkenhead Residential).

Mersey Waterfront Enterprise Zone

5.18 Nationally designated Enterprise Zones are at the heart of the Government's long term economic plan to attract investment and support businesses to grow by offering a range of financial incentives and a simplified planning regime, to unlock key development sites, consolidate infrastructure, attract business and create jobs. Business rate discounts are currently available until March 2018 and enhanced capital allowances until March 2020. All business rates growth generated by the Enterprise Zone is to be kept by the relevant local enterprise partnership and local authorities in the areas, for 25 years, to reinvest in local economic growth.

5.19 The proposed neighbourhood area, as applied for, overlaps a small part of the boundary to the Mersey Waters Enterprise Zone, in the smaller, separate, designated area to east of Tower Road at Tower Wharf. The land to the south of Tower Wharf, between Tower Wharf and Egerton Dock, is already under construction.

Business Improvement Districts and Neighbourhood Planning

5.20 A Business Improvement District (BID) is a defined area in which a levy is charged on business ratepayers, in addition to the business rates bill, to develop projects which will benefit businesses in the local area. The establishment of a Business Improvement District is voluntary, and depends on the businesses in the proposed District voting in favour of the proposals. The BID would last for five years, after which there would need to be another ballot to determine if the BID should continue for another five year period.

- 5.21 A recent national consultation, setting out proposals to strengthen the role of BIDs, suggested that business-led neighbourhood plans and neighbourhood development orders could offer significant benefits to areas with a concentration of businesses, such as high streets, industrial/trading estates and commercial districts and that the Government would like to make it possible for a BID body (where one exists) to apply to be designated as a neighbourhood forum without the need to meet the requirements currently set for prospective neighbourhood forums, particularly in areas where there were few residents or residents were not interested in developing a neighbourhood plan. The deadline for comments was 19 June 2015 and the Government's response is still awaited.
- 5.22 The Wirral Chamber of Commerce embarked upon the process for setting up a BID for Birkenhead in March 2014. First stage consultation was completed in May 2015 and a ballot of local businesses is planned to take place during November 2015, with a view to commencing BID activities in accordance with an approved five-year business plan, from January 2016. Further information can be viewed on the BID website at <http://www.birkenheadbid.co.uk/>
- 5.23 The majority of the initial proposed BID area, which currently includes approximately 653 eligible business ratepayers and an estimated resident population of about 2,300 people, is included in the area now being applied for by the Neighbourhood Planning Forum.
- 5.24 Although the BID has not yet been finally confirmed, it would appear that the sponsors of the BID, if successful, may wish to reserve the right to apply for neighbourhood planning powers, were those powers to become available in future.

Heritage Issues

- 5.25 Hamilton Square Conservation Area contains the largest Grade 1 Listed Victorian square outside London and has major significance for the historical development of Wirral.
- 5.26 Although Historic England has indicated that it will be important to ensure that any future strategy for Birkenhead and Tranmere safeguards the significance of any heritage assets, they have not objected to the principle of including Hamilton Square Conservation Area within the boundary of the Neighbourhood Area.

6.0 CONCLUSIONS

- 6.1 On the basis of the previous analysis and the comments received, it is therefore recommended that only the area to the south and east of Borough Road, shown on the plan in Appendix 2, is designated, to more appropriately reflect the delineation of local communities and the character of the area.
- 6.2 As this area would be primarily residential in character, it would not be appropriate to designate it as a business area.
- 6.3 The Forum which has currently applied for designation would only be invited to represent this smaller primarily residential area.

6.4 The reasons for refusing the application for the area applied for shown in Appendix 1 are:

1. The area applied for is too large and diverse, including a number of different communities and communities of interest;
2. The boundary applied for does not properly reflect the boundaries and character of these different communities;
3. The area applied for includes areas of strategic importance to the Borough, which are subject to a far wider community of interest, which is subject to strategic policies in the Council's emerging Local Plan;
4. There are other mechanisms for appropriate public involvement in setting the strategic priorities in these areas;
5. Objections have been received from business interests that are likely to be affected by the designation;
6. Proposals are being prepared for a Business Improvement District, which may be better able to represent the business community within the predominantly commercial part of the area applied for, to the north of Borough Road;
7. The Business Improvement District should also not be included, because it includes areas of strategic importance, including Birkenhead Town Centre, Hamilton Square and Woodside;
8. The Mersey Waters Enterprise Zone should not be included, as it is subject to national designation and controls;
9. Land within the existing planning permission for Wirral Waters should not be included, as it has already been the subject of detailed consideration;
10. Land at the entrance to the Birkenhead Road Tunnel should not be included, because of its strategic importance for the transport network;
11. The predominantly residential areas to the west of Borough Road should not be included because they are part of communities more associated with Oxton to the west;
12. The industrial areas at Hind Street, to the east of Argyle Street South and to the north of Hinderton Road and Helmingham Grove, should not be included because they are also part of the wider commercial area which is subject to strategic policies in the Council's emerging Local Plan; and
13. The Council's emerging Core Strategy Local Plan seeks to maintain a clear interface between the residential suburbs and the commercial areas to the north and east.

6.5 The reasons for designating the reduced area shown in Appendix 2 are:

1. The membership of the proposed forum, as currently constituted, seems better able to represent the area to the south and east of Borough Road;
2. The predominantly residential area to the south and east of the main route of Borough Road appears to be a well-defined community of interest;
3. The designation of the revised area would concentrate the activities of the Forum on a smaller, more manageable area;
4. The designation of the revised area would enable activity and resources to be focused on the needs of the local community that can best be influenced by the content of a neighbourhood plan; and

5. The designation of the revised area will not prevent additional neighbourhood forums from being designated, that may be more representative of each individual area, in areas that have not been included in the current designation.
- 6.6 Designating a reduced area will also have implications for the membership and constitution of the Forum, as applied for, as some members by virtue of their living or working address would no longer qualify for membership and the Constitution would need to be amended to apply only to the reduced neighbourhood area.
- 6.7 The Forum would need to revise its application, to demonstrate that it could still continue to meet the conditions of designation with regard to the number of eligible members and to confirm that it is still willing to apply to represent the smaller area to the south of Borough Road, before any formal designation could be confirmed.

7.0 RELEVANT RISKS

- 7.1 As compliance with the national neighbourhood planning regulations is not discretionary, the principal risks to the Council are legal and financial, dependent on the continued availability of Government grants.
- 7.2 A decision not to designate the Birkenhead and Tranmere Neighbourhood Planning Forum and the Neighbourhood Area, as applied for, could be subject to legal challenge.
- 7.3 Potentially abortive costs at independent examination and local referendum could be mitigated by working in partnership with any future Forum, to maximise the potential success of their neighbourhood planning proposals.
- 7.4 There is a risk that the proposals to be contained within the proposed neighbourhood area, particularly with regard to Mersey Park, could require a wider community of interest to be included in any future local referendum.
- 7.5 There is also a risk that designating a wider area, involving strategic sites which will have a wider than local impact, such as Birkenhead Town Centre, could lead an examiner to recommend that any local referendum should be extended to cover a larger part of the Borough, leading to additional costs, particularly at local referendum.

8.0 OTHER OPTIONS CONSIDERED

- 8.1 The main alternatives are to designate the area applied for in its entirety or to designate one or more smaller areas, with a different boundary, both of which have been discounted for the reasons set out within the main body of this report.
- 8.2 There is potential for 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.

8.3 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.

9.0 CONSULTATION

9.1 The application for designation, including the proposed constitution and proposed Neighbourhood Area boundary has been publicised for no less than six weeks, in accordance with national regulations.

9.2 The application documents were loaded on the Council's website on 20 May 2015 and public consultation took place between 20 May and 3 July 2015. The consultation was advertised through public notices in the local free press on 20 May, 27 May and 24 June 2015. Notification was also sent to:

- Ward Councillors for Birkenhead and Tranmere; Oxton; and Rock Ferry;
- 1,240 contacts on the Council's Local Development Framework contacts database (856 by e-mail, 384 by letter, including consultation bodies listed in Schedule 1 of the Neighbourhood Planning (General) Regulations 2012);
- 3,059 local businesses through the weekly broadcast issued by Business Wirral and the Wirral Chamber of Commerce on 20 May and 29 May 2015;
- 7,913 contacts from the Council's previous budget option consultations, on 20 May 2015; and
- the Member of Parliament for Birkenhead and 60 Birkenhead Constituency Area Committee contacts, on 20 May 2015; and
- a news item was also included on the Community Action Wirral website, on 20 May 2015, to reach a wider range of community groups, at <http://communityactionwirral.org.uk/have-your-say-on-new-community-led-forum/>.

9.3 Paper copies of the application documents were placed for public inspection at Birkenhead Central Library and at the North Annexe of Wallasey Town Hall.

9.4 Fourteen responses were submitted in response to this consultation, which are summarised in Appendix 3 to this report, one of which indicated that the organisation had no comment to make on the application.

9.5 Any subsequent proposals by any future designated neighbourhood forum will need to be subject to statutory public involvement, independent examination and local referendum before they can be formally approved.

10.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

10.1 The Constitution of the proposed Birkenhead & Tranmere Neighbourhood Planning Forum will ensure that any other willing local group or individual will also be able to contribute to the content of any emerging neighbourhood planning proposals.

11.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

11.1 The costs associated with designation can be met from existing resources in Regeneration and Planning.

11.2 An un-ring-fenced 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 area and the neighbourhood forum is confirmed before the end of 2015/16.

- 11.3 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.
- 11.4 Following designation, the relevant neighbourhood planning forum will be responsible for drawing up Neighbourhood Planning proposals in line with national regulations.
- 11.5 Any additional resources to support any designated 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 resources held by the Strategic Director for Regeneration and the Environment, less any available grant monies.
- 11.6 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 any proposed Neighbourhood Plan.
- 11.7 A local referendum of registered electors within the area applied for is currently expected to cost up to £10,000.
- 11.8 Wirral Chamber of Commerce has already been granted £100,000 to develop the proposals for a prospective Business Improvement District in Birkenhead and the need for further financial commitments by the Council is scheduled to be reported to Cabinet on 27 July 2015.

12.0 LEGAL IMPLICATIONS

- 12.1 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.
- 12.2 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.
- 12.3 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 attempt to secure that its membership: contains at least one individual who lives in the area, one individual who works in the area and one individual who is an Elected Member for that area; is drawn from different places and from different sections of the community within the area concerned; and that the purpose of that organisation or body reflects, in general terms, the character of that area.
- 12.4 The nature or merit of any draft or initial proposals is however not a relevant consideration in the decision to designate a neighbourhood forum or a neighbourhood area.

- 12.5 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.
- 12.6 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.
- 12.7 In areas which are wholly or predominantly business in nature, the Council must also consider whether the area should be designated as a business area, to allow an additional referendum of local businesses to be held alongside the referendum of local electors.
- 12.8 As soon as possible after designating a neighbourhood forum and 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 their website and in such other manner as they consider is likely to bring the designation to the attention of people who live, work or carry on business in the neighbourhood area.
- 12.9 Following designation, the relevant neighbourhood planning forum will 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.
- 12.10 The Council must make a 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.
- 12.11 The designation of a forum will initially last for five years. Once designated, the Council will only be able to withdraw the designation of the forum, if the forum no longer meets the statutory conditions for designation.
- 12.12 Any local referendum will need to comply with the Neighbourhood Planning (Referendums) Regulations 2012 (SI 2012 No. 2031) (as amended).
- 12.13 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, was announced in January 2015.
- 12.14 A duty to spend a proportion of any Community Infrastructure Levy receipts in neighbourhood areas with a neighbourhood plan in place, came into force in 25 April 2013.

13.0 EQUALITIES IMPLICATIONS

- 13.1 An updated equalities impact review can be viewed at: <http://www.bit.ly/regenEIA> (under the heading “Regeneration and Planning”)
- 13.2 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 any final neighbourhood planning proposals have been prepared.
- 13.3 These benefits would not apply to areas falling outside any finally designated area.

14.0 CARBON REDUCTION IMPLICATIONS

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

15.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

- 15.1 If designated, the Birkenhead & Tranmere Neighbourhood Planning Forum would become the statutory Neighbourhood Planning Forum for their designated Neighbourhood Area, for five years from designation or until the designation is withdrawn and no other organisation or body may be designated as the Neighbourhood Forum for their designated area until the designation expires or is withdrawn.
- 15.2 Once designated, the neighbourhood planning forum will be responsible for the preparation of draft neighbourhood planning proposals in line with national regulations including national policy and will become a consultee on planning applications within their designated neighbourhood area.
- 15.3 Subject to passing independent examination and a majority vote in a local referendum, any Neighbourhood Development Plan would 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.
- 15.4 The neighbourhood planning forum must demonstrate that their final proposals will meet the basic conditions set out in national legislation. Any designated forum must have regard to national policy and guidance and their 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.

16.0 RECOMMENDATIONS

- (1) That the application for the neighbourhood area be refused and that the reduced area shown on the plan attached at Appendix 2 to this report is formally designated as the statutory Neighbourhood Area for Birkenhead and Tranmere; and

- (2) That a document setting out the decision to refuse the neighbourhood area application and a statement of the Council's reasons for refusal together with the Council's reasons for making the decision to designate an area smaller than was applied for are published in accordance with Regulation 7 of the Neighbourhood Planning (General) Regulations 2012 and Section 61G of the Town and Country Planning Act 1990 (as amended), in consultation with the Cabinet Member for the Economy; and
- (3) That the Birkenhead and Tranmere Neighbourhood Planning Forum is asked to confirm that it is still willing to act in relation to the smaller area and to confirm that it is still able to meet the conditions for designation set out in Section 61F of the Town and Country Planning Act 1990 (as amended) before the Council agrees to formally designate it as the statutory neighbourhood planning forum for the smaller Neighbourhood Area of Birkenhead and Tranmere; and
- (4) That, subject to a positive response pursuant to recommendation (3), the application for the neighbourhood forum is reported back to Cabinet, to allow the designation of the neighbourhood forum to be confirmed.

16.0 REASONS FOR RECOMMENDATIONS

- 16.1 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 – Proposed Neighbourhood Area (as applied for)
Appendix 2 – Recommended Neighbourhood Area for Designation
Appendix 3 – Summary of Representations Received

A copy of the application documents, including a copy of the proposed Constitution for the Forum, can be viewed at: <http://www.wirral.gov.uk/my-services/environment-and-planning/planning/local-development-framework/neighbourhood-planning>

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
[National Planning Policy Framework \(CLG, March 2012\)](#), paragraphs 183 to 185 refer
[National Planning Practice Guidance](#) (CLG, [Neighbourhood Planning](#) pages refer)

Wirral Business Support – Birkenhead Business Improvement District Proposal ([Cabinet Report 10 April 2014, Minute 185](#)) (including a map of the proposed BID area)

Review of Business Improvement Districts – CLG Consultation (March 2015) <https://www.gov.uk/government/consultations/consultation-on-business-improvement-districts>

The Integrated Regeneration Study for Birkenhead and Wirral Waters (June 2010) can be viewed at <http://democracy.wirral.gov.uk/mgConvert2PDF.aspx?ID=13990>

The Council's adopted Unitary Development Plan can be viewed at <http://www.wirral.gov.uk/my-services/environment-and-planning/planning/local-development-framework/unitary-development-plan>

The Proposed Submission Draft Core Strategy Local Plan can be viewed at <http://www.wirral.gov.uk/my-services/environment-and-planning/planning/local-development-framework/core-strategy-development-plan>

Further background information can be viewed on the Forum's website at <http://batnpf.org/>

A copy of the Council's previous Delegated Decision Report can be viewed at <http://democracy.wirral.gov.uk/ieDecisionDetails.aspx?ID=2952>

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Delegated Decision - Application for the Designation of a Neighbourhood Planning Forum and a Neighbourhood Planning Area for Birkenhead and Tranmere (approval of statutory public consultation)	7 May 2015