

WIRRAL COUNCIL

CABINET – 5 NOVEMBER 2015

SUBJECT:	<i>NEIGHBOURHOOD PLANNING – MAKING OF A NEIGHBOURHOOD PLAN FOR DEVONSHIRE PARK</i>
WARD/S AFFECTED:	<i>DEVONSHIRE PARK IS IN PRENTON WARD BUT LIES DIRECTLY ADJACENT TO THE WARDS OF BIRKENHEAD AND TRANMERE AND OXTON</i>
REPORT OF:	<i>ASSISTANT CHIEF EXECUTIVE</i>
RESPONSIBLE PORTFOLIO HOLDER:	<i>COUNCILLOR PAT HACKETT ECONOMY</i>
KEY DECISION?	<i>YES</i>

1.0 EXECUTIVE SUMMARY

- 1.1 A local referendum on the making of a statutory Neighbourhood Development Plan for Devonshire Park was held on 22 October 2015. 92% of the 303 people who voted, voted in favour of the Council using the Neighbourhood Development Plan to help in deciding planning applications in Devonshire Park.
- 1.2 This report therefore recommends that the Neighbourhood Development Plan for Devonshire Park attached to this report is 'made' by a resolution of Full Council.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 The Devonshire Park Neighbourhood Planning Forum, which was designated by the Council in April 2013 as the statutory neighbourhood forum for Devonshire Park, formally submitted their proposed Neighbourhood Development Plan to the Council for publication and independent examination in November 2014.
- 2.2 The Council has now completed the legal process set out in Section 38A of the Planning and Compulsory Purchase Act 2004; Schedule 4B of the Town and Country Planning Act 1990; and Part 5 of the Neighbourhood Planning (General) Regulations 2012.
- 2.3 The draft Plan was publicised between 8 December 2014 and 6 February 2015, to bring it to the attention of people who live, work or carry on business within the designated Neighbourhood Area. The comments submitted were considered by an independent examiner, appointed with the agreement of the Forum, from the national Neighbourhood Planning Independent Examiner Referral Service, in March 2015.
- 2.4 The examiner concluded, in May 2015, that the draft Plan would meet all the relevant legal requirements and should be submitted to a local referendum, subject to a series of recommended modifications. The Council agreed with the examiner's recommendations and published the examiner's report and the modified documents in July 2015. The period for judicial review expired in August 2015.
- 2.5 A referendum on the modified Plan was held on 22 October 2015, to allow the local community to vote on whether the Plan should be used by Wirral Council to help decide

planning applications in the Neighbourhood Area. More than half (279 or 92%) of the 303 people who voted, voted in favour of the Plan.

- 2.6 The Council is now obliged by law to make the proposed Neighbourhood Development Plan part of the statutory Development Plan for Wirral by a resolution of Full Council (Section 38A of the Planning and Compulsory Purchase Act 2004 refers).
- 2.7 A copy of the successful Neighbourhood Development Plan for Devonshire Park is attached to this report.
- 2.8 On the basis that the Plan attached to this report has complied with all the relevant legislative requirements and would not breach or otherwise be incompatible with any EU obligation or any Convention rights within the meaning of the Human Rights Act 1998, it is recommended that the Plan is now formally brought into force by a resolution of Full Council.

3.0 RELEVANT RISKS

- 3.1 The Council must comply with the requirements of the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004 (as amended) and their associated national regulations. Processes that do not comply with statutory requirements will be vulnerable to legal challenge and could incur additional and/or abortive costs.

4.0 OTHER OPTIONS CONSIDERED

- 4.1 No other option is available to the Council once a majority vote in a local referendum has been obtained and the plan has met all the relevant statutory requirements.

5.0 CONSULTATION

- 5.1 The Neighbourhood Development Plan attached to this report has been prepared following community consultation undertaken in August 2011, February 2012 and May 2013; publication by the Council in December 2014; independent examination in March 2015; the publication of modified documents in July 2015; and a majority vote in a local referendum held on 22 October 2015.
- 5.2 The decision to make the Plan, a copy of the Plan and the reasons for making the Plan must be published on the Council's website, made available for public inspection and brought to the attention of people who live, work or carry on business within the Neighbourhood Area.
- 5.3 The Plan will therefore be made available for public inspection on the Council's website; at Birkenhead Central Library; and at the North Annexe of Wallasey Town Hall; the Council will notify previous respondents; and will publish a public notice in the weekly planning notice in the local free press; in addition to more local notification through the monthly newsletter prepared and delivered to every property within the designated Neighbourhood Area by the Devonshire Park Resident's Association.

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 6.1 Voluntary, community and faith groups have been able to take part in all the previous stages of the Plan's preparation.

6.2 The Devonshire Park Neighbourhood Planning Forum and its founding Residents' Association will continue to operate and will assist in the ongoing monitoring and review of the adopted Plan.

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

7.1 The staffing required to support the preparation and adoption of the Neighbourhood Development Plan for Devonshire Park has been provided from existing resources for Regeneration and Planning.

7.2 The preparation of the Neighbourhood Plan has also incurred the following additional costs, which have been offset by grants from the Department of Communities and Local Government:

- publication and deposit of the submitted documents - £375
- independent examination - £3,854
- publication of modified documents - £405
- local referendum - £5,000

7.3 An Officer Decision Notice for the procurement of the independent examiner was approved by the Head of Regeneration and Planning on 23 May 2014 and by the Council's Procurement Manager in July 2014.

7.4 The costs associated with the final adoption of the Plan will also be met from existing resources for Regeneration and Planning.

8.0 LEGAL IMPLICATIONS

8.1 Subject to a majority of vote in favour of making the Plan, the Council must make the proposed Neighbourhood Development Plan part of the statutory Development Plan for Wirral by a resolution of Full Council, as soon as reasonably practicable after the referendum is held.

8.2 The decision to make the Plan is subject to a six-week period for judicial review, beginning with the day after the day on which the decision to make the Plan is published.

8.3 The Plan will remain in force until 2030, unless a material change in circumstance intervenes.

9.0 EQUALITIES IMPLICATIONS

9.1 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/communities-and-neighbourhoods/equality-impact-assessments/equality-impact-assessments-2014-0>

9.2 The accompanying equality impact assessment indicates that appropriate mitigation for any potential negative impact on people with lower incomes or people needing to live in flats, residential institutions or hostels has already been provided within the wording of the proposed Neighbourhood Development Plan and by the existing provisions of national planning legislation.

10.0 CARBON REDUCTION IMPLICATIONS

10.1 The revised Sustainability Assessment Report for the Plan, as modified following independent examination, indicates that the proposed Neighbourhood Development Plan would support a sustainable pattern of future development.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

11.1 Once made by Council resolution, the Devonshire Park Neighbourhood Development Plan will form part of the statutory land-use Development Plan for Wirral alongside the Council's Unitary Development Plan, the Joint Waste Local Plan for Merseyside and Halton and the emerging Core Strategy Local Plan and will be used to help in the determination of individual planning applications falling within Devonshire Park.

11.2 There are no community safety implications arising from the Devonshire Park Neighbourhood Development Plan.

12.0 RECOMMENDATIONS

12.1 That Cabinet recommends to Council that the Devonshire Park Neighbourhood Development Plan attached to this report, which has been endorsed by a majority vote in a referendum of local electors, is formally 'made' under Section 38A(4) of the Planning and Compulsory Purchase Act 2004.

12.2 That the Assistant Chief Executive is authorised to take all the steps necessary to comply with the remaining legal requirements under Section 38A of the Planning and Compulsory Purchase Act 2004 and Part 5 of the Neighbourhood Planning (General) Regulations 2012, in consultation with the Cabinet Member for the Economy.

13.0 REASON FOR RECOMMENDATIONS

13.1 To comply with the requirements of Section 38A of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011) and Regulations 19 and 20 the Neighbourhood Planning (General) Regulations 2012.

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APPENDICES

Proposed Neighbourhood Development Plan for Adoption

REFERENCE MATERIAL

[Localism Act 2011](#) (Part 6, Chapter 3 and Schedules 9 to 12)
[The Neighbourhood Planning \(General\) Regulations 2012 \(2012, No. 637\)](#) (Parts 2, 3 and 5)
[Neighbourhood Planning \(Referendums\) Regulations 2012 \(SI 2012 No. 2031\)](#)(as amended)
[National Planning Policy Framework and Practice Guidance \(CLG, March 2012\)](#)

Additional background on the Neighbourhood Development Plan for Devonshire Park can be viewed on the Council's website at www.wirral.gov.uk/nhoodplan

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet - Neighbourhood Planning Forum Designations – Devonshire Park and Hoylake (Minute 221)	14 March 2013
Council - Neighbourhood Planning Forum Designations – Devonshire Park and Hoylake (Minute 147)	30 April 2013
Delegated Decision – Neighbourhood Planning – Devonshire Park	25 November 2014