

<p>COUNCILLOR PHIL DAVIES LEADER OF THE COUNCIL CABINET MEMBER FOR STRATEGIC ECONOMIC DEVELOPMENT, FINANCE AND DEVOLUTION</p>	<p>DELEGATED REPORT</p> <p>DESIGNATION OF A NEIGHBOURHOOD PLANNING FORUM AND A NEIGHBOURHOOD PLANNING AREA FOR BIRKENHEAD NORTH</p>
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REPORT SUMMARY

The Birkenhead North Neighbourhood Alliance has applied to the Council to be formally designated as a statutory Neighbourhood Forum, to enable them to prepare neighbourhood planning proposals, including a statutory Neighbourhood Development Plan, for the Neighbourhood Area shown in Appendix 1.

The applications must be determined within 13 weeks of their publication by the Council.

The application documents, which comply with the relevant statutory requirements, were published for public comment for six weeks between February and 22 March 2017. No comments were submitted during this period to indicate that the designation of the proposed Forum and its associated area boundary should be opposed.

The designation of a new neighbourhood forum and neighbourhood planning area could potentially support a wide range of Wirral Plan pledges, depending on the content of the proposals prepared by the local community.

The proposed Birkenhead North Neighbourhood Area is mainly located within the Electoral Ward of Bidston and St James but also includes areas within the Electoral Ward of Claughton.

The recommendation is not a Key Decision.

RECOMMENDATIONS

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

SUPPORTING INFORMATION

1.0 REASONS FOR RECOMMENDATIONS

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

2.0 OTHER OPTIONS CONSIDERED

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

3.0 BACKGROUND INFORMATION

- 3.1 A previous Delegated Report set out the statutory requirements that must be met for applications to the Council to designate a Neighbourhood Forum and a Neighbourhood Area, to enable statutory neighbourhood planning proposals to be prepared by the local community.
- 3.2 The Council must publish any applications it receives for a statutory period of six weeks for public comment and must determine the applications within 13 weeks of the date on which their publication.
- 3.3 Neighbourhood area applications that are not determined within 13 weeks must be designated, in default, without any further amendment.
- 3.4 The applications, attached to this report, from the Birkenhead North Neighbourhood Alliance, were published for public comment on 8 February 2017 and the 13-week deadline for the determination of the applications will expire on 9 May 2017.
- 3.5 The previous Delegated Report, which concluded that the applications met all the relevant statutory requirements for publication and designation, can be viewed at <http://democracy.wirral.gov.uk/ieDecisionDetails.aspx?ID=3226>.
- 3.6 Table 1 below sets out the comments that were received within the six week period that expired on 22 March 2017:

Ref Code	Respondent	Comment
BHN1	Commercial property occupier	Concerned at the influence that the Forum may have over a privately owned commercial site. Would object to any restrictions other than current national planning policies.

Ref Code	Respondent	Comment
BHN2	Sport England	The Neighbourhood Plan should reflect national policy for sport and the protection of playing fields. Policies should be underpinned by robust and up to date assessments and strategies for indoor and outdoor sport. Further advice on planning and design is available from Sport England. Links to relevant guidance is provided.
BHN3	Historic England	No comments on the proposed forum or boundary.
BHN4	Health and Safety Executive (HSE)	As the proposed area does not encroach on the consultation zones of any major hazard establishments or major accident hazard pipelines, HSE does not need to be informed of the next stages in the adoption of a Birkenhead North Neighbourhood Plan.
BHN5	Network Rail	The proposed area includes sections of operational railway. Network Rail is a statutory consultee for any planning applications within 10 metres of relevant railway land. Development proposals that could affect the railway, including footfall at railway stations, may need to be supported by a relevant Transport Assessment. The Office of Rail and Road will also need to be consulted on any relevant proposals. A list of works that will need to be notified and contact details is provided.
BHN6	Natural England	No comment on the proposed forum or boundary. Any future proposals will need to be prepared in line with national policies to protect and enhance the natural environment and local plan policies for the natural environment.
BHN7	Environment Agency	No comments on the proposed forum or boundary.
BHN8	Canal and River Trust	No comments, as the proposed area would not include, or be adjacent to, any of the Trust's waterways or land.
BHN9	Gladman Developments	Wish to participate in the preparation of the neighbourhood plan and identify the key requirements related to housing need and the future supply of housing land to which the development of the emerging neighbourhood area should have regard.
BHN10	Highways England	No comment on the proposed Forum or boundary.

- 3.7 The majority of the substantive comments received do not object to the principle of designating the proposed forum or the proposed boundary to the neighbourhood area and only set out issues that will need to be addressed by the forum when they come to prepare their future proposals for the area.
- 3.8 The only comment that has indicated a possible objection to the designation of a forum for the area, relates to the possible future restrictions that could potentially be placed on a specific commercial property within the area.
- 3.9 As the preparation of neighbourhood planning proposals by a designated local forum is specifically provided for by national legislation; and neighbourhood planning proposals must be prepared in accordance with existing national and local strategic policies and must be made subject to statutory public consultation and independent examination; it is not considered that the potential (as yet unknown and not even yet proposed) influence over the future development of a privately owned

commercial site is a matter that should prevent the appropriate designation of the proposed forum or area boundary, as applied for.

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

Conclusion

- 3.11 As the application documents submitted by the Birkenhead North Neighbourhood Alliance comply with the relevant statutory requirements; have been published for statutory public consultation; and no comments have been received that would indicate that the proposed forum or neighbourhood area would be unsuitable for designation; this report recommends that the Alliance is now formally designated as the statutory neighbourhood forum for the proposed neighbourhood area shown in Appendix 1 and that the decision is published in accordance with the relevant statutory requirements.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The costs associated with publicising the application documents have been met from within existing resources in Environmental Services.
- 4.2 A grant of £5,000 to cover these costs from the Department of Communities and Local Government may no longer be available after March 2017.
- 4.3 A future grant of £20,000 is only currently available once a date for a referendum has been set, following a successful independent examination and may also not be available after March 2017.
- 4.4 Any additional resources to support the Birkenhead North Neighbourhood Alliance and the later stages of the neighbourhood planning process, including publishing a draft Plan, arranging an independent examination and holding a local referendum, will need to be met from existing resources held by the Assistant Director for Environmental Services, less any available grant monies.
- 4.5 Recent experience suggests that an independent examination could cost between £10,000 and £15,000, depending on the nature of the proposals submitted.
- 4.6 A local referendum of registered electors within the area boundary proposed is currently expected to cost up to £10,000.
- 4.7 The costs associated with publication, examination and local referendum are a statutory responsibility and are unavoidable and may need to be identified as growth items in future years, if the Government grants identified above are withdrawn or reduced.

5.0 LEGAL

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

Neighbourhood forums

- 5.2 The Council can only refuse to designate a forum where it does not meet the prescribed conditions of the Act and must publish the reasons for refusing any application.
- 5.3 When considering whether to 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 3.3(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.
- 5.4 The nature or merit of any draft or initial proposals is not a relevant consideration in the decision to 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 designation of the forum will initially last for five years but once designated, the Council will only be able to rescind the status of the Birkenhead North Neighbourhood Alliance if the Alliance no longer meets the statutory conditions for designation as a neighbourhood forum.

Neighbourhood areas

- 5.7 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.
- 5.8 The Council must designate all of the neighbourhood area applied for, unaltered, if the Council has not determined the neighbourhood application within 13 weeks of publishing the application for public comment.

Post-designation

- 5.9 Following designation, the Birkenhead North Neighbourhood Alliance will be responsible for the preparation of draft proposals, in line with national regulations which provide for statutory public involvement and for submitting the draft plan to the

Council for publication and examination by an independent person with appropriate qualifications and experience.

- 5.10 The Alliance's proposals must have regard to national policy and must be in general conformity with the strategic policies contained within the Council's adopted Local Plans.
- 5.11 The Council must make the proposed neighbourhood plan part of the statutory Development Plan for Wirral, if it meets the basic conditions set out in national legislation, passes independent examination and is supported by a majority of those voting in a local referendum. The neighbourhood plan must then be used in the determination of individual planning applications within the plan area.
- 5.12 Any local referendum will need to comply with the Neighbourhood Planning (Referendums) Regulations 2012 (SI 2012 No. 2031), as amended. The independent examiner will recommend whether the area for the referendum should extend beyond the designated neighbourhood area and the Council may also, where appropriate, extend the area in which the referendum is to take place.
- 5.13 The Government announced a proposal to give Neighbourhood Forums which have a neighbourhood development plan that has passed referendum, the right to begin the process to create a new town and parish council, without the requirement to submit a supporting petition, in January 2015.
- 5.14 As soon as possible after designating a neighbourhood forum or a neighbourhood area the Council must publish the name of the neighbourhood forum; a copy of the written constitution of the neighbourhood forum; the name of the neighbourhood area to which the designation relates; a map which identifies the area; and contact details for at least one member of the neighbourhood forum, on the Council's website and in such other manner as the Council consider is likely to bring the designation to the attention of people who live, work or carry on business in the neighbourhood area.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 Statutory consultation was undertaken using existing resources within Environmental Services and at St James Library.
- 6.2 Following designation, the Birkenhead North Neighbourhood Alliance will be responsible for the preparation of a draft plan, in line with national regulations and policies, including statutory public involvement and the submission of the final draft plan proposals to the Council for independent examination.
- 6.3 The Government currently provides support for communities who choose to prepare neighbourhood plans, in the form of grants of up to £9,000. Groups facing a range of complex issues are also eligible to apply for a further £6,000 and for additional technical support, to help with issues such as assessing housing needs; masterplanning and design; evidence base and policy review; and strategic environmental assessment. Information on how to apply for this funding and support can be viewed at www.mycommunity.org.uk

- 6.4 Once a final draft plan has been submitted to the Council, the Council will be required to publish the plan proposals for public consultation and to arrange for the proposals and any comments received to be examined by an independent person with appropriate qualifications and experience.
- 6.5 A local referendum will need to be undertaken if the proposals successfully pass independent examination, using existing resources in Electoral Services, in consultation with the Chief Executive in his role as Returning Officer.

7.0 RELEVANT RISKS

- 7.1 As compliance with the national neighbourhood planning regulations is not discretionary, the principal risks to the Council are financial and legal. Financial risks are dependent on the continued availability of Government grants.
- 7.2 A decision not to designate the Birkenhead North Neighbourhood Alliance as a neighbourhood planning forum or the neighbourhood area as applied for could be subject to legal challenge.
- 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 application within 13 weeks of publicising an application.
- 7.4 Potentially abortive costs at independent examination and local referendum could be mitigated by working in partnership with the Birkenhead North Neighbourhood Alliance to maximise the potential success of their neighbourhood planning proposals.
- 7.5 The principal legal risk is for any decision by the Council on the 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 22 March deadline for public consultation has expired.

8.0 ENGAGEMENT / CONSULTATION

- 8.1 The Birkenhead North Neighbourhood Alliance has been established following the distribution of leaflets to addresses in sixty-four streets across the area, a public meeting on 19 January 2016, a door-knocking campaign and invitations to local businesses and the Alliance already has links with Merseyside Police, Magenta Housing and local house-builder, Keepmoat.
- 8.2 Membership of the Alliance is voluntary and will remain open to other voluntary, community and faith groups, working or resident within the area, who may also comment on the applications made by the Alliance when they are published by the Council for public comment.
- 8.3 Two of the Elected Members for Bidston and St James Ward are already members of the Alliance. The proposed constitution, set out in Appendix 2 to this report, ensures that Elected Members for Claughton Ward will also be eligible to become members of the Alliance.

- 8.4 The Council has advertised the applications for 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 stakeholders to make their views known on the application, area boundary and constitution, before any final recommendation on designation is made.
- 8.5 Paper copies of the application documents, including the application letters, proposed constitution and proposed area boundary, were be placed for public inspection on the Council's website and in St James Library and at the South Annexe of Wallasey Town Hall during their normal opening hours.
- 8.6 The consultation was advertised through a planning notice in the free press and the Council's social media. Notification was sent to the consultation bodies listed in Schedule 1 of the Neighbourhood Planning Regulations (as amended); to the Constituency Area Manager for Birkenhead; and to contacts with an interest in the area that are already registered on the Council's Local Plan database. Notification was also be sent to local businesses through Business Wirral and the Wirral Chamber of Commerce.
- 8.7 Copies of the responses received will be forwarded to the Forum once the decision on designation has been determined, to enable them to be fully taken into account in any future emerging proposals for the area.
- 8.8 Any subsequent proposals prepared by the Birkenhead North Neighbourhood Alliance will need to be developed following statutory public involvement and must be submitted to the Council for independent examination and made subject to a local referendum before they can be approved to form part of the statutory Development Plan for Wirral, following a resolution of Full Council.

9.0 EQUALITY IMPLICATIONS

- 9.1 The relevant Equality Impact Assessment has been reviewed and can now be viewed at <https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments/equality-impact-assessments-2014-0>
- 9.2 The constitution, object and open membership of the proposed neighbourhood planning forum should have positive equalities implications.
- 9.3 A revised equalities impact assessment will need to be prepared once the neighbourhood planning proposals of the Birkenhead North Neighbourhood Alliance have been prepared.

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APPENDICES

Appendix 1 - Proposed Area Boundary for Birkenhead North

Appendix 2 - Application for a Neighbourhood Forum for Birkenhead North

Appendix 3 – Application for a Neighbourhood Area for Birkenhead North

REFERENCE MATERIAL

[Localism Act 2011](#) (Part 6, Chapter 3 and Schedules 9 to 12 refer)

[The Neighbourhood Planning \(General\) Regulations 2012 \(SI 2012, No. 637\)](#) (Regulations 5 to 10 refer)

[The Neighbourhood Planning \(General\) \(Amendment\) Regulations 2015 \(SI 2015, No. 20\)](#) (Regulation 2 refers)

[The Neighbourhood Planning \(General\) and Development Management Procedure \(Amendment\) Regulations 2016 \(SI 2016, No. 873\)](#) (Regulation 2 refers)

[Neighbourhood Planning \(Referendums\) Regulations 2012 \(SI 2012 No. 2031\)](#)

[Neighbourhood Planning \(Referendums\) \(Amendment\) Regulations 2014 \(SI 2014 No. 333\)](#)

[Neighbourhood Planning \(Referendums\) \(Amendment\) Regulations 2016 \(SI 2016 No. 934\)](#)

[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
Birkenhead North Neighbourhood Forum and Neighbourhood Area – Approval of Consultation on Designation	24 January 2017