

DEVONSHIRE PARK NEIGHBOURHOOD PLAN - EXAMINATION
REPORT OF RESPONSES TO POST-SUBMISSION CONSULTATION
FOR THE CONSIDERATION OF THE APPOINTED EXAMINER

The Submitted Neighbourhood Plan

The Neighbourhood Plan has been prepared by the designated Neighbourhood Forum for the Area, based on the open membership of the originating Devonshire Park Residents Association. The Forum, prior to the submission of the proposed Neighbourhood Plan, had 81 formally registered members.

The Forum and its objectives are supported by the local Member of Parliament and by local Ward Councillors.

The Neighbourhood Plan and its associated documents were approved for submission to the Council by a unanimous vote of the Forum on 12 November 2014.

Prior to publishing the submitted proposals the Council had concluded that the Neighbourhood Plan had complied with all the relevant legislative requirements (Council Delegated Report and accompanying Equality Impact Assessment, published 25 November 2014, see links below, refer).

Consultation Process

Post-submission publicity took place between Monday 8 December 2014 and Friday 6 February 2015, to give additional time during the Christmas and New Year holidays. The deadline for comments to be received was 5.00pm on Friday 6 February 2015. No additional comments were received after this deadline had expired.

The proposals were publicised by the Council on the Council's website - on the Council's Planning Applications, Local Development Framework and Neighbourhood Planning webpages.

Notification letters and emails with links to the on-line documents were sent to all 826 registered contacts on the Council's Local Development Framework Contacts Database, which is used for consultations on the Council's local planning documents including the Council's Local Plan, including the relevant Schedule 1 Consultation Bodies and previous respondents to the Neighbourhood Plan.

Press notices were published in the Wirral Globe (the local free press which circulates within the area) on 10 December 2014 and on 7 January 2015.

A newsletter including a copy of the Council's Notice of Consultation was also delivered to every property within the Neighbourhood Area by the Devonshire Park Residents Association in early December 2014.

As the proposals were publicised alongside a separate consultation on the Council's emerging Core Strategy Local Plan, the consultation details were also included in the December e-bulletins of Voluntary and Community Action Wirral (466 contacts) and the Wirral Chamber of Commerce (2,107 members) and sent to 268 Constituency Area contacts.

Paper copies of the submitted documents and the Council's Notice of Consultation were also placed for public inspection at Birkenhead Library; at the Council's offices at Wallasey Town Hall; and within the Neighbourhood Area, at the St Joseph's Parish Centre at Greenbank Road during their normal opening hours.

The Council therefore believes that the requirements of Regulation 16 of the Neighbourhood Planning Regulations, to bring the proposal to the attention of people who live, work or carry on business in the neighbourhood area, have been satisfied.

Representations Received and Council Responses

The post-submission publicity drew ten responses, which are summarised in Schedule 1, at the end of this document.

The only substantive comments were submitted by the following bodies or agencies:

A. Mono Consultants Limited for the Mobile Operators Association (DPNP #05)

A1. The references to Core Strategy Policies in Appendix 4.3 refer to a previous version of the Council's emerging Core Strategy Local Plan and the text for Policy CS43 – Design, Heritage and Amenity, should be based on the latest published modifications to the Local Plan.

Council Comment

Mono Consultants refer to the Council's latest proposed modifications to Core Strategy Policy CS43, which are correctly reproduced as part of their representation.

Although the modifications referred to were approved and published for public consultation in July 2013 and have not been subject to any further representations,

they have not yet been endorsed by the Council as part of the final Core Strategy to be submitted to public examination. Approval by the Council is not expected to take place until Autumn 2015, following the completion of further evidence (un-related to telecommunications issues).

The Unitary Development Plan for Wirral (February 2000, saved in September 2007) and the Joint Waste Local Plan for Merseyside and Halton (adopted July 2013) remain the statutory development plan for Wirral.

As there is a different forum for the challenge and determination of emerging strategic level policies, through a separate statutory public examination, the Council does not believe that any further change to the Neighbourhood Plan or its Appendices would be appropriate or necessary to meet any Basic Condition for the Neighbourhood Plan.

B. Wirral Council Public Health (DPNP #08)

B1. Policy 2 - It is worth considering whether the conversion of up to 33% of properties within the Neighbourhood Area is meeting a local need.

Council Comment

Criterion 1 of Policy 2 would permit the development of additional flats and shared houses where a clear local need is demonstrated. Smaller-scale shared houses could also continue to be provided within the Neighbourhood Area under the Use Classes Order, without planning permission being required. Policy 2 would not, therefore, prevent any demonstrable local need from being met.

Although the high proportion of existing flats and shared houses are occupied, the Forum believes that any further unplanned increased concentration would have a disproportionate impact on the character of the Neighbourhood Area. The Council therefore believes that no further change is necessary to the Neighbourhood Plan to meet any Basic Condition.

B2. Policy 3 - It is worth considering whether further residential institutions or hostels would necessarily lead to an increase in noise and disturbance. The supportive community set out in the text of the Neighbourhood Plan should be well equipped to welcome and support vulnerable individuals.

Council Comment

Paragraph 7.17 in the supporting text of the submitted Neighbourhood Plan states that: “The use of properties by a residential institution or for supported or sheltered accommodation is significantly different to that of a family dwelling. More intensive use and greater activity would be likely to increase the noise and disturbance for neighbouring occupiers.”

The Forum believes that this remains a fair and reasonable statement.

However, neither Policy 3 nor the design criteria in Policy 1 refer to noise and disturbance and any consideration of this matter would therefore fall to be assessed under the existing policies of the Council’s Unitary Development Plan¹ rather than through the Neighbourhood Plan.

While the Forum has and will continue to support vulnerable residents, the Forum still believes that any further unplanned increased concentration would have a disproportionate impact on the character of the Neighbourhood Area and that Policy 3 remains a valid policy response².

As criterion 1 of Policy 3 would permit the development of additional residential institutions or hostels where a clear local need is demonstrated and the Use Classes Order would continue to allow smaller-scale projects to continue to take place without planning permission being required, the Council therefore believes that no further change is necessary to the Neighbourhood Plan to meet any Basic Condition.

C. Natural England (DPNP #09)

C1. An avoidance statement should be included in any policy (or its supporting text) that could lead to development which could have a likely significant effect on a European Site.

Council Comment

The Council believes that this comment is only relevant to Policy 1 of the submitted Neighbourhood Plan³ and is necessary to be addressed to meet a Basic Condition,

¹ Which are proposed to be replaced by strategic Policy CS43 - Design, Heritage and Amenity, in the Council’s emerging Core Strategy Local Plan (Appendix 4.3, Criterion 10 refers)

² A similar concern is also reflected in the Council’s existing Unitary Development Plan (Policy HS8 and paragraph 6.49 refers)

³ Criterion 2 in both Policy 2 and Policy 3 require any proposals to comply with Policy 1.

with regard to EU obligations and Schedule 2 of the Neighbourhood Planning Regulations⁴.

It is therefore proposed, subject to the agreement of the Examiner, that the following text, as agreed with Natural England, should be included in the supporting text to Policy 1 of the submitted Neighbourhood Plan, to form paragraph 7.6A, to read:

“7.6A Development which may result in a likely significant effect on an internationally important site must be accompanied by sufficient evidence to enable the Council to make a Habitats Regulations assessment. Adverse effects should be avoided, or where this is not possible they should be mitigated, to make sure that the integrity of internationally important sites is protected. Development which may adversely affect the integrity of internationally important sites will only be permitted where there are no alternative solutions and there are imperative reasons of overriding public interest, and where compensatory provision has been made. This also applies to sites and habitats outside the designated boundaries that support species listed as being important in the designations of the internationally important sites.”

C2. The submitted Habitats Regulations Screening Report should be amended to provide additional wording on the character of the Neighbourhood Area, to further support the conclusion of no significant effect.

Council Comment

The Council believes that this comment is, again, necessary to be addressed to meet a Basic Condition, with regard to EU obligations and Schedule 2 of the Neighbourhood Planning Regulations.

It is therefore proposed, subject to the agreement of the Examiner, that the submitted Habitats Regulations Assessment Report (November 2014) is replaced with the Revised Habitats Regulations Assessment Report (March 2015), which accompanies this document, the content of which has also been agreed with Natural England.

On the basis of these two proposed modifications, the Council therefore believes that the Basic Condition with regard to EU obligations for the conservation of natural habitats and of wild fauna and flora and the conservation of wild birds can be complied with and that no further change is necessary to the Neighbourhood Plan.

⁴ The submitted Neighbourhood Plan and Habitats Regulations Assessment (Appendix 4.5, November 2014) were prepared on the basis of the previous written response from Natural England, dated 11 July 2013, which stated that “Natural England does not consider that this plan poses any likely significant risk to internationally or nationally designated nature conservation sites “(Appendix 3.3 refers)

Other Matters

Separate consultation with the statutory consultation bodies English Heritage, Natural England and the Environment Agency was undertaken on the content of the Strategic Environmental Assessment (SEA) Screening Report and on the content of the Habitats Regulations Assessment Report, on 19 November 2014.

The SEA Screening Report (November 2014) concluded that an additional environmental report would not need to be prepared.

English Heritage (10 November 2014 sic) and the Environment Agency (16 January 2015 and 12 February 2015) have confirmed in writing that they have no further comments to make.

Natural England (6 February 2015) only submitted comments on the Habitats Regulations Assessment Report and their comments have already been addressed above.

The findings of both the assessment Reports were also published for public comment alongside the main consultation documents in December 2014 (Appendix 4.5 and Appendix 4.6 refer), with no further comments received.

The SEA Screening Report (November 2014) has now been up-dated to record the formal responses from the statutory consultation bodies and a copy of the final Revised SEA Screening Report (March 2015), for consideration by the Examiner, also accompanies this document.

The Council has therefore concluded, with the agreement of the statutory consultation bodies, that an additional environmental report will not need to be prepared; that the Basic Condition with regard to EU obligations for assessing the effects of certain plans and programmes on the environment has been complied with; and that no further change is necessary to the Neighbourhood Plan.

List of Enclosures

Wirral Council Documents

Delegated Report published 25 November 2015 (which can also be viewed at <http://democracy.wirral.gov.uk/ieDecisionDetails.aspx?ID=2855>)

Equality Impact Assessment (which can also be viewed at <https://www.wirral.gov.uk/downloads/7492>)

Notice of Consultation (which can also be viewed at <http://www.wirral.gov.uk/downloads/7523>)

Submitted Documents

(which can also be viewed at <http://www.wirral.gov.uk/my-services/environment-and-planning/planning/local-development-framework/neighbourhood-planning>)

Document 1 - Proposed Neighbourhood Development Plan (which can also be viewed at <http://www.wirral.gov.uk/downloads/7524>)

Document 2 - Map of the Plan Area (which can also be viewed at <http://www.wirral.gov.uk/downloads/7525>)

Document 3 - Consultation Statement (which can also be viewed at <http://www.wirral.gov.uk/downloads/7538>)

Appendix 3.1 Pre-Designation Consultation (which can also be viewed at <http://www.wirral.gov.uk/downloads/7526>)

Appendix 3.2 Pre-Submission Consultation (which can also be viewed at <http://www.wirral.gov.uk/downloads/7527>)

Appendix 3.3 Pre-Submission Consultation Responses (which can also be viewed at <http://www.wirral.gov.uk/downloads/7528>)

Appendix 3.4 Report of Responses to Consultation (which can also be viewed at <http://www.wirral.gov.uk/downloads/7529>)

Document 4 - Basic Conditions Statement (which can also be viewed at <http://www.wirral.gov.uk/downloads/7530>)

Appendix 4.1 Unitary Development Plan Policies (which can also be viewed at <http://www.wirral.gov.uk/downloads/7531>)

Appendix 4.2 Joint Waste Local Plan Policies (which can also be viewed at <http://www.wirral.gov.uk/downloads/7532>)

Appendix 4.3 Core Strategy Policies (which can also be viewed at <http://www.wirral.gov.uk/downloads/7533>)

Appendix 4.4 Sustainability Assessment (which can also be viewed at <http://www.wirral.gov.uk/downloads/7534>)

Appendix 4.5 Habitats Regulations Assessment (November 2014, which can also be viewed at <http://www.wirral.gov.uk/downloads/7535>)

Appendix 4.6 Strategic Environmental Assessment (November 2014, which can also be viewed at <http://www.wirral.gov.uk/downloads/7536>)

Appendix 4.7 Background Data Tables (which can also be viewed at <http://www.wirral.gov.uk/downloads/7537>)

Comments Received in Response to Post-Submission Consultation

DPNP01 – English Heritage (email dated 8 December 2014, also refers to a letter dated 10 November 2014 with regard to SEA/HRA Screening, provided below)
DPNP02 – Marine Management Organisation (letter dated 9 December 2014)
DPNP03 – Royal National Lifeboat Institution (email dated 5 December 2014)
DPNP04 – Environment Agency (letter dated 16 January 2015)
DPNP05 – Mono Consultants Limited for the Mobile Operators Association (letters dated 2 February 2015)
DPNP06 – Office of Rail Regulation (email dated 30 January 2015)
DPNP07 – Ian Dyer (email dated 5 February 2015)
DPNP08 – Wirral Public Health (undated submission, received 6 February 2015)
DPNP09 – Natural England (letter dated 6 February 2015)
DPNP10 – United Utilities (email dated 6 February 2015, also refers to letter dated 14 July 2013, provided in Appendix 3.3 (page 18 refers) and addressed in Appendix 3.4 (page 7 refers))

Strategic Environmental Assessment and Habitats Regulations Assessment

Council Notification Letter to English Heritage (dated 19 November 2014)
Reply from English Heritage (letter dated 10 November 2014 sic)
Council Notification Letter to Natural England (dated 19 November 2014)
Reply from Natural England (letter dated 2 December 2014)
Council Notification Letter to the Environment Agency (dated 19 November 2014)
Reply from the Environment Agency (confirmation letter dated 12 February 2015)
Reply from Natural England (approval of revised SEA and HRA reports, email dated 2 March 2015)

Revised Strategic Environmental Assessment Screening Report (March 2015), including the responses of the statutory consultation bodies English Heritage, Natural England and the Environment Agency⁵.

Revised Habitats Regulations Assessment Report (March 2015), including revisions agreed by Natural England⁶

⁵ The changes included record the acceptance of the consultation bodies, in paragraph 12; the change from a draft to final determination, in the heading to paragraph 13; and amend the reason provided under Point 4 of Appendix 1, to reflect the changes made in the Revised Habitats Regulations Assessment Report (March 2015). A tracked version can be provided on request.

⁶ The agreed revisions are contained within paragraphs 25 to 33 and paragraph 34 of the revised report. A tracked version can be provided on request.

Links to Other Relevant Documents

The Council's existing 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 Council's Proposed Submission Draft Core Strategy (December 2012) can be viewed at <http://www.wirral.gov.uk/downloads/5640>
(the latest position and the background to the proposed modifications to the Core Strategy can be viewed at <http://www.wirral.gov.uk/my-services/environment-and-planning/planning/local-development-framework/core-strategy-development-plan>)

The Joint Waste Local Plan for Merseyside and Halton can be viewed at <http://www.wirral.gov.uk/my-services/environment-and-planning/planning/local-development-framework/joint-merseyside-waste-development-plan>

Schedule 1

Summary of Comments Received on the Submitted Documents

Council Ref	Respondent	Summary of Comment
DPNP01	English Heritage	No further comments
DPNP02	Marine Management Organisation	No comments
DPNP03	Royal National Lifeboat Institution	No comments
DPNP04	Environment Agency	No further comments
DPNP05	Mobile Operators Association	Appendix 4.3 should refer to the latest proposed wording of Core Strategy Policy CS43
DPNP06	Office of Rail Regulation	The plan proposals will not affect the operation of the mainline rail network
DPNP07	Ian Dyer	Support the Plan
DPNP08	Wirral Council Public Health	Policy 1 – welcomed Policy 2 – the existing high proportion of flats and shared houses may reflect a local need and could be a community asset Policy 3 – residential institutions and hostels may not result in increased noise and disturbance and the surrounding community appears well equipped to support vulnerable people
DPNP09	Natural England	An avoidance statement needs to be included in the Neighbourhood Plan and the HRA Report requires additional wording to further support the conclusion of no significant effect
DPNP10	United Utilities	No comments