

**Report to:** **STRATEGIC PLANNING AND CAPITAL MONITORING PANEL**

**Date:** 13 March 2017

**Reporting officer:** Damien Bourke, Assistant Executive Director (Development, Growth and Investment)

**Subject:** **DESIGNATION OF DENTON SOUTH NEIGHBOURHOOD AREA AND FORUM**

**Report summary:** The opportunity for Neighbourhoods to influence the future of their area is a principle established in the National Planning Policy Framework (NPPF). It should be recognised that the establishment of neighbourhoods and areas is a positive step in engaging local areas to influence how development growth can be accommodated.

On the 29 November 2016, Full Council approved the policies and procedures that needed to be in place in order to receive, process and determine applications for designation of Neighbourhood Forums and Areas.

In accordance with these arrangements and regulations an application to establish a Neighbourhood Forum and Area has been made and processed for the Denton South Area and the decision whether to designate the Forum and Area must now be made.

**Recommendations:** That the Strategic Planning and Capital Monitoring Panel note the content of the report and resolve to:

- (i) Approve the designation of Denton South Neighbourhood Forum on the basis of the submitted constitution and terms of reference attached in the appendices for a period of five years from this decision date.
- (ii) Designate the Denton South Neighbourhood Area as shown in the appendices as the area of influence within which the Denton South Neighbourhood Forum will operate.

**Links to community strategy:** Neighbourhood Planning is a recognised model that supports the Community Strategy by enabling people to get actively involved in the life of the community and contribute to a prosperous local economy.

**Policy implications:** Neighbourhood Planning introduces formal development plans at a community level which must be taken into account when making planning decisions. A neighbourhood plan can only be developed, examined and considered for adoption following the Council's initial determination of an application to establish a neighbourhood forum and area.

**Financial implications:** There are no direct costs associated with the designation of the Denton South Neighbourhood; however, it should be noted that the cost of a referendum and examination will vary by area and would need to be funded in advance and can only be recovered if a plan is ultimately adopted. In respect of the Denton South  
**(Authorised By Section 151 Officer)**

Neighbourhood Plan the estimated cost is £25,000 this will be funded from within the existing budget of Development Growth and Investment. If there are any further plans then the financial costs will need to be re-evaluated.

**Legal implications:  
(Authorised by the Borough  
Solicitor)**

Taking the recommended action will allow the Council to comply with its duties under the Neighbourhood Planning (General) Regulations 2012, as amended

**Risk Management:**

The Council is required to determine an application to establish a neighbourhood forum and area, without any pre-conception regarding the content of a future neighbourhood plan. By not considering the application to establish a neighbourhood forum and area the Council would be in breach of the Neighbourhood Planning Regulations.

**Access to information:**

The background papers can be obtained from the author of the report, Peter Taylor by



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## 1. INTRODUCTION

- 1.1 Under the Town and Country Planning Act 1990, as amended by the Localism Act 2011, the Council has a statutory duty to assist communities in the preparation of neighbourhood development plans and to take plans through a process of examination and referendum.
- 1.2 In areas that are not covered by Parish or Town Councils, the Council as Local Planning Authority can designate bodies that apply to be established as Neighbourhood Forums subject to appropriate requirements of the Localism Act and the associated Neighbourhood Planning Regulations being met.
- 1.3 On the 29 November 2016, Full Council approved the policies and procedures that needed to be in place in order to receive, process and determine applications for designation of Neighbourhood Forums and Areas. In accordance with these arrangements decisions whether to designate a Forum or Area to the Strategic Planning and Capital Monitoring Panel.
- 1.4 An application to designate a Neighbourhood Forum and Area has been received from representatives of the Denton South local community. The application was submitted and validated and has subsequently been advertised for a six week period in accordance with the approved operational procedures and the Neighbourhood Planning Regulations.
- 1.5 In accordance with the approved procedures and regulations the decision whether to designate the Denton South Neighbourhood Area and Forum must now be made.

## 2. ESTABLISHING A NEIGHBOURHOOD AREA AND FORUM

- 2.1 The legal requirements for establishing a Neighbourhood Forum and Neighbourhood Area are set out in the Town and Country Planning Act 1990 as amended by the Localism Act 2011. Procedures are set out in:
  - The Neighbourhood Planning (General) Regulations 2012
  - The Neighbourhood Planning (General) (Amendment) Regulations 2015 and;
  - The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016.
- 2.2 This requires the Council to publicise the application and then assess whether the applications satisfy the Neighbourhood Planning Regulations, and, in light of any representations received following publicity, determine whether to designate the Forum and/or Area. At this stage the Council is only entitled to consider whether the establishment of the Forum and the Area proposed are relevant and appropriate and that the proposed Forum meets the criteria set out in the Localism Act and associated regulations. **In considering the establishment of the Forum and Area the Council must not pre-judge what the content of a Neighbourhood Plan should be.**
- 2.3 Sections 61F(5) and 61G of the Localism Act set out definitions and requirements to be satisfied in order that either a Neighbourhood Forum or Area may be designated. They can be considered in either order, or simultaneously. The headline requirements and determining matters for designating a Neighbourhood Forum (where no Parish Council exists) under section 61F(5) are summarised below:

*“A local planning authority may designate an organisation or body as a neighbourhood forum if the authority are satisfied that it meets the following conditions—*

*(a) it is established for the express purpose of promoting or improving the social, economic and environmental wellbeing of an area that consists of or includes the neighbourhood area....*

*(b) its membership is open to—*

*(i) individuals who live in the neighbourhood area concerned,*

*(ii) individuals who work there (whether for businesses carried on there or otherwise), and*

*(iii) individuals who are elected members of a county council, district council or London borough council any of whose area falls within the neighbourhood area concerned,*

*(c) its membership includes a minimum of 21 individuals each of whom satisfies (b) above,*

*(d) it has a written constitution, and*

*(e) such other conditions as may be prescribed.”*

2.4 The Council as Local Planning Authority may only designate one forum per area, can only designate the forum if an application has actually been made, and must give reasons if the designation is refused.

2.5 In terms of defining a “neighbourhood area” the meaning is set out in section 61(G) which in summary states:

*“a “neighbourhood area” means an area within the area of a local planning authority in England where a relevant body has applied to the authority for an area specified in the application to be designated by the authority as a neighbourhood area, and the authority are determining the application.”*

In other words if an application is received to designate an area by a recognised or designated body (such as a Neighbourhood Forum) then the Council should approve it unless there are overriding concerns that the area selected is inappropriate.

2.6 The 2012 Regulations as amended in 2015 and 2016 set out the procedures to be followed in determining an application for the designation of either a Neighbourhood Forum or Area. These procedures were considered by Full Council on the 29 November 2016 and the format and scope of applications, draft constitutions and maps were approved.

2.7 The Council is encouraged not to delay the determination of such applications. If the Council as the Local Planning Authority is satisfied that the application meets the necessary requirements then it is required to publicise the applications on its website and by such other means considered likely to bring the application to the attention of people who live, work or carry on business in the area to which the application relates. The LPA must also specify details of how to make representations to the Council regarding the application and the date by which they should be received which must be not less than 6 weeks from when the application was first publicised.

2.8 The 2015 and 2016 amendments to the regulations now prescribe dates for the determination of neighbourhood forum and area applications. Where the application falls within a single planning authority area and are not made by a Parish Council then the LPA has 13 weeks from the date immediately following the date of publication of the application in which to determine it.

2.9 As soon as possible following determination of the neighbourhood forum and/or area applications the LPA is required to publicise the decision in a similar manner to which the applications(s) themselves were publicised. Should the decision be taken to refuse to designate a neighbourhood forum and/or area then the LPA must similarly publicise that decision in the form of a “refusal statement” setting out the reasons for making that decisions and providing details of where and when the refusal statement may be inspected.

2.10 Having made a decision to designate a Neighbourhood Forum and Area the designation ceases to have effect at the end of a 5 year period from the day on which it is made. The LPA may also withdraw the designation if it considers that the Forum is no longer meeting the basis on which the designation was approved. For example if there is evidence that the Forum is not operating within the terms of the approved constitution or is no longer meeting the requirements of the Localism Act or associated Regulations. This could potentially include situations where the Forum is not making decisions in accordance with the approved constitution or are purposefully seeking to prevent otherwise sustainable development from taking place without justified planning reasons. A change in membership alone is not the basis on which a designation would cease to have effect, as long as the overall number and composition of the membership satisfies the basis on which designation was made.

### 3. DENTON SOUTH APPLICATION

3.1 A community group representing Denton South has made an application requesting designation as a neighbourhood forum and the associated designation of a neighbourhood area, known as the proposed area of benefit.

3.2 The application together with the proposed constitution and area map have been submitted in the prescribed format, and validated as such in consultation with the Borough Solicitor. The application and associated documents are attached as follows:

- Appendix 1:** Application form
- Appendix 2:** Model constitution
- Appendix 3:** Supporting statement
- Appendix 4:** Area map

3.3 The application was advertised from 23 January to 6 March 2017 in accordance with the procedures agreed at Council and as set out in the publication notice at Appendix 5:

- (i) On the Strategic Planning homepage of the Council's website
- (ii) By notice in the Local Newspaper – the Tameside Reporter
- (iii) By notice in Local Libraries/Community Centres within the area proposed to be covered by the Forum – the Haughton Green Centre, Denton Library and Ashton Customer Service Centre.

3.4 The outcome of the advertisement period is summarised in the table below;

Respondent	Comment
Local resident	Supports the designation

Note: We only have one respondent so far but a decision needs to be made by SCP on the 13 March 2017 or delegation from SCP for or final approval is required by the 13 week deadline of the 24 April 2017

3.5 It is considered that the proposed forum has demonstrated that they meet the membership requirements required by statute, has a written constitution in accordance with the regulations and in the approved format including setting out the name, area of benefit, inclusion statement, objectives, powers, membership, working arrangements, the role of the management committee, the arrangements for Annual and Extraordinary General Meetings and the arrangements for review and dissolution of the Forum.

3.6 With regard to the area of benefit then to refuse or seek amendments to the boundary proposed would require some evidence that the forum were seeking to include an area that

was inappropriate as it was beyond the normal influence of the local community that the forum represented. The Denton South area application replicates the Denton South Ward boundary which is considered to show a practical and respectful alignment to the Council's current and functional community boundaries for the area.

#### **4. CONCLUSIONS**

- 4.1 It is considered that the proposed arrangements for the Denton South Neighbourhood Forum and the Area of benefit comply with the requirements of the appropriate legislation and regulations as well as the Council's approved procedures and should be designated accordingly.

#### **5. RECOMMENDATION**

- 5.1 As set out at the front of the report.