

Review of Community Governance in the Central Unparished areas of Durham by Durham County Council

Final Recommendations

On 25 January 2017 the County Council approved and published terms of reference to conduct a Community Governance Review covering the central unparished areas of Durham City.

Background

On 21 October 2016 the County Council received a petition from the Member of Parliament for the City of Durham requesting that the County Council formally consult with residents of the central unparished wards of Durham about the formation of a Town Council.

The petition was verified as being a valid petition because it contained sufficient signatures from local residents in accordance with the requirements of legislation. The Council resolved to undertake a formal community governance review on 25 January 2017 and terms of reference were subsequently published on 6 February 2017.

The County Council subsequently undertook a consultative poll and proposed two options for the future community governance arrangements in the area:

Consultation

A consultative poll was distributed to those electors whose names were on the electoral register in the area under review. This was done in accordance with a County Council decision to use a consultative poll method for any reviews which related to the creation or abolition of a parish/town council.

In addition to this consultation letters were sent to St Nicholas Community Forum, Whinney Hill Community Group, Crossgate Community Partnership and Gilesgate Residents, Elvet Residents, Merryoaks Residents, Neville's Cross Residents, Sheraton Park Residents, Sidegate Residents' Association, County Durham Association of Local Councils, Durham Access for All, Durham Area Action Partnership, Durham Neighbourhood Planning Forum, Roberta Blackman-Woods MP and the local county councillors.

The consultation document accompanying the poll set out two options for future governance arrangements.

Option One was to implement changes to the current community governance arrangements. This would see the central unparished areas of Durham become parished and have its own parish council.

Option two was that the current community governance arrangements in the central unparished areas of Durham remain unchanged. This would mean that there would be no change to community governance arrangements in the area.

The Law, Duties and Guidance

Under section 93 of the Local Government and Public Involvement in Health Act 2007, a Principal Council must comply with various duties when undertaking a community governance review, including:

- i. It must have regard to the need to secure that community governance within the area under review:
 - a. reflects the identities and interests of the community in that area
 - b. is effective and convenient.
- ii. In deciding what recommendations to make, the Council must take into account any other arrangements, apart from those relating to parishes and their institutions:

that have already been made, or that could be made for the purposes of community representation or community engagement in respect of the area under review.
- iii. The Council must take in to account any representations received in connection with the review.

Under Section 100 of the Act, the Council must also have regard to guidance issued by the Secretary of State. In March 2010 the Department for Communities and Local Government and the Local Government Boundary Commission for England, published guidance on Reviews.

The guidance refers to a desire to help people create cohesive and economically vibrant local communities and states that an important aspect of this is allowing local people a say in the way their neighbourhoods are managed. The guidance does stress that parish councils are an established and valued form of neighbourhood democracy and management in rural areas that increasingly have a role to play in urban areas and generally have an important role to play in the development of their communities. The need for community cohesion is also stressed along with the Government's aim for communities to be capable of fulfilling their own potential and overcoming their own difficulties. The value which is placed upon these councils is also highlighted in the fact that the guidance states that the Government expects to see the creation of parishes and that the abolition of parishes should not be undertaken unless clearly justified and with clear and sustained local support for such action.

The Council must also take into account other arrangements that have been made and could be made for the purposes of community engagement and they must consider the representations received in connection with the review.

Analysis of Responses

11,749 ballot papers were issued to those electors in the affected area.

2,819 ballot papers were returned.

Of those 2,819 ballot papers returned, 1,856 were in favour of a creating a parish council. 958 wished for no changes to be made to community governance arrangements. There were 5 spoilt ballot papers.

In terms of the statutory consultees, Roberta Blackman Woods MP reiterated her support for the establishment of a parish council because it would give people an opportunity to engage more with local governance and would provide for a stronger voice on the issues affecting people within the city centre. The MP also supported the suggested boundaries of the proposed parish council and felt that these correctly identified the areas that would be best served by a new parish council, representing a clearly identifiable area with a similar range of interests and issues that would be well served by more representation. People had explained to the MP during the consultation process that a parish council would provide more local accountability and allow residents to have more of a say in the future direction of Durham City.

Whinney Hill Community Group also responded with a number of comments suggesting that a Parish/Town Council was not necessarily the best course of action. Their representations are summarised below. Comments which related to the consultation process and matters prescribed by legislation (for example the rules relating to the qualification of a councillor) over which the Council has no control are not included in the summary.

- (a) The campaign to get the required numbers to support the establishment of a Parish/Town Council for the central unparished areas of Durham took considerable time to obtain and would not seem to indicate that there was a burning desire by residents to establish a Parish/Town Council for Durham City;
- (b) A similar petition received in 2011, took well over twelve months to obtain the required number of signatures to give the petition legitimacy, and ultimately failed;
- (c) Durham City residents paid sufficient Council Tax at present. Why would Council Tax payers, wish to pay a further levy to support a Parish/Town Council which many of them did not support;
- (d) Considering the small number of residents within Durham South, the one Councillor proposed for this area should be allocated to Elvet and Gilesgate (in order to address the imbalance in Councillor numbers);
- (e) Apart from needing a reasonably large number of Council Tax paying residents to fund a Parish/Town Council what evidence was available to support the view that the residents of Elvet and Gilesgate wished to come together (or vice-versa) to establish one Parish/Town Council to represent them all;

- (f) If it was deemed necessary to create an extra layer of 'suitable' representation, the group suggested that Elvet and Gilegate and Neville's Cross had their own independent Parish/Town Council or a system such as a local neighbourhood forum which had regular access to the County Council in order to promote concerns and matters of interest within their particular area. At present, the system in place represented too large an area for individual residents to be heard and greater consideration needed to be given to the day to day issues which actually mattered to them;
- (g) If a Parish/Town Council was to be imposed upon residents who did not agree with its imposition, then the following should be considered as significant points of consideration:
 - (i) The number of councillors representing Neville's Cross and Elvet and Gilegate needed to be reconsidered.
 - (ii) Parts of the proposed Parish Council area had significant numbers of HMO properties exempt from Council Tax and therefore exempt from paying the precept for the proposed Parish/Town Council. This could be seen as nothing but unfair to permanent residents and unless this was addressed it was impossible to see how a credible Parish/Town Council could or should even be considered.
- (h) In conclusion, although there are only two options to be voted on, could the County Council not look again at other forms of local representation which reflected the needs of permanent residents, and which reflected the wishes and views of the residents who lived in the central unparished areas of Durham 12 months of the year, who looked upon the City as their permanent home, and who cared about their City;
- (i) The Durham Area Action Partnership (AAP) is meant to be a link between communities and DCC. Instead of a poorly supported parish council why not look at ways of making the AAP more relevant to local people and actually committing to issues which are important to them and impact on their everyday lives.

Other representations

Prior to the consultative poll, representations were received from the Durham City Neighbourhood Planning Forum which advised that they were in the process of developing a neighbourhood plan for the unparished areas of Durham City and included the same area for which the petition was presented.

One of the elements of the neighbourhood plan was to make arrangements for monitoring the implementation of its policies. The Forum was a temporary body that would cease to exist once the plan had been made and in identifying a suitable body to carry out this monitoring function, they considered that the County Council might well play a part, as might local residents' associations and other interest groups.

The forum believed that the most effective body would be a town/parish council, as in most areas where a town or parish council exists, it is the body that develops the neighbourhood plan.

Analysis of Initial Consultation Responses

11,749 ballot papers were issued and 2819 ballot papers were returned which equated to a 24% return. From those that responded 66% were in favour of the proposals, to establish a parish council.

Conclusion of Review

The outcome of the consultative poll was therefore that there was support for the formation of a new council. Although the consultative poll is not binding on the Authority, the poll was considered to be comprehensive, in that all electors within the area were provided the opportunity to comment.

The Charter Trustees would remain in situ because not all of the unparished area within the former Durham City area would be parished under the proposal. The Charter Trust would only be dissolved if the whole of the unparished area were parished.

Draft Recommendation

A draft recommendation was published on 3 July 2017 and publicised by way of a statutory notice. Stakeholders who were part of the initial consultation were issued with a letter advising of the draft recommendation and provided with the opportunity of commenting on the proposal. A further statutory period of consultation ran from 3rd to 31st July 2017.

There were a number of responses received during this period summarised as follows:-

- a) 39 responses from residents in support of the proposals with a number providing additional comments and the reasons for their support. One response was from a resident living outside the proposed parish area and wished to be included;
- b) four detailed letters of objections from residents were received to the draft recommendations;
- c) support for the recommendations were received from Neville's Cross Community Association and Sidegate Residents Association. A further letter of objection to the one received at the time of the consultative poll was received from Whinney Hill Community Group;
- d) the County Durham Association of Local Councils (CDALC) advised of their support; and
- e) Councillor R Omerod, a local member, generally supported the recommendation and made some observations.

The principle themes from the consultation responses are set out below, alongside the Council's response.

Theme/ Response	Council's Response
<p>Responders queried whether the low turnout suggested that only those in favour were motivated to respond. Question raised over whether the role of the parish council was misunderstood.</p>	<p>There was a 24% return from the consultative poll, and from that 66% voted in favour of the parishing arrangements. Although the response was low there was a clear majority in favour.</p> <p>Each registered elector was sent individually a ballot paper and document setting out clearly what they were being asked to consider, along with information on what a parish council could do/ costs/ size/ timescale. Each elector therefore had the opportunity to vote, and return their ballot paper through postal arrangements. Similar information was available on the county councils website, and circulated in the press. Contact details were provided for anyone seeking clarity.</p>
<p>Concern about the creation of a precept levying body and the potential of future significant increases. Figures of an example precept were given for a Band D property however other bandings would pay a different and some a higher rate.</p>	<p>The consultation document provided information on what the precept of £150,000 in its first year would mean to council tax payers, and an example was given on what a band D property would pay which was based on the council tax base for 2016/17. It was explained that this would need to be re-calculated once the council tax base for that year was set, however the £150,000 precept would be the amount levied for its first year of operation. Households in the higher banded properties would pay more than the band D rate, and these indicative costs could have been provided on request.</p> <p>The County Council cannot control what the precept will be in the future. It will be for the electorate to influence through democratic arrangements.</p>

<p>With the high number of students in the city the burden of the precept would not fall on students or their landlords.</p>	<p>Students in full-time education qualify for council tax exemption if they reside in:</p> <ol style="list-style-type: none"> 1) A hall of residence or 2) A dwelling occupied only by full-time students and school leavers. In this case, the exemption only applies whilst the student lives there. This is reviewed annually and when the students vacate the property, the owner of the property becomes liable to pay the council tax. <p>There would be a small charge payable during the student's summer breaks.</p> <p>These exemptions are in accordance with the Council Tax (Discount Disregards) Order 1992.</p> <p>The precept charge given as an example based on the 2016/17 council tax base took this into consideration.</p>
<p>Continue to pay for the Charter Trustees.</p>	<p>The Charter Trustees will remain in situ because not all of the unparished area within the former Durham City area will be parished under the proposal. This means that the ceremonial Mayor will remain with the Charter Trust and continue to be financed through a precept on the households in the former Durham City Council area.</p>
<p>Number of councillors for the parish council- is this the right number and is there the right balance between wards.</p>	<p>The proposals re the number of councillors were made having considered the guidance referred to in the report on whether the parish should or should not be divided into wards, and if so then its size/ boundaries/number of councillors Based on the size of the electorate on 4 February 2017, the area was proposed to be warded, and that the natural warding would be in line with county councils electoral divisions. It should be noted that only part of the area of the Durham South county council electoral division is included in the parishing arrangements. In adhering</p>

	<p>to guidance the proposal had shared as equally as possible the electorate of the whole area.</p> <p>The ratio of electorate to councillor for the 3 wards would be as set out below - the electorate figures from 4 February 2017 are shown, with the figures based on those on the register at 1 June 2017 shown in brackets:-</p> <p>Neville's Cross ward-1 councillor to 843 electorate (877) Elvet and Gilesgate- 1 councillor to 862 electorate (894) Durham South- 1 councillor to 311 electorate (496)</p>
<p>The proposed name of the Elvet and Gilesgate ward be amended to reflect that only part of Gilesgate would be in the area to be parished, and that it would be more appropriate for this to have an alternative name to reflect the area being covered such as Elvet and Gilesgate bank, or Cathedral.</p>	<p>The proposed name of the Elvet and Gilesgate ward is consistent with the county council electoral division name and area. Identifying the ward as Elvet and Gilesgate Bank would be confusing to electors given it relates to the same area of the county council division.</p>
<p>Could the other unparished area of Gilesgate be included in the proposal.</p>	<p>A Review was commenced in the Durham area in 2012, which considered all of the unparished area of the former City of Durham and contained a number of options. However, the Council decided not to continue the review.</p> <p>The current review reflected the petition that was received by the Council.</p>
<p>It would be open to the parish council to reinstate any services that local people particularly missed following cuts backs in County Council expenditure and consequent reduction in services. Will the County Council gain financially from having a parish council take responsibility for its statutory services.</p>	<p>The statutory functions of principal authority are different to those of a parish council, however, the parish council could elect to spend money on services that a principal authority is able but not obliged to provide. For example, crime prevention, acquiring and disposing of land and the provision of public conveniences. The parish council could provide services that the principal authority may have provided prior to austerity but have discontinued. It is not anticipated that the principal authority</p>

	would discontinue services in the expectation that these would instead be provided by the parish council and therefore gain a financial advantage as a consequence of the parish council. It is also possible that the principal authority may sub-contract delivery of services to the parish council, however this would be undertaken in accordance with normal procurement procedures.
Concern about the reference in the council report in June 2017 to the possible transfer of un-specified liabilities.	The final recommendations do not propose the transfer of property, rights, or liabilities to the Parish Council.
Other bodies could be developed to take on a more enhanced role such as the Area Action Partnership.	Other arrangements have been considered for the purposes of community engagement however a parish council is the most democratically accountable body.

Final Recommendation

Taking into account the guidance, the statutory obligations, the results of the consultation exercises, the Council's final recommendation is that central unparished areas of Durham, subject to the review become parished and that a parish council be created as follows:

- (a) The newly formed parish would be known as 'the City of Durham Parish Council';
- (b) The area is spilt into 12 polling districts and three wards:
 - 1. Elvet and Gilesgate
 - 2. Neville's Cross
 - 3. Durham South
- (c) That there be 15 parish councillors, distributed as follows;
 - i. Elvet and Gilesgate - 6 councillors;
 - ii. Neville's Cross- 8 councillors;
 - iii. Durham South- 1 councillor.
- (d) That inaugural elections take place in May 2018 and then in May 2021 and every four years thereafter to fall in line with the ordinary year of election of councillors for local elections (County, Town and Parish Council elections).
- (e) The council becomes a recognised legal entity in its own right on 1 April 2018.

- (f) That a precept be levied to raise the sum of £150,000 to fund the parish council in the first year, which equates to a precept charge for a Council Tax Band D property of £34.46 per household per year, based on the council tax base for 2016/17. This precept charge per household would be recalculated in line with the council tax base for 2018/19 once established.
- (g) A Reorganisation Order will be made on 25 October 2017.

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