

County Council

13 April 2016

Community Governance Review – Pelton Fell



Report of Colette Longbottom, Head of Legal and Democratic Services

Purpose of the Report

- 1 To advise Council of the outcome of the second consultation undertaken as part of the Community Governance Review (Review) of Pelton Fell.

Background

- 2 On 23 September 2015, the County Council resolved to undertake a Review following receipt of a valid petition from Pelton Fell Community Partnership (the Partnership), which sought for Pelton Fell to have an independent community council. For the avoidance of doubt, it was understood that the petitioners were seeking a parish council to be known as a community council.
- 3 The County Council subsequently proposed two options for the future community governance arrangements in the area:

Option 1

To implement changes to the current community governance arrangements in accordance with the petition submitted by the Partnership. This would see the unparished area of Pelton Fell, as shown on the map in Appendix 3, become parished and have its own community council.

Option 2

That the current community governance arrangements in the unparished area of Pelton Fell remain unchanged. This would mean that the changes proposed by the Partnership would not be implemented and there would be no change to community governance arrangements in the area.

Consultation (First Stage)

- 4 The terms of reference for the Review were published on 23 September 2015, and a consultation exercise was undertaken in accordance with the agreed timetable.

Properties in Pelton Fell

- 5 900 consultation documents were sent out to affected properties and 110 responses were received. Of those 110 responses, 62 respondents selected option 1 (in favour of a community council), and 48 respondents selected option 2 (no change to community governance arrangements). The responses have been broken down further with a summary of associated comments in the table below:-

Forms issued	Forms returned	Option 1 Number of responses & summary of associated comments	Option 2 Number of responses & summary of associated comments
900	110	62 <ul style="list-style-type: none">• Ability to bring suggestions to own council• Greater influence on local services provided• Better community and help bring people together	48 <ul style="list-style-type: none">• Current arrangements adequate• Can't afford increase in council tax• Would bring increased costs and bureaucracy

Web Form

The consultation document and response form were also made available on the Council's website, however no completed web forms were received.

Statutory Consultees

Consultation letters were sent to the local MP for North Durham, Kevan Jones, the Chester-le-Street and District Area Action Partnership, the County Durham Association of Local Councils (CDALC), the two local County Councillors, Waldrige Parish Council, North Lodge Parish Council, Edmondsley Parish Council, and Pelton Parish Council.

The CDALC Executive Committee responded to the consultation and confirmed that it had resolved that they would be happy to concur with the wishes of the residents of Pelton Fell following the Review process.

Local members have previously advised of their support for the wishes of the local people.

The Law, Duties and Guidance

- 6 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 into account any representations received in connection with the review.
- 7 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.
- 8 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.
- 9 The guidance also states that the Council must have regard to the need to secure community governance within the area under review, reflects the identities of the community in the area and is effective and convenient.

- 10 The guidance acknowledges how people perceive where they live is significant in considering the identities and interests of local communities and depends on a range of circumstances, often best defined by local residents.
- 11 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.
- 12 Whilst the guidance is generally supportive of parish councils, it is not prescriptive and does not state that they should be routinely formed. Indeed in parts of the guidance, it stresses that the statutory duty is to take account of any representations received and gives the view that where a council has conducted a review following receipt of a petition, it will remain open to the council to make a recommendation which is different to the recommendation the petitioners wish the council to make. It also acknowledges that a recommendation to abolish or establish a parish council may negatively impact on community cohesion and that there is flexibility for councils 'not to feel forced' to recommend that the matters included in every petition must be implemented.

Analysis of Response to First Stage of Consultation

- 13 As outlined in the table at paragraph 5 above from the relevant electorate of which there were 900 properties identified; 110 responses were received, which equated to a 12% response. From those that responded, 56% were in favour of the proposals, which equates to 6.87% of the total households consulted in favour, and 44% were against which equates to 5.33% of the total households i.e. a very marginal support for the formation of a new council in what can only be described as a limited return.
- 14 From the relatively small number of responses received, the most that can be assumed from those who did not respond is that they probably have no views either way.
- 15 The views expressed by those in support of the formation of a community council include the ability to bring suggestions to its own council, greater influence on the local services provided, and that it would provide for a better community in helping to bring people together.
- 16 The written representations against the formation of a community council largely pick up the themes of the cost which would bring an increase in council tax, that it would bring an extra layer of bureaucracy, and that the current arrangements are adequate.
- 17 The following table contains a summary of factors for and against the formation of a community council in this Review:

Factors Favouring Formation of a Community Council	Factors Not Favouring Formation of a Community Council
Statutory guidance is generally supportive of parish council formation.	The guidance is not prescriptive.
The formation proposed would be effective and convenient.	Imposing arrangements where there is marginal support is arguably not proposing effective arrangements and may undermine community cohesion.
A petition was proposed requesting formation which demonstrated clear support for the formation of a council.	<p>The petition initiated the Review process. The Review has involved the production of proposals for a council and residents have now given their views on this.</p> <p>The guidance does not contain any expectation on councils to be bound by the petition.</p>
A community council would be able to provide additional local services.	<p>There are other forms of community governance in place for example:</p> <ul style="list-style-type: none"> • The Area Action Partnership allows for issues to be raised in advance. • There are groups and associations in the area which provide for “other arrangements for community engagement in the area” <p>By the formation of the associations referred to above, the population has shown considerable aptitude to form its own associations to address local issues.</p>
	The costs of a community council at a time of austerity. The current economic climate is one of austerity the council may wish to consider carefully whether a precept raising body should be created.
A majority of the questionnaires favour formation.	This was not a binding ballot. The limited return and the narrow margin in favour of creation justifies caution in following a simple majority.

Conclusions on First Stage of Consultation

- 18 The outcome of the first consultation in the Review was very finely balanced in nature and Full Council at its meeting on 20 January 2016 agreed with the recommendation of the Constitution Working Group that a second period of consultation should be undertaken with householders in the area and the statutory consultees. It was also resolved that the additional consultation should provide information about what a community council would look like if established, including its size, and the precept set for its first year. The information provided in Appendix 2 of the report was included in the consultation document and advised the community that based on the council tax base for 2016/17 a precept of £49.96 would be made for a Band D property, and that this would be re-calculated in-line with the 2017/18 council tax base once established.

The second stage consultation would offer two options in the Review:-

Option 1:- That the current community governance arrangements in the unparished area of Pelton Fell remain unchanged, and therefore no community council would be established.

Option 2:- That the current community governance arrangements in the unparished area of Pelton Fell are changed by parishing the area and establishing a community council.

Council also agreed that as a further period of consultation was required, the timetable for the Review should be revised accordingly.

Consultation (Second Stage)

- 19 This second stage consultation was undertaken for a period of six weeks from 20 January 2016 in accordance with the review timetable.

Properties in Pelton Fell

900 consultation documents were sent out to affected properties and 160 responses were received. Of those 160 responses, 109 respondents selected option 1 (no change to community governance arrangements), and 51 respondents selected option 2 (in favour of a community council).

The responses have been broken down further with a summary of associated comments in the table below:-

Forms issued	Forms accepted	Option 1 Number of responses & summary of associated comments	Option 2 Number of responses & summary of associated comments
900	160	109 <ul style="list-style-type: none"> • Pay enough for existing services • Served well currently no need for added expense • Additional cost and bureaucracy not required • Low response rate indicates lack of interest so not needed 	51 <ul style="list-style-type: none"> • Would enable more to be achieved in area • More local accountability, more accessible • Better prospects for area • Bring more community feel • More community engagement

On top of the 160 responses analysed above there were 133 responses received by the Head of Legal and Democratic Services that were not on the original form and not returned in the envelopes provided. A complaint was made by a member of the public, who was also intending to see their MP, casting doubt on the provenance of the photocopied forms, and the manner which a representative of the Community Partnership had collected these from residents. The key significance of the complaint was that forms had been completed with a resident's postcode, however, the suggestion was that they had been asked not to select either option.

In the circumstances, the Head of Legal and Democratic Services, after consideration of the forms, took the view that there was too great a risk of challenge in allowing these forms to be counted for this Review. Members of the public had been led to believe by the Council that they should complete the form provided and return it in the envelope provided, and anyone seeking to challenge the outcome of this, on disclosure of the documents, would see that there were significant differences between the submitted documents. For that reason the Community Partnership, as the local group who had submitted the petition for the review, was advised of this outcome, and they have subsequently objected to Head of Legal and Democratic Services' view.

Web Form

The consultation document and response form were also made available on the Council's website, however like the first consultation no completed web forms were received.

Statutory Consultees

Second stage consultation letters were sent to the local MP for North Durham, Kevan Jones, the Chester-le-Street and District Area Action Partnership, the County Durham Association of Local Councils (CDALC), the two local County Councillors, Waldrige Parish Council, North Lodge Parish Council, Edmondsley Parish Council, and Pelton Parish Council.

The CDALC Executive Committee had responded to the consultation and confirmed that it is supportive of the creation of a new parish (community) council in the Pelton Fell area and fully support the Partnership trying to create this new parish.

Local members have previously advised of their support for the wishes of the local people.

The Pelton Fell Community Partnership who submitted the original petition has confirmed its support for there to be a Pelton Fell Community Council, and advised that the local Councillors who are directors of the Partnership confirm their support, as does the local MP Kevan Jones who advised how it could play an important role in supporting community development and ensuring local people have a say in what happens in their area, providing a forum for them to have input on the provision of local services.

Analysis on Second Stage of Consultation

- 20 From the relevant electorate of which there were 900 properties identified; 160 responses were received, which equated to a 17.77% response rate. From those that responded 68.12% were in favour of no change. This equates to 12.11% of the total households consulted in favour of no change to existing community governance arrangements, and 31.88% were in favour of the formation of a community council. This equates to 5.66% of the total households in favour of the area being parished and the establishment of a community council. This is a higher return than from the first round of consultation, where 110 responses were received, which equated to a 12% response, with 56% of the responses received in favour of the formation of the community council.
- 21 The views expressed by those in support of the formation of a community council include that there would be more local accountability, greater community engagement, and better prospects for the area.
- 22 The written representations against the formation of a community council largely pick up the themes of the cost; that the current arrangements are adequate; and the low response indicates there is no interest and it is not needed.

Conclusions on Second Stage of Consultation

- 23 It can be seen from the second round of consultation, where further details were provided on what the council would look like if it were established, and of the level of precept that would be set for the council's first year of operation, a higher return to the consultation has been received.
- 24 It is clear from the responses received on the Council produced form and in the pre-paid envelope supplied that there is majority support for Option 1 - that there be no change to the current governance arrangements in the area.

Proposed Next Steps

- 25 On 29 March 2016, Constitution Working Group were advised of the decision and reasons of the Head of Legal and Democratic Services to exclude the consultation responses returned that were not on the original form or returned in the envelopes provided. Constitution Working Group resolved to recommend to Council that the second stage consultation be re-run so as to remove any doubt about the validity of responses received going forward.
- 26 It is clear that some rules regarding what constitutes a valid response to the consultation must be established for the benefit of the Council and the consultees. It is therefore proposed that only the Council produced form and prepaid envelope should be used and that any other response forms received by the Council including photocopied forms and handwritten envelopes will not be counted. This will be made clear through a covering letter that will be issued with the consultation form explaining this and a contact number will be provided for anyone who requires a replacement form or envelope.
- 27 In light of the proposed re-run of the second consultation, the review timetable has been updated suggesting a third consultation begins on 13 April 2016.

Revised Timetable for the Review

	Time Span	Action
Publication of Terms of Reference		23 September 2015
Consultation process - Invitation of initial submissions	6 weeks	23 September 2015
Analysis/evaluation of submissions and preparation of draft proposals	6 weeks	6 November 2015
Publication of Revised Terms of Reference – Re-run of Second Consultation		13 April 2016
Re- Run of Second Consultation - on 2 options		13 April 2016
Analysis/evaluation of submissions and preparation of draft proposals	6 weeks	25 May 2016
Publication of draft proposals		20 July 2016
Consultation on draft proposals	6 weeks	20 July 2016

Analysis/evaluation of draft proposals and preparation of final recommendations	6 weeks	31 August 2016
Publication of final recommendations and agreement to make re-organisation Order, if appropriate		21 September 2016
Preparation and publication of any reorganisation Order	One month	19 October 2016 2016

Recommendations and reasons

28 It is recommended that:-

- (i) Council resolve that a re-run of the second period of consultation be undertaken as set out in paragraphs 25 and 26.
- (ii) The revised timetable set out in paragraph 27 is approved.

Background Papers

CLG and Local Government Boundary Commission for England Guidance on Community Governance Reviews

County Council Reports 23 September 2015 and 20 January 2016

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Appendix 1: Implications

Finance - The costs in respect of issuing a further consultation are anticipated to be in the region of £1,000 and this cost can be met from the budget identified for community governance reviews.

If a community council was established the council will be involved in setting a precept for the first year that the council is in operation. The costs will be borne by the electorate in the Pelton Fell parish.

Staffing – The work will impact considerably on staff time in the set-up of a community council.

Risk – None specific within this report

Equality and Diversity – None specific within this report

Accommodation – None specific within this report

Crime and Disorder – None specific within this report

Human Rights – None specific within this report

Consultation – See report

Procurement – None specific within this report

Disability Discrimination Act – None specific within this report

Legal Implications – A review will be undertaken in line with current legislation and Regulations.

Appendix 2: Information provided in the Second Stage of Consultation on the formation of a Community Council

Parish area/ Local Council

The unparished area of Pelton Fell as shown on the map would become parished and would be known as 'Pelton Fell Parish'.

An alternative style of local council would be formed in-line with the request from Pelton Fell Community Partnership for a community council. The newly formed parish of Pelton Fell would have its own community council which would be known as 'Pelton Fell Community Council'.

Warding

The area is split into 2 polling districts however due to the number of electorate and size of the area it is not considered necessary to ward the parish. The community council would therefore not be warded.

Size of Council

Taking into consideration the guidance referred to in paragraph 12 of the report, and local knowledge that across County Durham the size of local councils with a similar number of electorate to Pelton Fell vary considerably, a council size of 7 community councillors would be appropriate. There would be a ratio of 188 electorate to one councillor. Councillors appointed to the council would be known as 'community councillors'.

Electoral Arrangements

The ordinary year of election of community councillors would be 4 May 2017 which would be in line with the local, parish and town elections, and then every four years thereafter.

For administrative and financial purposes of the County Council collecting the new Council's precept would become a recognised legal entity in its own right on 1 April 2017.

Precept

The County Council will be required to set a precept to enable the community council to function during its first year.

The consultation document issued by the Authority to all households in the area, advised that any local council that was established would be able to charge a precept for the services it provided, and that the amounts set by local councils can vary considerably depending on the type of services its delivers. Some examples were given of precept charges per year for local councils in the area of Band D equivalent properties. A range of £20.66 to £102.44 was provided for illustrative purposes.

The Partnership also gave examples of precepts the community council may raise in their original consultation document.

These were for precepts raising 21k, which would be £50 equivalent for a Band D property, or £31.5k which would be £75 equivalent for a Band D property.

It is suggested that a nominal precept be set for its first year of operation amounting to £21k.

Based on the council tax base for 2016/17 a precept of £49.96 would be made for a Band D property. This would be re-calculated in-line with the 2017/18 council tax base once established.

Appendix 3: Current unparished area of Pelton Fell

