

## County Council

20 January 2016

### Community Governance Review – Pelton Fell



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## Report of Colette Longbottom, Head of Legal and Democratic Services

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### Purpose of the Report

- 1 To present to Council the outcome of the consultation undertaken as part of the Community Governance Review (Review) of Pelton Fell and to recommend further consultation in the area under Review.

### 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

- 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

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:-

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

## 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

- 5 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:
  - (a) It must have regard to the need to secure that community governance within the area under review:-
    - (i) Reflects the identities and interests of the community in that area;
    - (ii) Is effective and convenient.
  - (b) In deciding what recommendations to make, the Council must take into account any other arrangements, apart from those relating to parishes and their institutions.
    - (i) 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.
  - (c) The Council must take in to account any representations received in connection with the review.
- 6 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.
- 7 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.
- 8 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.

- 9 The guidance acknowledges that 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.
- 10 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.
- 11 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.

### **Constituting a New Parish**

- 12 The Review will need to consider a hierarchy of topics, described in Association of Electoral Administrators literature as dependent upon and related to the other:-

#### **Parish Areas**

- creating, merging and abolishing parishes;
- parishing previously un-parished areas;
- lesser boundary alterations between existing parishes;
- grouping parishes under a common council or dissolving groups;
- parish name changes;
- alternative styles for any new parishes.

#### **Electoral Arrangements**

- whether to have a parish council or not;
- the size of the council;
- whether to ward the parish or not;
- drawing up appropriate ward boundaries;
- allocating councillors to wards.

#### **Consequential Matters**

- recommendations to the Local Government Boundary Commission for England for changes to the unitary/county/borough/district divisions or wards;

- dealing with assets – fixed and otherwise;
- setting a precept for the new council;
- first elections and electoral cycles;
- setting the commencement dates.

### **Parish – new and existing parishes**

A new parish is:-

- establishing an unparished area as a parish;
- aggregating one or more unparished areas with one or more parished areas;
- aggregating parts of parishes;
- amalgamating two or more parishes;
- separating part of a parish.

If a new parish is set up, the review needs to make recommendations as to the name of the parish, as to whether or not it should have a parish council, the electoral arrangements of that council and whether or not the new parish should have one of the alternative styles.

### **Parish names and alternative style**

Where a new parish has been constituted, the review must make recommendations as to the name of the new parish and whether it should have an alternative style.

Where the review makes recommendations that a parish should have a council or an existing parish council should be retained, the review must also make recommendations with regard to the electoral arrangements or changes to electoral arrangements.

### **Electoral arrangements**

- The year in which ordinary elections of councillors to be held.
- The number of councillors to be elected to the council (or in the case of a common council, the number of councillors to be elected to the council by each parish).
- The division (or not of the parish), or (in the case of a common council) any of the parishes into wards for the purposes of electing councillors.
- The number and boundaries of any such wards.
- The number of councillors to be elected for any such ward.
- The name of any such ward.

Duties with regard to parishes in relation to the number of electors are prescribed in section 94 of the Local Government and Public Involvement in Health Act 2007 (the Act) and are set out in the table overleaf:-

1	The parish has 1,000 or more local government electors	The review must recommend that the parish should have a council
2	The parish has 150 or fewer local government electors and does not currently have a council	The review must recommend that the parish should not have a council
3	The parish has 150 or fewer local government electors and currently has a council or was part of a parish that had a council	It is for the principal council to decide whether or not the parish should have a council
4	The parish has between 150 and 1000 electors	It is for the principal council to decide whether or not the parish should have a council

### **Councillor Numbers**

The minimum legal number of parish councillors for each parish council is five. There is no maximum number and there is no other legislative guidance. The only other requirement is that each parish in a grouping arrangement must have at least one member on the common council.

National Association of Local Councils (NALC) published guidance in 1988. It recommended that a council of no more than the legal minimum of five members is inconveniently small and considers a practical minimum should be seven. It does, however, state that local council business does not usually require a large body of councillors and business convenience makes it appropriate to suggest that the practical maximum should be twenty five.

Aston Business School has also carried out research and the recommended figures by both the NALC and Aston are reproduced below. Within those minimum and maximum limits, the following allocations were recommended by NALC:

<b>Electors</b>	<b>Councillors</b>	<b>Electors</b>	<b>Councillors</b>
Up to 900	7	10,400	17
1,400	8	11,900	18
2,000	9	13,500	19
2,700	10	15,200	20
3,500	11	17,000	21
4,400	12	18,900	22
5,400	13	20,900	23
6,500	14	23,000	24
7,700	15	Over 23,000	25
9,000	16		

However, in rural authorities with sparsity of population, even this table may not be appropriate.

The Aston Business School's research was published in 1992. It showed the then levels of representation and it is likely that these levels of representation have not greatly changed in the intervening years.

<b>Electors</b>	<b>Councillors</b>
<500	5-8
501-2,500	6-12
2,501-10,000	9-16
10,001-20,000	13-27
>20,000	13-31

The Local Government Boundary Commission for England (LGBCE) is of the view that each area should be considered on its own merits having regard to population, geography, the pattern of communities and to the current powers of parish councils.

When considering the number of electors, the council must have regard to:-

- (a) The number of local government electors of the parish; and
- (b) Any change in that number which is likely to occur in the period of five years beginning with the day when the review starts.

### **Warding**

Warding arrangements are dealt with under section 95 of the Act. In considering whether to recommend that a parish should or should not be divided into wards, the principal council should consider the following:-

- Whether the number, or distribution, of the local government electorate for the parish would make a single election of councillors impracticable or inconvenient.
- Whether it is desirable that any area or areas of the parish should be separately represented on the council.
- Whether Governance is effective and convenient. Guidance suggests that it might be relevant to ask if the additional cost of separate ward elections in some cases would represent an effective use of the parish's limited resources. The LGBCE stated 'there must be a reasonable number of local government electors in the parish ward to make the election of a council viable and the commission considers that a hundred electors is an appropriate lower limit.

If the council decides to recommend that the parish should be divided into wards, it must have regard to the following when considering the size and boundaries of the wards and the number of councillors to be elected:-

- The number of local government electors for the parish;
- Any change in the number, or distribution, of the local government electors which is likely to occur in the period of five years beginning with the day when the review ends;
- The desirability of fixing boundaries which are, and will remain, easily identifiable; and
- Any local ties which will be broken by the fixing of any particular boundaries.

The Government also advises that another relevant consideration in the warding of parishes is the layout of the principal council electoral areas. No unwarded parish should be divided by district or county division boundary and no parish should be split by such a boundary.

The number of councillors should be proportional to electoral sizes across parish wards. LGBCE's guidance states that "each person's vote should be of equal weight so far as possible, having regard to other legitimate competing factors when it comes to the election of councillors".

### **Precept**

If a community council was to be established it would be able to levy a precept against the electorate. The County Council would be obliged to set the precept for its first year of operation, and in subsequent years it would be for the elected council to set its own precept, taking into account the services it plans to provide. When deciding the amount of precept, the County Council would need to ensure that it complies with the law and provides enough money for the new council to fulfil those duties which, in its first year, need to be budgeted and/or paid for. These include to employ a clerk, meet at least four times a year (if location costs are payable), secure insurance cover, pay internal and external auditors, manage any physical assets and establish a bank account.

### **Consultation Analysis**

- 13 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 5.33% against.
- 14 The outcome of this consultation is that the household questionnaires returned to the Council show a very marginal support for the formation of a new council in a limited return. From the relatively small number of responses received the most that can be assumed from those who did not respond is that they 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:

<b>Factors Favouring Formation of a community Council</b>	<b>Factors Not Favouring Formation of a community council</b>
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.	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.  The guidance does not contain any expectation on councils to be bound by the petition.
A community council would be able to provide additional local services.	There are other forms of community governance in place for example: <ul style="list-style-type: none"> <li>• The Area Action Partnership allows for issues to be raised in advance.</li> <li>• There are groups and associations in the area which provide for “other arrangements for community engagement in the area”</li> </ul> <p>By the formation of the associations referred to above, the population</p>

	has shown considerable aptitude to form its own associations to address local issues.
	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

- 18 It can be seen that the outcome of the consultation in this Review is very finely balanced in nature. At its meeting on 8 December 2015, Constitution Working Group agreed to make a recommendation to Council that a further consultation should be undertaken with the householders in the area and the statutory consultees. The Group agreed 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 as set out in Appendix 2 of the report. The 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.

- 19 A further period of consultation would require the timetable for the Review that was agreed at Council on 23 September 2015 to be revised accordingly. The revised timetable is as set out below:-

### 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		20 January 2016

Further Consultation process- on 2 options		20 January 2016
Analysis/evaluation of submissions and preparation of draft proposals	6 weeks	2 March 2016
Publication of draft proposals		13 April 2016
Consultation on draft proposals	6 weeks	13 April 2016
Analysis/evaluation of draft proposals and preparation of final recommendations	6 weeks	25 May 2016
Publication of final recommendations and agreement to make re-organisation Order, if appropriate		20 June 2016
Preparation and publication of any reorganisation Order	One month	20 July 2016

### **Recommendations and reasons**

- 20 Council resolve that a further period of consultation be undertaken as part of the Review process as set out in paragraph 18 and that the revised timetable set out in paragraph 19 be approved.

### **Background Papers**

- 21 CLG and Local Government Boundary Commission for England Guidance on Community Governance Reviews and County Council Report 23 September 2015.

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## **Appendix 1: Implications**

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**Finance** - The costs in respect of issuing a draft recommendation will be met from the budget identified for community governance reviews.

If a community council is 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

**Equality and Diversity** - None

**Accommodation** - None

**Crime and Disorder** - None

**Human Rights** - None

**Consultation** – See report

**Procurement** - None

**Disability Discrimination Act** - None

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

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## **Appendix 2: Option 2 for 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 spilt 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

