

County Council

21 June 2017

Community Governance Review – Central Unparished areas of Durham



Report of Corporate Management Team

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Purpose of the Report

- 1 To update Council of the outcome of the consultation undertaken as part of the Community Governance Review (Review) of the central unparished areas of Durham and to make a draft recommendation in this regard.

Background

- 2 On 25 January 2017, the Council resolved to undertake a Review following receipt of a valid petition from Roberta Blackman-Woods MP requesting that the County Council formally consult with residents of the central unparished wards of Durham about the formation of a new town council.
- 3 The County Council subsequently undertook a consultative poll and proposed two options for the future community governance arrangements in the area:

Option 1

To implement changes to the current community governance arrangements. This would see the central unparished areas of Durham, as shown on the map in Appendix 2, become parished and have its own parish council.

Option 2

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.

Consultative Poll

- 4 The terms of reference for the Review were published on 6 February 2017 and the consultative poll was undertaken in accordance with the agreed timetable.

- 5 The Council issued 11,749 ballot papers to those electors affected and 2,819 ballot papers were returned.
- 6 Of those 2,819 ballot papers returned, 1,856 selected option 1 (in favour of a creating a parish council) and 958 selected option 2 (no change to community governance arrangements). There were 5 spoilt ballot papers.

Statutory Consultees

- 7 Consultation letters were sent to St Nicholas Community Forum, Whinney Hill Community Group, Crossgate Community Partnership, 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, and Roberta Blackman-Woods MP, and the local county councillors.
- 8 The local MP, Roberta Blackman Woods responded supporting the establishment of a parish council because it will give people an opportunity to engage more with local governance and to have a stronger voice on the issues that will affect them within the city centre. She also believes that the boundaries of the proposed parish council suggested by the County Council as part of the consultation, correctly identify the areas that would be best served by a new parish council and would represent a clearly identifiable area with a similar range of interests and issues that would be well served by more representation. She advised that many people she has spoken to both during and after the process of gathering signatures on the petition have told her that whilst the County Council does an excellent job of providing local services, a parish council will give them local accountability and allow them more of a say in the future direction of Durham City.
- 9 Whinney Hill Community Group ("the WHC Group") also responded with a number of comments suggesting that a Parish/Town Council, is not necessarily the best course of action. The representations have been summarised below. Comments which relate to the consultation process which has concluded 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 some considerable time to obtain and would not seem to indicate that there is 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 pay 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 do not support.
- (d) Considering the small number of residents within Durham South, the one Councillor proposed for this area should simply be allocated to Elvet & 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 is available to support the view that the residents of Elvet and Gilesgate actually want to come together (or vice-versa) to establish one Parish/Town Council to represent them all.
- (f) If it is deemed necessary to create an extra layer of 'suitable' representation, the WHC Group suggests that Elvet and Gilesgate and Neville's Cross have their own independent Parish/Town Council or a system such as a local neighbourhood forum which has regular access to DCC in order to promote concerns and matters of interest within their particular area. At present, the system in place represents too large an area for individual residents to be heard and greater consideration needs to be given to the day to day issues which actually matter to them.
- (g) If a Parish/Town Council is to be imposed upon residents who do 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 Gilesgate needs to be reconsidered.
 - (ii) Parts of the proposed Parish Council area have significant numbers of HMO properties exempt from Council Tax and therefore exempt from paying the precept for the proposed Parish/Town Council. This can be seen as nothing but unfair to permanent residents and unless this is addressed it is impossible to see how a credible Parish/Town Council can or should even be considered.
- (h) In conclusion:
 - (i) Although there are only two options to be voted on, could DCC not look again at other forms of local representation which reflect the needs of permanent residents, and

which actually reflect the wishes and views of the residents who actually live in the central unparished areas of Durham 12 months of the year, look upon the City as their permanent home, and who actually do care about their City.

- (ii) 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

- 10 Prior to the consultative poll, representations were received from the Durham City Neighbourhood Planning Forum which advised that they are in the process of developing a neighbourhood plan for the unparished areas of Durham City, the same area for which the petition was presented. One of the elements of the neighbourhood plan is to make arrangements for monitoring the implementation of its policies. The Forum is a temporary body that will cease to exist once the plan is made and in identifying a suitable body to carry out this monitoring function, they consider that the County Council might well play a part, as might local residents' associations and other interest groups. They believe 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.

The Law, Duties and Guidance

- 11 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.
- 12 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.
- 13 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.
- 14 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.
- 15 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.
- 16 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

- 17 A hierarchy of topics have been considered as part of the Review, described in Association of Electoral Administrators literature as

dependent upon and related to the other. These topics are considered in detail at Appendix 3.

Consultation Analysis

- 18 11,749 ballot papers were issued and 2819 ballot papers were returned which equates to a 24% return. From those that responded 66% were in favour of the proposals, to establish a parish council, which equates to 16% of the electorate consulted in favour and 8% against.
- 19 The outcome of the consultative poll is that there is support for the formation of a new council in a limited/low 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.
- 20 The following table contains a summary of factors for and against the formation of a parish council in this Review:

Factors Favouring Formation of a Parish Council	Factors Not Favouring Formation of a Parish 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 low level support is arguably not proposing effective arrangements and may undermine community cohesion.
A petition was proposed requesting formation of a parish council 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 parish 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"> • The Area Action Partnership allows for issues to be raised in advance. • There are groups and associations in the area which provide for “other

	<p>arrangements for community engagement in the area”</p> <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>
	<p>The costs of a parish council at a time of austerity. The current economic climate is one of austerity and the Council may wish to consider carefully whether a further precept raising body should be created.</p>
<p>A majority of the ballot papers returned favour formation.</p>	<p>This was not a binding consultative poll. The limited return may justify caution in following a simple majority.</p>

Conclusion

- 21 It can be seen from the outcome of the consultative poll that the majority of ballot papers returned favour the parishing of the unparished area of central Durham and the establishment of a parish council. Although the consultative poll is not binding on the Authority, the poll undertaken was comprehensive in that all electors within the area were provided the opportunity to comment, and the vast majority were in favour from the limited return. Having considered the objections made it is considered that the proposed formation would be effective and convenient.
- 22 The Constitution Working Group on 5 June 2017 agreed to recommend to Council that the central unparished areas of Durham should become parished on the following terms:
- a. The newly formed parish would be known as “the City of Durham Parish Council”.
 - b. The area is split into 12 polling districts and due to the number of electorate and size of the area, the parish council would be divided into three wards:
 - i. Elvet and Gilesgate
 - ii. Neville’s Cross
 - iii. Durham South.
 - c. The registered number of electors for the area at the date of the consultative poll on 4 February 2017 was 11,749. In view of local knowledge and guidance regarding the size of local councils, 15 parish councillors would be appropriate, distributed as follows;

- i. Elvet and Gilesgate - 6 councillors;
 - ii. Neville's Cross - 8 councillors;
 - iii. Durham South - 1 councillor (as shown on the map in Appendix 4).
- d. Inaugural elections would 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 would become a recognised legal entity in its own right on 1 April 2018.
- f. The County Council will set a precept to enable the parish council to function during its first year. As the sum required to fund the parish council for the first year is likely to be no more than £150,000 this precept be set. An example of the precept charge for a Council Tax Band D property would be £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.

23 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. The Charter Trust would only be dissolved if the whole of the unparished area were parished. Therefore in light of the recommendation to be presented to Council, the Charter Trust will continue, which 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.

24 The new parish council would be established under a Reorganisation of Community Governance Order. The Order will set out:

- the name of the new parish Council
- the day of election of councillors
- the number of parish councillors for the parish
- warding arrangements
- information about the first annual meeting of the parish Council
- details of any transfer of property, rights and liabilities from the County Council

Once established the Parish Council will set its precept for year 2 onwards and will be entitled to exercise the statutory functions accorded to parish and town councils, such as providing allotments, spending money on crime prevention, acquiring and disposing of land, provide public conveniences, make bye-laws in relation to certain matters etc.

Next Steps

25 In accordance with the Review timetable, a draft recommendation will be published on the Council's website, and in the press. Comments

could be made until 31 July 2017. A further report would then be considered by Council on 20 September 2017.

Recommendation

- 26 That Council agree to a draft recommendation being published for the central unparished areas of Durham to become parished and have their own parish council in the terms as set out in paragraph 22.

Background Paper(s)

CLG and Local Government Boundary Commission for England Guidance on Community Governance Reviews.
Report to Council dated 25 January 2017

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Appendix 1: Implications

Finance – The cost of undertaking the consultative poll was approximately £8,000. Further resources will be required to establish the new parish Council.

Staffing – Additional staffing resources will be required to establish the new parish council.

Risk – None specific within this report

Equality and Diversity – An equality impact assessment has been undertaken and will be updated during each stage of consultation

Accommodation – None

Crime and Disorder – None specific within this report

Human Rights – None specific within this report

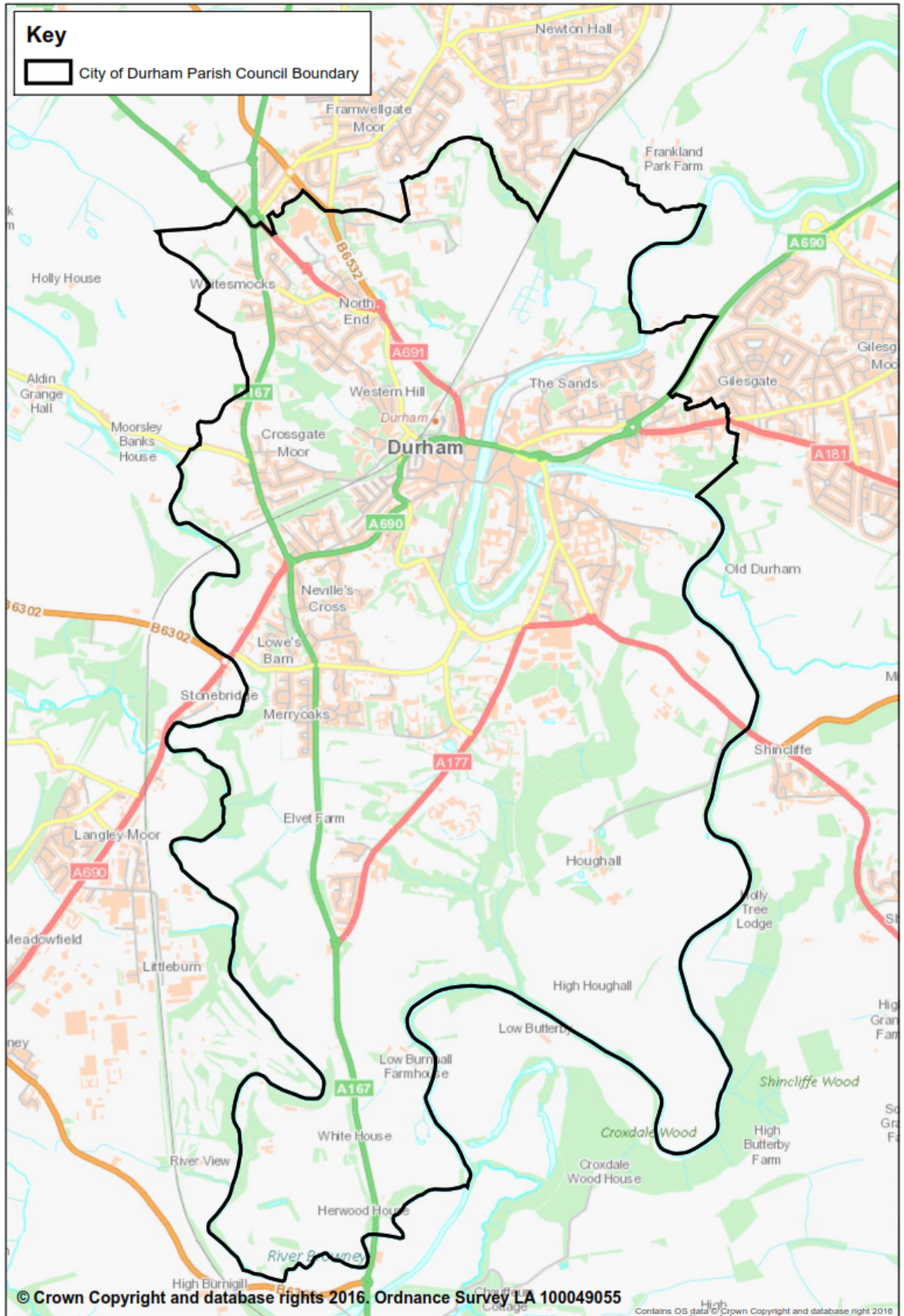
Consultation – See report

Procurement – None specific within this report

Disability Discrimination Act – None specific within this report

Legal Implications – The Review will be undertaken in line with current legislation and Regulations.

Appendix 2: Map of the area under consideration



Appendix 3: Constituting a New Parish - Areas to be Considered

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, 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 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:

Electors	Councillors	Electors	Councillors
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.

Electors	Councillors
<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 the 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 parish 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.

Appendix 4: Map of the proposed warding arrangements

