

# County Council

19 September 2018

## Community Governance Review – West Rainton



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### Report of Corporate Management Team Helen Lynch, Head of Legal and Democratic Services Councillor Simon Henig, Leader of the Council

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#### Purpose of the Report

- 1 To advise Council of the Community Governance Review (Review) in relation to West Rainton, the outcome of the initial consultation undertaken, and to make a draft recommendation in this regard.

#### Background

- 2 On 12 February 2018, Durham County Council (“the Council”) received a petition from the electors in West Rainton parish which had been forwarded by West Rainton Parish Council (“the Parish Council”) requesting that the Council undertake a Community Governance Review to reduce the number of parish councillors on the Parish Council from 11 to 9, and to change the name of the Parish Council to include Leamside. The petition contained 284 validated signatures.
- 3 The Local Government and Public Involvement in Health Act 2007 (“the Act”) requires that for a petition to be valid for an area between 500-2499 electors, it must contain 187 signatures and specify one of more proposed recommendations to be considered by a Review. The petition referred to at paragraph 2 met these criteria. A map defining the area to which the Review relates was produced by the Council and is attached at Appendix 2 of this report.
- 4 The request to change the governance arrangements was prompted by prolonged difficulties in maintaining full membership of the Parish Council, hence the request for a reduction in council size; together with a desire to change the name of the Parish Council to West Rainton and Leamside Parish Council to better describe the geographical area represented.
- 5 The Terms of reference (ToR) for the Review including the timetable, and means of consultation were prepared by the Council and made available on the council’s website, and a four week period of consultation was undertaken from 15 May 2018.
- 6 The ToR which were published on 15 May 2018 set out the various matters that a Review may consider under the Act. However it specified the purpose of the Review to be the two matters proposed by

the petition (the name change and the reduction in the number of councillors) and it was to these matters that the consultation was directed. A copy of the ToR is attached at Appendix 3 to the report.

## **The Law, Duties and Guidance**

- 7 Under section 93 of the Act, the Council must comply with various duties when undertaking a community governance review, including:
  - i. having regard to the need to ensure community governance within the area under review reflects the identities and interests of the community in that area, and is effective and convenient.
  - ii. taking in to 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. taking in to account any representations received in connection with the review.
- 8 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 of community governance.
- 9 Any community governance review must make the following recommendations:
  - (i) what new parish or parishes should be constituted in the area under review (section 87(1));
  - (ii) in relation to an existing parish (section 88):
    - (a) that the parish should not be abolished and that its area should not be altered; or
    - (b) that the area of the parish should be altered; or
    - (c) that the parish should be abolished; and
    - (d) whether or not the name of the parish should be changed; and
    - (e) whether or not the parish should continue to have a council; and
    - (f) if so, what changes (if any) should be made to the electoral arrangements that apply to that council (section 90), and this should include consideration of what warding arrangements should apply.
- 10 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.

- 11 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.
- 12 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		

- 13 However, in rural authorities with sparsity of population, even this table may not be appropriate.
- 14 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

- 15 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.
- 16 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.

### **Consultation**

- 17 The initial consultation on the proposals put forward by the Parish Council commenced on 15 May 2018 for a 4 week period. It involved consultation with stakeholders including local county councillors, the County Durham Association of Parish and Town Councils (CDALC), the Member of Parliament for the City of Durham Constituency, the Durham Area Action Partnership, and local community groups. A press release was issued to cover interested electors with articles appearing in the local newspapers, and information given on how to make representations. Relevant information was also published on the Council's website.
- 18 Responses in support were received from two residents, and one resident advised of their objection. Comments made in favour included that 11 parish councillors was an over representation, difficulties in attracting more candidates to stand, risk of meetings being inquorate, and necessitating calling of elections. Against the change was concern that there was lack of openness and transparency in the parish council's proposal to reduce the council size, a lack of consistency with a neighbouring parish council size, that it decreases democratic accountability by responding to short term difficulties in recruitment of councillors, that there would be an increased electorate with developments in the area, and that the proposed name change would not better reflect the geographical area which as well as West Rainton and Leamside also covers other areas including Rainton Gate, Moorhouse, Chilton Moor and Moorsley Bank.
- 19 County Durham Association of Parish and Town Councils (CDALC) advised that it usually responds to say that they have no objections about reduction in council size and that it makes it easier for elections to be called at an ordinary election. They have asked however whether the Parish Council had consulted with members of the community before taking the decision to reduce its council size. They had no comment on the suggested name change.
- 20 The Parish Council have questioned whether the reduction in number of councillors could be implemented as soon as possible rather than

until it fell in-line with the ordinary year of elections, if the Council did agree to a change in governance.

## **Considerations**

### **Numbers**

- 21 The Parish Council have had difficulties in maintaining its full complement of 11 councillors. At the ordinary elections in 2013, and 2017 there were uncontested elections with 5 standing in 2013, and 7 in 2017. The Parish Council have continually been looking to fill the seats by co-option. There have been some co-options made, and some appointments through by-election where following the election notice being published elections were held, and the costs borne by the Parish Council. Currently the Parish Council have 8 councillors, and 3 vacancies, and will be required to continue to seek to fill the seats by co-option.
- 22 Having considered the guidance on council size, as detailed earlier in the report at paragraphs 8 to 14, as the number of registered electors at 1 August 2018 was 1895, if applying the NALC guidance of council size up to an electorate of 2,000 the minimum would be 8 and the maximum number would be number 9. The Aston Business school guidance on council sizes of between 501 and 2,500, would be between 6 and 12. Guidance from 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, and to consider any change in size of its electorate which is likely to occur in the period of five years. In local councils in County Durham as throughout the country there is a varying size of council to its electorate.
- 23 Planning officers have confirmed that planning permission has been granted for development in the area, with the two largest being residential dwellings of 150, and one for 65 (subject to completion of S106 legal agreement). There were, as of 31 March 2018, unimplemented planning permissions (or resolutions to grant permission) for 223 dwellings within the parish. If built then this number of dwellings would be likely to yield a further 401 electors. There are no proposed residential allocations for the parish in the emerging County Durham Plan.
- 24 Therefore the total number of electors may rise to above 2,000 within the next 5 years. A limit of 9 parish councillors would therefore be slightly below the NALC recommendation but the number of electors is likely to be only marginally over the 2,000 figure even if all the dwellings are built, which itself is uncertain.

### **Name**

- 25 The proposal of changing the name of the Parish Council to include Leamside would cover the two main settlements of the parish area. Of

the other settlements mentioned by the objector most are very small with only Rainton Gate having more than 100 electors.

- 26 There is a separate provision in the Local Government Act 1972 that would enable the Council to change the name of the parish council upon receiving a request from the parish council to do so. That does not apply here, because the request has been received by way of a community petition.

### **Timing**

- 27 The Parish Council have questioned whether any change to council size could be implemented before the ordinary year of elections in May 2021. Legislation does not permit a change to council size to be implemented through a Review earlier than at the time of ordinary elections unless it was also to change the term of office of its sitting councillors i.e. changing the year of elections to another date instead of the usual four year period. This is possible but is unlikely to be administratively convenient.
- 28 The petition which was submitted to the Council by the Parish Council had 284 validated signatories of the parish electorate agreeing with their proposals. This equates to 15% of the 1907 registered electors at the time of 1 December 2017. The Parish Council website contains the agendas/ minutes/ supporting reports from its meetings where co-option/ community governance had been considered. Although there had been a limited response to the consultation undertaken by the Council with one resident objecting to the proposals, taking into account the numbers who supported the Parish Council petition, and the responses received by the Council, it can be seen there is support for the petitioners' proposals.

### **Other matters**

- 29 Of the matters that must be considered for recommendation in any Review, it is not recommended to constitute any new parishes or to abolish or alter the existing parish. The existing parish should continue to have a council and there is no reason to consider that warding arrangements would better reflect the identities and interests of the parishioners or give rise to greater effectiveness or convenience of community governance.
- 30 The objector complains that the Parish Council discussions of the proposal were opaque. Whether or not this is the case is not a matter for consideration, because the trigger for the Review has been the duly made petition rather than any deliberations by the Parish Council.

### **Conclusion**

- 31 The Review is focussed on the request by the petitioners to reduce the size of the council from 11 to 9, and to change the name of the Parish Council to include Leamside. It is for the Council to consider

whether to make a draft recommendation to support the proposals or not. From the numbers signing the petition submitted by the Parish Council, the response to the consultation, and the considerations detailed in the report, it is proposed to recommend that a draft recommendation be published to make the changes submitted by the petitioners. The date that changes to community governance would be made would come into effect at different times. Changing the council size would be effective from the time of ordinary elections in 2021, and the name change of the parish/ Parish Council be effective from 1 April 2019.

- 32 The Constitution Working Group at its meeting on 4 September 2018 agreed to recommend to Council that it make a draft recommendation as set out in paragraph 34 of the report.

### **Next Steps**

- 33 In accordance with the Review timetable, a draft recommendation will be published on the Council's website, and a further press release will be issued. Comments could be made from 26 September for a 4 week period. A further report will then be considered by the Council on 5 December 2018 to consider making a final recommendation. If the recommendations are in favour of the changes and these are approved by full Council, a re-organisation order will be made.

### **Recommendation**

- 34 That Council agree to make a draft recommendation on the Review as follows:-
- (a) With effect from 1 April 2019 change the name of the parish/ Parish Council to West Rainton and Leamside;
  - (b) With effect from the ordinary elections in 2021 reduce the council size from 11 to 9 councillors.

### **Background Paper(s)**

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

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## **Appendix 1: Implications**

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**Finance** – The main costs will be in respect of a consultation and will be met from the budget identified for community governance reviews.

**Staffing** – The work will impact on staff time.

**Risk** – None specific within this report

**Equality and Diversity/ Public Sector Equality Duty** – An equality impact assessment will be updated during each stage of consultation.

**Accommodation** – None specific within this report

**Crime and Disorder** – None specific within this report

**Human Rights** – None specific within this report

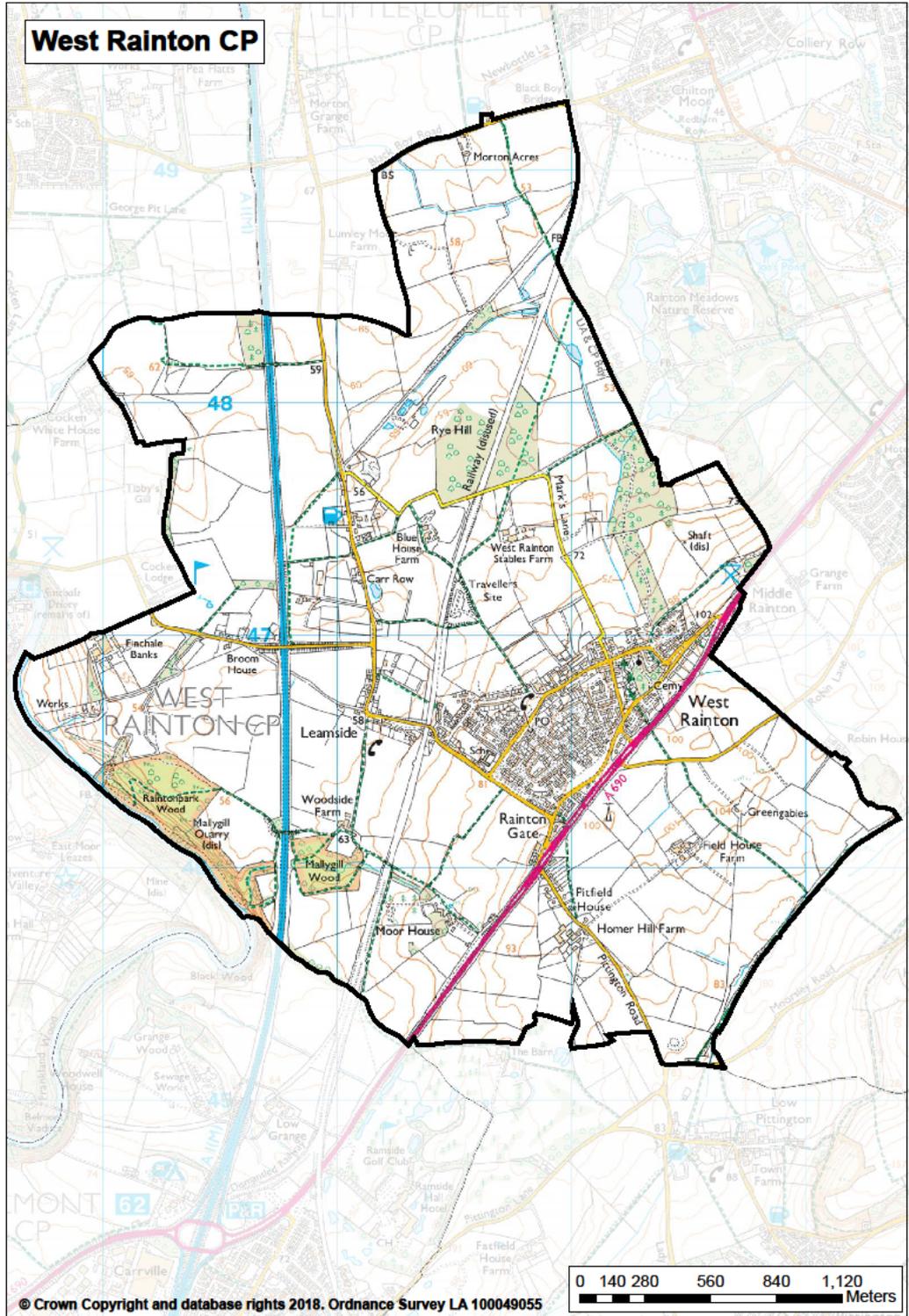
**Consultation** – See report

**Procurement** – None specific within this report

**Disability Issues** – None specific within this report

**Legal Implications** – The Review to be undertaken in line with current legislation and Regulations. Failure to comply with the requirements of the Local Government and Public Involvement in Health Act 2007 will result in any arrangements being void and leave the Council open to challenge by way of judicial review.

**Appendix 2: Map of the area under consideration**



## **COMMUNITY GOVERNANCE REVIEW OF WEST RAINTON**

### **TERMS OF REFERENCE**

#### **Introduction**

In undertaking the Review, Durham County Council (“the Council”) will comply with the requirements of Part 4 of the Local Government and Public Involvement in Health Act 2007 and the relevant parts of the Local Government Act 1972, and have regard to Guidance on Community Governance Reviews issued in accordance with section 100(4) of the Local Government and Public Involvement in Health Act 2007 by the Department of Communities and Local Government and the Local Government Boundary Commission for England in March 2010. The Council will also have regard to the following regulations which inform consequential matters arising from the Review:

- Local Government (Parishes and Parish Councils) (England) Regulations 2008 (SI2008/625);
- Local Government Finance (New Parishes) Regulations 2008 (SI2008/626). (The 2007 Act has transferred powers to the principal councils which previously, under the Local Government Act 1997, had been shared with the Electoral Commission and the Boundary Committee for England).

The Council will also give due consideration to the Guidance on Community Governance Reviews issued by the Secretary of State for Communities and Local Government published in 2008.

#### **What is a community governance review?**

A Community Governance Review is a legal process whereby the Council will consult with those living in the area, and other interested parties, on the most suitable ways of representing the people in the area identified in the review.

This means making sure that those living in the area, and other interested groups, have a say in how local services are delivered in their area.

A Review can consider one or more of the following options:

- creating, merging, altering or abolishing parishes;
- the naming of parishes and the style of new parishes and the creation of town councils;
- the electoral arrangements for parishes (for instance, the ordinary year of election; council size; the number of councillors to be elected to the council, and parish warding);
- grouping parishes under a common parish council or de-grouping parishes;

- other types of local arrangements, including parish meetings.

### **Aim of the Review**

The Council aims to ensure that community governance arrangements within the area under review are reflective of the identities and interests of the community in that area.

### **Why is the Council undertaking the Review?**

On 12 February 2018 the Council received a petition from West Rainton Parish Council (“ the Parish Council”) that had been signed by sufficient residents from the area, which requested the Council carry out a community governance review to reduce the numbers of councillors from 11 to 9, and to formally change the name of the Parish Council to West Rainton and Leamside Parish Council.

### **Who is undertaking the Review?**

The Council is responsible for undertaking any review within its electoral area. Full Council is responsible for agreeing draft and final recommendations prior to any Community Governance Order being made.

### **Consultation**

The Council has now published these Terms of Reference. This document sets out the aims of the Review, the legislation that guides it and some of the policies the Council considers important in the Review. In coming to its recommendations in a review, the Council needs to take account of the view of the local people.

The Council recognises that the development of strong, sustainable communities depends on residents’ active participation in decision making and making a positive contribution to improving the place where they live. The Council is therefore committed to engaging effectively with the diverse communities it serves and to enabling local people to participate meaningfully in decisions that affect their lives, where all people feel able to take an active part in influencing service delivery.

The Council will undertake an initial consultation with electors and other stakeholders in the area.

The consultation will take place through writing to the statutory consultees and seeking their views. A press release will be circulated in the local press to cover interested electors in addition to relevant information being available on the Council’s website;

## How to contact us

Further information about the Review is available on the Council's website and its social network pages, detailed below:

[www.durham.gov.uk/communitygovernance](http://www.durham.gov.uk/communitygovernance)

[www.facebook.com/durhamcouncil](https://www.facebook.com/durhamcouncil)

[www.twitter.com/durhamcouncil](https://www.twitter.com/durhamcouncil)

## Timetable for the Review

Action	Time Span	Dates
Publication of Terms of Reference		15 May 2018
Consultation process – consultation with local electors and statutory consultees	4 weeks	15 May 2018
Analysis/evaluation of consultation results and submissions received. Preparation of draft proposals	6 weeks	19 June 2018
Publication of draft proposals		26 September 2018 (Council 19 September)
Consultation on draft proposals	4 weeks	26 September 2018
Consideration of submissions received and preparation of final recommendations	6 weeks	24 October 2018
Publication of final recommendations and resolution to make a re-organisation Order, if appropriate		12 December 2018 (Council 5 December)
Preparation and publication of any reorganisation Order	One month	5 January 2019

## Order and commencement

The Review will be completed when the Council publishes its final recommendations.

In the event of a reorganisation of Community Governance Order being required, the provisions of such an order may take effect in two parts:-

- i) a change to the number of councillors on the council would take effect from the local elections in 2021, to fall in line with the ordinary year of election of councillors for local, parish and town elections;
- ii) a change of name to the parish and parish council would take effect from a date to be determined.

### **Publication of terms of reference**

These Terms of Reference will be published on the Durham County Council website [www.durham.gov.uk/communitygovernance](http://www.durham.gov.uk/communitygovernance) and are available for inspection at the offices of the Council.

### **Date of publication**

15 May 2018