

## **Review of Community Governance in the Unparished Area of Durham City carried out by Durham County Council**

### **Final Recommendations (No Parishing Arrangements)**

On 26 October 2011, the County Council approved terms of reference for the conduct of a Community Governance Review in the area of Durham City. The terms of reference were published on 1 November and included the terms of the petition which had been received from residents requesting the establishment of a town council. Although the petition was not compliant with the legislation the Council decided to undertake the review.

On 21<sup>st</sup> March 2012, the Council approved Draft Recommendations for a second period of consultation with Durham. This draft can be accessed at [www.durham.gov.uk/communitygovernance](http://www.durham.gov.uk/communitygovernance)

On 25 July 2012, the Council approved a further consultation of the areas of Aykley Vale, Priory Road and Dryburn Park to request whether the residents of these areas would prefer to be either simply parished, or to join Framwellgate Moor Parish Council.

### **The Review**

The Council is carried out this review under the Local Government Public Involvement in Health Act 2007 ('the Act'). It was known to the Council that there was a wish in the area by some residents to have the review with a view to establishing parish council arrangements. The review was however delayed whilst the Council was waiting for the Local Government Boundary Commission for England recommendations in relation to electoral arrangements for County Durham, following Local Government Reorganisation in 2009. The review was commenced before final recommendations were published by the Boundary Commission in order to enable the Council to put in place any electoral arrangements for any parish council established by the review in time for the County Council elections on 2 May 2013.

Following resolution of the Council on 26 October, the terms of reference were published on 1 November 2011.

The terms of reference were to consider:

- Whether a new Durham Town Council should be created (identified within the petition and illustrated on a plan) for the whole of the unparished area of Durham City.
- Whether more than one Town or Parish Council should be created in the unparished area of Durham City.
- The merging of part of the unparished areas within existing parish council.

- Whether any other alternative forms of Community Governance should be created.

Following the publication of the terms of reference, consultation took place with electors and stake holders in the area including local businesses, schools and colleges, community associations, local county councillors, tenants and residents associations, voluntary groups and societies. Neighbouring parish councils were also consulted.

### **Durham – history**

Durham City is based around the River Wear which meanders through an incised valley as it flows north with steeply wooded banks on the peninsula creating a picturesque setting that is enjoyed by many thousands of visitors every year. Main transport arteries include the A1 (M) and London-Newcastle railway with an important station and, arguably the finest view in the country.

Durham City owes its origin to the shrine of St. Cuthbert. The alleged miraculous circumstances which had attended the transportation of the body of St. Cuthbert to Durham attracted great wealth to the City; indeed, the shrine became one of the richest in England, and Durham became ecclesiastical centre for the north east.

The presence of the Bishop, with his immense power, caused Durham City to be the centre of ecclesiastical and civil government in the north of England. From 1075 the Bishop became known as a Prince Bishop, not only had spiritual power but was also Count Palatine with the power in the Palatine (which extended between the rivers Tees and Tyne) almost equal to that of the King.

Today, Durham City has a retail heart around the historic market place and the cobbled, narrow streets add to its distinctiveness. It has its own recognised community with its own local shops and amenities (public houses, restaurants, church, library, theatre, leisure centre, doctors, post office). Its particular identity is focused upon its city centre, a compact and historic centre including the World Heritage Site of the Cathedral and Castle, and its world class university.

**Newton Hall**, to the north-east of the City has its own recognised community with its own local shops and amenities (public houses, church, library, leisure centre, doctors, post office). Its particular identity is focused upon a large housing development with an active Community Association.

**Framwellgate Moor** is a village and parish. It is situated to the North of Durham and is adjacent to Pity Me and Newton Hall. It is the location of New College, Durham. It has its own local shops and amenities (public houses, church, doctors, post office).

**Brasside** is a suburb of Durham, located in the parish of Framwellgate Moor. It is situated to the north of Durham. Pity Me is also a suburban village of Durham, located north of Framwellgate Moor and west of Newton Hall.

**Aykley Vale** is a small area of 30 properties comprising:

- 8 properties at Aykley Heads Farm (known as West Barn);
- 9 to 15 Aykley Vale;
- 12 properties in Dunholm Close;
- 1 High Carr Road.

To the South is North End, Durham and to the North, Framwellgate Moor (see (i) on Map C).

**Dryburn Park** is a small area of 66 properties situated to the South of Framwellgate Moor and to the North of Aykley Heads, Durham, as shown as (ii) on Map C.

**Priory Road** is an area of 330 properties. Although inside the Framwellgate Moor and Newton Hall Electoral Divisions is separated from the area by a natural boundary, an area of no development. The area is shown as (iii) on Map C.

## **Background**

Prior to Local Government re-organisation, the unparished area and the Parishes of

- Bearpark
- Belmont
- Brancepeth
- Brandon and Byshottles
- Cassop cum Quarrington
- Coxhoe
- Croxdale and Hett
- Framwellgate Moor
- Kelloe
- Pitlington
- Shadforth
- Sherburn Village
- Shincliffe
- West Rainton
- Witton Gilbert

formed the electoral area for Durham City Council, a District Council, which was subsumed into a new Unitary Council of Durham County Council on 1 April 2009. In order to preserve historic and ceremonial traditions, including the role of the Mayor, Charter Trustees were established from April 2009.

Under the Local Government (Parishes and Parish Councils) (England Regulations 2008), the formation of a Parish Council, certain significant events will occur should the whole of the unparished area of Durham be parished, including:

- The Charter Trustees will be dissolved.
- The Mayor and Deputy Mayor will cease to hold office.

Following the first part of the consultation, two complications were revealed. The new County Electoral Division boundary prevents two areas identified on Map C (i) and (ii) from being linked with Newton Hall and they would not form viable wards linked to Durham City. These unparished areas have another parish council close by – Framwellgate Moor Parish Council (although there were no representations from this Parish Council to merge with the unparished area of Durham). These areas are referred to as Aykley Vale and Dryburn Park.

In addition Map C also identifies an unparished area of land referred to on Map C (iii) which, although inside the Newton Hall Electoral Division boundary, is separated from that area by an area of no development: which forms a natural boundary. The area identified on Map C (iii) has a number of streets (e.g. Priory Road linking with houses on Beech Road), which form a continuous development into Framwellgate Moor Parish and it is with the latter that their affinity lies. Links with the Newton Hall development are less obvious and all the properties have a Framwellgate Moor postal address. It was considered logical, therefore, to re-draw the boundary of Framwellgate Moor Parish to include the area of land shown on Map C (iii). This area is referred to in this recommendation as Priory Road.

It was therefore proposed that consultation take place with Framwellgate Moor Parish Council, households within that parish and households within the three areas identified on Map C(i), (ii) and (iii) with a view to extending the boundary of Framwellgate Moor Parish Council to include those areas. The three areas clearly link with Framwellgate Moor and the houses within this area are immediate neighbours to those in Framwellgate Moor.

### **First option for Durham**

After considering the results of the first consultation, Council agreed the following proposals for consultation for Durham:-

- (1) For the Durham City area (excluding Newton Hall and with the exception of the areas Aykley Vale, Dryburn Park and Priory Road) identified at Map A:-
  - (i) a parish council for the whole unparished area of Durham City (including or excluding Newton Hall)

- (ii) no change to existing arrangements (retention of the Charter Trustees); and
- (2) For the Newton Hall area only, Map B, but excluding the area shown as (iii) on the map identified at Map C.
  - (i) a parish council for the whole unparished area of Durham City
  - (ii) a parish council for the Newton Hall area alone; and
  - (iii) no change to existing arrangements (retention of the Charter Trustees)
- (3) For the areas identified on Map C as (i), (ii), (iii), (Aykley Vale, Dryburn Park, Priory Road):-
  - (i) to be part of the Framwellgate Moor Parish Council;
  - (ii) no change to existing arrangements (retaining the Charter Trustees).

The residents of Aykley Vale, Dryburn Park and Priory Road consultation arose because Aykley Vale and Dryburn Park would not form viable wards linked to Durham City and were not linked to Newton Hall. Priory Road was separated from Newton Hall by an area of no development and a number of streets forming a continuous development into the Framwellgate Moor parish. For that reason, a proposal for these three areas to join Framwellgate Moor Parish Council was proposed.

The Council was mindful of the fact that from information received thus far, the population appeared to be supportive of a formation of one or more democratically elected body.

It was proposed that the first option for consultation at stage 2 was for the whole of the unparished area to be parished by one parish council .However, it was also considered important that the residents were informed of the fate of the Charter Trustees should such a parish be formed.

The current electorate for the whole of the unparished area of Durham is 25,970 with a projected electorate for the five years from the end of review of 25,579.

## **The Second Consultation**

The consultation involved a questionnaire being sent to every household, with households having the option to request more questionnaires, if required. Staff also attended presentations of the Area Action Partnership and held

drop-in sessions (afternoon and evening) in the area, for residents to visit, discuss and have aspects of the review explained to them. These sessions were held as follows:

- County Hall, Durham, 1 May 2012 – 10 attendees
- Newton Hall, 25 April and 21 May 2012 – 23 attendees (in total)
- Town Hall, Durham City, 25 April 2012 - 23 attendees
- Framwellgate Moor Community Centre, 7 August 2012 - 6 attendees

Following the drop in sessions, some frequently asked questions were answered on the Council's website and are detailed at Appendix 1.

### **The Submissions Received in relation to the Second Part of the Consultation**

#### All Durham City unparished areas

The combined unparished areas of Durham City have shown a response slightly in favour of parishing of the area, with 51.1% preferring this option.

The total responses were 1,732 out of 11,705 questionnaires sent out, which is a response rate of 14.8%.

The unparished area of Durham City individual responses are set out in the table below.

	<b>Frequency</b>	<b>Percentage</b>
For parishing of their area	860	51.1%
No change to current arrangements	824	48.9%

#### Whole unparished area of Durham City and the surrounding area excluding Aykley Vale, Dryburn Park and Priory Road

If the areas of Aykley Vale, Dryburn Park and Priory Road are removed from the equation and members take the responses from the remainder of the unparished area (including Newton Hall), the response shows a slight favour towards the parishing of the area, with 51.8% preferring this option.

For this defined area a total of 1,666 responses were received and 11,279 questionnaires were sent out, a response rate of 14.8 %.

Individual responses for the unparished area of Durham City, including Newton Hall but excluding Aykley Vale, Dryburn Park and Priory Road, are set out in the table below.

	<b>Frequency</b>	<b>Percentage</b>
For parishing of their area	839	51.8%
No change to current arrangements	780	48.2%

### Durham City (excluding Newton Hall)

The total responses were 1,057 out of 8,119 questionnaires sent out, which is a response rate of 13%.

Durham City has shown a response slightly in favour of the parishing of the area, with 52.7% preferring this option. There were, however some areas within the Durham City area that did not favour parishing. For example, only 38.7% of Gilesgate: 43.2% of Neville's Cross South and 21.7% of Pelaw respondents favoured the proposal for a parish council.

Durham City individual responses are set out in the table below.

	<b>Frequency</b>	<b>Percentage</b>
A Parish Council	545	52.7%
No change to current arrangements	480	47.3%

### Newton Hall

The total responses were 609 out of 3,160 questionnaires sent out, which is a response rate of 19.2%.

Newton Hall has shown a response slightly in favour of parishing of the area, with 50.3% preferring this option, however, the difference only represents 4 responses.

Newton Hall individual responses are set out in the table below.

	<b>Frequency</b>	<b>Percentage</b>
A Parish Council	294	50.3%
No change to current arrangements	290	49.7%

If the Newton Hall area is to be parished, then a Newton Hall Parish Council is the preferred option.

Parish preference for Newton Hall area is detailed below.

	<b>Frequency</b>	<b>Percentage</b>
Newton Hall Parish Council	377	73.9%
Durham Parish Council including Newton Hall	133	26.1%

There is a large difference between preference depending upon whether a parish council is wanted by the respondent. However, both the respondents

who have stated a preference for no parish council and those in favour of a parish council prefer a Newton Hall Parish Council if there is going to be one.

### Aykley Vale

The total responses were 7 out of 30 questionnaires, which is a response rate of 23.3%. Aykley Vale is against the proposals of parishing with Framwellgate Moor Parish Council.

Aykley Vale responses are set out below.

	<b>Frequency</b>	<b>Percentage</b>
Joining Framwellgate Moor Parish Council	1	14.3%
No change to current arrangements	6	85.7%

### Dryburn Park

The total responses were 19 out of 66 questionnaires, which is a response rate of 28.8%. Dryburn Park is against the proposals of parishing with Framwellgate Moor Parish Council.

Dryburn Park responses are set out below.

	<b>Frequency</b>	<b>Percentage</b>
Joining Framwellgate Moor Parish Council	7	38.9%
No change to current arrangements	11	61.1%

### Priory Road

The total responses were 40 out of 330 questionnaires, which is a response rate of 12.1%. Priory Road is against the proposals of parishing with Framwellgate Moor Parish Council.

Priory Road responses are set out below.

	<b>Frequency</b>	<b>Percentage</b>
Joining Framwellgate Moor Parish Council	13	32.5%
No change to current arrangements	27	67.5%

## Framwellgate Moor

Framwellgate Moor respondents have shown a clear majority in favour of receiving the three unparished areas, with 78.4% in favour of this option.

The total responses were 306 out of 2,446 questionnaires sent out, which is a response rate of 12.5%. Framwellgate Moor is in favour of receiving the unparished areas.

The Framwellgate Moor individual responses are set out below.

	<b>Frequency</b>	<b>Percentage</b>
Receive the three areas into Framwellgate Moor Parish Council	222	78.4%
No change to current arrangements	61	21.6%

In Summary:-

- All the unparished areas of Durham combined show a response slightly in favour of parishing the area with 51.1% preferring this option
- All the unparished areas of Durham combined, excluding Aykley Vale, Dryburn Park and Priory Road, show a response slightly in favour of parishing the area with 51.8% preferring this option.
- Durham City respondents are slightly in favour of having a parish council in the area, with 52.7% indicating so. Furthermore, the majority in favour or against parishing also changes across the gender divide with 51.6% of male respondents preferring no change and 59.1% of female respondents preferring a parish council.
- Newton Hall respondents are slightly in favour of having a parish council in their area with 50.3% indicating so.
- If the Newton Hall area is to be parished, 73.9% of respondents of that area are in favour of a Newton Hall Parish Council.
- The respondents of each of the three areas on the outskirts of Durham City (Aykley Vale, Dryburn Park and Priory Road) were largely against becoming part of Framwellgate Moor Parish Council with 67.7% against the proposals for the three areas combined (for the consultation in relation to these areas please see the

section headed 'Aykley Vale, Dryburn Park and Priory Road').

- 78.4% of respondents from Framwellgate Moor are in favour of allowing the three areas on the outskirts of Durham City (Aykley Vale, Dryburn Park and Priory Road) to become part of Framwellgate Moor Parish Council.

Further detailed analysis is attached at Appendix 2.

The following section of the recommendations, deals with the proposals for Durham and Newton Hall following the second consultation. Proposals relating to Aykley Vale, Dryburn Park and Priory Road are dealt with later in the recommendations in the section headed 'Aykley Vale, Dryburn Park and Priory Road' and deal with results of an extra consultation agreed by the Council on the 25<sup>th</sup> July 2012

### Further Representations

In addition to the questionnaires returned, further written representations were received and these together with comments received at the AAP meetings and drop in sessions are attached at Appendix 4. This review was carried on at the same time as the review into the unparished areas of Crook, and there were generic questions from members of the public, which are also set out in the table, but the specific comments about Durham are identified separately. Letters that submitted questions were responded to. The responses are included in the written representations and are set out according to area.

There were 18 correspondents who responded in relation to this second consultation. One corresponded with more than one Officer and the Leader of the Council (Appendix 4, entry 11).

A summary of the points made, together with the responses provided, are included in Appendix 4. The Appendix also identifies the areas where the comments relate to. There was one piece of correspondence that could not be identified as linking with any particular area.

There were 10 written responses received in relation to Durham City.

One was from a correspondent outside the unparished area expressing concern about the potential loss of the Mayor and proposing that the unparished areas be parished but that the costs of the Mayor should be shared by all parishes (Appendix 4, entry no. 21).

Some letters posed questions about the consultation. One sought clarity on the precept for Newton Hall if it remained separate; requested that any Council for the City be called Durham City Council and asked whether insignia belonging to the former Durham City Council could be transferred to the new Council.

One response raised questions about the consultation, expressing concern that no mention had been made of the precept paid by other residents of the former Durham City Council for the Charter Trustees and asked why the residents of Newton Hall had been given an option to have its own Council, but that the residents of Durham City had not been given an opportunity to express a view on the question.

The letters which dealt more directly with the issue of accepting or rejecting the proposals are referred to in the analysis of response are referred to below in the section headed "Analysis of Responses".

After the consultation and in response to a question from the Council about simple parishing arrangements, the Department of Communities and Local Government wrote and indicated that it had expected the Council to apply to the Cabinet Office to preserve City Status and that the Mayor of a parish council would not have an inferior status to that of the current Mayor because he/she would have an elected body behind it. Following this, Counsel's advice was sought and has produced the suggestion that the Council could take such steps and that any parish council could be called "The Council of the City of Durham"

### Analysis of Responses

In relation to Newton Hall, the written responses received all stated that a parish council was not wanted and considered the establishment of a parish council to be an unnecessary use of public money. In the drop in sessions, this was also raised, but other attendees were seeking information about the proposals and the functions of parish councils in order to form their opinions. Cost and purpose were largely a focus of these questions.

In relation to Durham, the written representations dealing directly with the issue of whether there should be a parish council or not showed division of views. Two responses, one from the Durham Trustees (not Charter Trustees) wished to register a preference for one single town council for the whole unparished area. Another single respondent stated agreement with a parish council as a preference to the County Council. Another in a series of letters indicated a clear preference for a council for the city, with a smaller precept, with the Mayoral costs removed and the new council being under no expectation to have a Mayor.

One written response from the Whinney Hill Residents was lengthy and raised many issues. The full details can be seen in Appendix 4, entry no. 15. It is interpreted in these recommendations as not being in favour of the arrangements proposed, highlighting a view that areas within the proposed council for Durham have nothing in common and that Newton Hall lacks a common interest with areas in Durham where there is a high student population. The letter did suggest however that there be a number of smaller parish councils in the area. The cost of a parish council being borne by populations where the student element is high was also clearly raised.

Four written responses (see Appendix 4, entry nos. 12, 13, 16, 17) were from individuals who expressed a firm preference for no parish council, referring to the costs. Two were more detailed, with one expressing the view that the major issues for the city which included economic growth, drinking to excess, the university and the rise of private landlords, cannot be addressed by a parish council and can be addressed by the County Council. The Council was urged not to rush to change arrangements on the basis of a low response. The creation of more councillors was also stated to be a concern. The second more detailed letter again referred to the cost concern at the creation of another tier of government. It expressed concern about the ability for a local body to increase the precept; it raised a general lack of trust; was critical of the Council for allowing the Durham petition to go ahead and described any new parish council as a process whereby the Council was on track to deliver “significant, but unquantifiable and unpredictable revenue raising powers to an unwanted and unnecessary body.”

The AAP presentation also highlighted divisions about this consultation. Some attendees were firmly in favour of a new Council: some deeply regretting the loss of the City Council and desiring its return. There was, however, division between those, with a debate about the necessity of a Mayor. One theme presented was that there should not be one; that if the new Council was to be formed its precept should be small and not be inflated to run the Mayor’s role. Another theme debated was concern that the Mayor would now only represent a smaller area and would be diminished in status. Concern was also expressed that there was no proper recognition for Elvet.

A very noticeable theme was the precept. Some attendees were anxious to point out that the student population within the city was growing and did not pay council tax. This therefore meant that the burden of paying for any council would fall on a reducing number. Some residents who had higher value properties were concerned about the size of the contribution they would have to make to a new council.

Some attendees were concerned that the financial burden of a council in the City would fall on a smaller population, given that the residents of Newton Hall had the option not to join a Durham council.

In the drop in sessions, the themes were similar whilst some attendees asked questions about the proposals and commented that something for Durham was overdue, others were of the view that the establishment of a parish council was a waste of money: that the growing student population was a problem for local residents and that this would result in too great an expense for non-student residents and a significant expense for those who owned properties that were higher than band D.

In the following table the principle themes from the consultation are set out in relation to Durham with the response of the officer group. The issues raised in relation to Newton Hall focused on the functions of parish council and

suggested that they were a waste of money. Such comments are dealt with where relevant.

<p>The loss of the role status of the Mayor</p>	<p>If a parish council is formed, the Mayor will be a Mayor of a democratically elected body. The Council acknowledged that had the final recommendation included a proposal for a council, that the Council would work with Cabinet Office with a view to enabling the Council to be called the Council of the City of Durham.</p>
<p>A parish council is long overdue following the dissolution of the City Council</p>	<p>This review cannot create another District Council. The issue of the creation of a parish council which has different functions, although with the ability to use powers of competence under the Localism Act 2011.</p>
<p>Why not keep the Charter Trustees and parish the whole area?</p>	<p>The effect of the relevant legislation will dissolve the Charter Trustees when the unparished area is parished. If any part is unparished, the Charter Trustees will remain in place.</p>
<p>Concerns about the student population and the burden of the precept falling on the houses</p>	<p>The precepts in the draft recommendations were based upon the council tax base at October 2011.</p> <p>Further analysis on the updated council tax base to address these concerns revealed that the profile of properties between Newton Hall and Durham City is different with Durham City having a larger student population and a larger proportion of higher banded properties.</p> <p>Predominantly properties in Newton Hall are in Bands A-C.</p> <p>In relation to Durham, to produce the original recommended precept of £226,268, a Band D levy of £39.21 would be required. This is less than the £40.00 originally recommended and had the council recommended</p>

	<p>parishing, it would have agreed an adjustment in the household levy</p> <p>The Council also considered representations that the precept should be lower, but reached the view that had the formation of a council been recommended, the precept would need to provide sufficient funds to accommodate the role of a Mayor for the historic city. It acknowledges that households in the higher banded properties would have had to pay more than the band D rate e.g. a Band H property would pay £78.41 per annum.</p> <p>In relation to Newton Hall, on the basis of the current council tax base, the originally recommended precept of £73,717 would have involved a Band D levy of £35.38. Having regard to concerns about the size of the precept, the Council would not have proposed to increase the household levy from the original figure of £35.00 and would have adjusted the precept to £72,915.</p>
<p>The retention of Charter Trustees should not have been an option for consultation as they have no powers and exercise a purely ceremonial function</p>	<p>It is accepted that the Charter Trustees have a limited function and were created by Central Government to preserve historic roles until a parish council was formed. Not explaining that outcome or simply stating “no change” as an option could have been perceived as misleading. The Mayoral role was not arguably insignificant given the fact that Central Government saw fit to preserve it. Some people making representations argue that the Trustees should continue.</p>
<p>The Durham recommendation should include an Elvet ward</p>	<p>The draft recommendations proposed wards that balanced as far as reasonably practicable, the number of electors so that the votes of some electorate were not worth less than others. This was the only request for</p>

	<p>a change in the warding arrangements. There were none from adjoining proposed wards that could have accommodated adjustments.</p>
<p>Another layer of Government is a waste of money</p>	<p>Whether residents wish to pay for a parish council is a key issue.</p> <p>The benefits of a democratically elected body are set out in the guidance referred to later in these recommendations. The lack of a body that could be the focus for issues that affected Durham City was also a point made more than once at the AAP and in drop in centres.</p>
<p>Concern about the creation of a precept levying body and future increases</p>	<p>It is correct that the Council cannot control what the precept will be in the future. It will be for the electorate to influence through democratic arrangements.</p>
<p>A number of smaller parishes should be created</p>	<p>The draft recommendations were formulated from an initial round of consultation. That did not identify the formation of smaller parishes and no other respondent has suggested this. The suggestion that there should be smaller parishes combined with the fact that some areas within Durham City have sent more responses against parishing, does highlight the complexities of Durham.</p>
<p>The possible removal of Newton Hall could result in the residents of Durham paying a lot more for their Council than they would have to had to pay.</p> <p>They should not have had this option.</p>	<p>The consultation feedback for Newton Hall, albeit limited, does favour separation.</p> <p>Given the results of the first consultation, it was believed to be undemocratic to allow the larger population of Durham to vote on whether the residents of Newton Hall should have their own Council.</p> <p>Consultation feedback from the</p>

	<p>Whinney Hill Residents suggested that the residents of Newton Hall had nothing in common with areas of Durham where there was a high student population.</p>
<p>A parish council will not be able to deal with the issues of Durham City and the County Council can deal with these.</p>	<p>A parish council does not have the functions of the County Council, nor the functions of the former district council and the County Council will remain responsible for many key functions.</p> <p>The Council however recognises the value of the parishes as does Government guidance and a parish council will have the role of representing its electorate in forcefully and effectively raising issues that they have about Durham County Council's discharge of its functions.</p>
<p>Concerns that a decision could be made on the basis of a very limited response.</p>	<p>The limited response is of concern to the Council, as is the clear division of views from the representations received. This was not a formal ballot however the Council was aware of the fact that people were urged to complete their questionnaires and would not lightly dismiss the majority response.</p>
<p>Having smaller precept for Durham e.g. £10.00, would make the setting up of a parish council more attractive.</p>	<p>That sort of precept would not enable a new parish council in an ancient city with a Mayor to function in its first year and would have been a misleading figure to put in a consultation document.</p>

## The Law Duties and Guidance

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

- (i) It must consult the local government electors for the area under review.
- (ii) It should consult any other person or body (including the local authority) which appears to the principal council to have an interest in the review.
- (iii) It must also 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.
- (iv) In deciding what recommendations to make, the council must take into account any other arrangements, apart from those relating to parishes and their institutions:
  - a. that have already been made, or
  - b. that could be made for the purposes of community representation or community engagement in respect of the area under review.
- (v) The council must take in to account any representations received in connection with the review.
- (vi) As soon as practicable after making any recommendations, the principal councils must:
  - a. publish the recommendations, and
  - b. take such steps it considers sufficient to secure that persons who may be interested in the review are informed of those recommendations.
- (vii) The Council must conclude the review within a period of 12 months starting with the day on which the council begins the review. In this case the review commenced with the publication of terms of reference on the 1 November 2011 and ends with publication of the recommendations.

- (viii) Under Section 100 of the Act, the council must have regard to guidance issued by the Secretary of State (guidance on Community Governance Reviews published in March 2010 by the Department for Communities and Local Government (DCLG) and the Local Government Boundary Commission for England (LGBCE)).

This 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 stresses that parish councils are an established and valued form of neighbourhood democracy and management in rural areas that increasingly have a role play in urban 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 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.

It also states that Councils must have regard to the need secure community governance within the area under review reflects the identities of community in the area and is effective and convenient. The application of these obligations was addressed in the council report of the 21 March 2012 and the draft recommendations document.

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.

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 the statutory duty 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 to 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.

On the 21 March 2012, this Council approved draft recommendations that made suggestions for the formation of parish councils giving the view that the proposals for consultation were effective and convenient and reflected community identities. The same report also contained a

recommendation from the Constitution Working Group that households be given the options to consider including 'no change' so that any arrangements made have the broad support of communities. Although the responses given have been limited it has, however been given in the context of a consultation in which members of the public were advised that their wishes were significant. It would not be appropriate to make a decision that does not address the product of that consultation.

The outcome of this consultation is that the household questionnaires show a very marginal support for the formation of a new council in a limited return. The relatively small number of letters received are against proposals for parishing and the most that can be assumed from those who did not respond is that they have no views either way. There is also added complexity that in some areas of Durham City the majority of residents who returned questionnaires were against the proposals.

When views have been expressed, they are clear whichever way they fall. It was apparent from the AAP presentation and from drop in sessions that there are some residents of the area who are strongly of the view that the establishment of a new council is long overdue and wish that Durham City Council had never been dissolved. There were others who were firmly of the view that a new council was a waste of money and, in the case of Durham, that a small area with a high student population could not sustain the maintenance of a viable council.

The written representations largely pick up the themes of the cost and purpose of parish councils and what they see as a burden of funding the Council from a limited population of council tax payers. Others complain about decisions being made on the basis of a very narrow return.

Other comments reject proposals that have been formulated so far. The Whinny Hill Residents indicated that it had no objection to Durham County Council continuing to provide major services but would prefer to see a system of smaller parish councils as some of the areas under review had nothing in common with each other: another respondent suggested that Framwellgate Moor Parish Council should merge with a new Durham Council.

The following table contains a summary of factors for and against the formation of a parish council in these circumstances:

<b>Factors Favouring Formation</b>	<b>Factors Not Favouring Formation</b>
Statutory guidance is generally supportive of parish council formation.	The guidance is not prescriptive.

<p>The alternatives obtained in the draft recommendation are proposed as effective and convenient.</p>	<p>That was a statement made prior to the second stage of consultation. The legislation requires consultation and there are other themes in the guidance in which views and representations are expected to be considered.</p> <p>Imposing arrangements where there is no support is arguably not proposing effect arrangements and may undermine community cohesion.</p>
<p>A petition was proposed requesting formation which demonstrated clear support for the formation of a council</p>	<p>That was a document initiating a process. The process has involved the production of proposal 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>
<p>The petition was arguably produced following local government review it reflects a local view that following this reorganisation, the area had been left without a layer of local government below unitary council level which may be problematic for residents if they believe that their issues conflict with council policies and decisions.</p>	<p>There are other forms of community governance in place for example:</p> <ul style="list-style-type: none"> <li>• The Area Action Partnerships allow for such issues to be raised in advance.</li> <li>• There are groups and associations in the area referred to later under “Other Arrangements for Community Engagement in the Area”.</li> </ul> <p>There is a theme in the representations received from the area that the powers of a parish council are limited or will not address the issues that the community has or bring the benefits that the</p>

	<p>community needs.</p> <p>Also as evidenced 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>Some of the representations have raised concern about the dissolution of the district council.</p>	<p>The issue for this review is the creation or otherwise of a parish council. It is not within the Council's powers to create another district council, although a parish council, with general power of competence could have more powers than parish councils have traditionally provided.</p> <p>The result of the consultation does not suggest that the desire to have another tier of local government is common across the areas and the consultation sessions and representations produced comment that a further layer of government is not required.</p>
	<p>The costs of a parish council at a time of austerity. The current economic climate is one of austerity and at a time when many councils are endeavouring and are being encouraged to keep council taxes static, the council may wish to consider carefully whether a precept raising body should be created.</p>
<p>Not creating parish councils will lead to the continuation of the Charter Trustees. This was a body designed as temporary measure: it has precept raising powers but carries only a ceremonial function. This does not, however, prevent the Charter</p>	

Trustees from continuing, if no parish council is formed.	
A majority of the questionnaires favour formation.	<p>This was not binding ballot.</p> <p>The limited return and the narrow margin in favour of creation justifies caution in following a simple majority, when the representations (written and otherwise) have divided not on fine points of detail but on the principle of whether or not there should be a council. Some areas within the Durham area were against joining a parish council.</p>

### **Governance Arrangements that reflect the Identities and Interests of the Communities and is Effective and Convenient**

In its draft recommendations, the Council produced proposals for parish councils which were based upon the recognised communities of Durham, Newton Hall and Framwellgate Moor. These communities were and remain established. They all have their own centres with amenities used by the local population and remain, in the view of the Council, suitable bases for reflecting the identities and interests of the community.

In relation to Newton Hall, no representations have been received which challenge this view. One of the themes from the representations, is that the issues for the City of Durham are different from the issues for Newton Hall and arise the use as a City for tourism and leisure, a number of licensed establishments and the significant presence of the university. It does, therefore, appear to the Council that the communities of Newton Hall and Durham differ and had the Council recommended parish councils, they would have been for separate parish councils for Newton Hall and Durham City.

In relation to the proposals for warding any parish councils proposed, draft recommendations identified the following wards for Durham parish only:-

Pelaw, Gilesgate, Durham South, Framwelgate, Crossgate, St. Nicholas and Elvet, Nevilles Cross South, Nevilles Cross North.

For a Newton Hall parish, wards identified were Newton Hall North and Newton Hall South.

In relation to the proposals for warded councils, the draft recommendations, the warding proposals made were explained. Given the conclusion of this final recommendation document, it is not proposed to deal with the few

representations in relation to warding which are referred to in the Council recommendations of the 19<sup>th</sup> September 2012.

### **The Charter Trustees**

Under the Local Government (Parishes and Parish Councils) (England) Regulations 2008, on the date on which the whole of the unparished area becomes parished, the following occurs:-

- (a) The Charter Trustees shall be dissolved;
- (b) The Mayor and Deputy Mayor (if any) shall cease to hold office as such;
- (c) The appointment of any local officer of dignity shall be treated as if it had been made by the parish council;
- (d) All property rights and liabilities (of whatever description) of the Charter Trustees, shall become property rights and liabilities of the parish council; and
- (e) Any legal proceedings to which the Charter Trustees are party may, subject to rules of Court, be prosecuted or defended (as the case may be) by the parish council.

If any part of the area remains unparished, then the Charter Trustees will continue to exist.

### **Other Arrangements for Community Engagement in the Area**

The Council has considered other existing arrangements or other arrangements that could be made. Attached at Appendix 5 is a list of the groups which currently exist in the area.

The Area Action Partnership is also in place. These were subject to a review of their effectiveness by the Overview and Scrutiny Management Board which reported to Cabinet on 27 September 2011.

The Review found the APPs to be fit for purpose with a pivotal role in understanding the needs of their area, acting upon those needs and influencing service delivery. Furthermore, the fact that the residents have formed community groups and associations, suggests that they have the wherewithal and commitment to form community associations and other forms of governance should they wish to do so.

The Council considered whether it should propose other arrangements, but is mindful of the fact that alternative forms of community governance were not a preferred preference in the first stage of the consultation. Given all these factors, the Council does not propose for any alternative groups to be formed.

### **Aykley Vale, Dryburn Park and Priory Road**

The areas of Aykley Vale, Dryburn Park and Priory Road are three areas unconnected with each other on the periphery of the unparished area. Their

position was such that the draft recommendations could not accommodate them within a proposed Durham or Newton Hall council, and leaving them unparished whilst parishing the remaining area would create complications in relation to the Charter Trustees that would not be effective, convenient or logical. That option was, however, one that had been put to the areas as an alternative to joining Framwellgate Moor Parish Council, and on recognising that this was problematic, on 25<sup>th</sup> July 2012, the Council agreed to the recommendation of the Constitution Working Group to commence a further consultation with the residents providing two alternatives:-

- a. a simple parish for each area;
- b. joining with Framwellgate Moor Parish Council

The latter option was presented again so that residents, upon being advised that the retention of the Charter Trustees was not a viable option, had alternatives to choose from.

The consultation took the form of a questionnaire sent to each household with the ability to request more, and a drop-in session was held on 7<sup>th</sup> August 2012, which was attended by 6 people.

This consultation, limited to the three areas, was launched in the context of providing a choice, should the Council decide to recommend that the remaining unparished areas be parished. For that reason, it is not recommended that any of these areas be parished, if other parts are not. In making this recommendation, the Council is mindful of the guidance referred to elsewhere in the Council recommendations of the value of a local democratically elected body. It is, however, aware of the fact that in the consultation in which residents had a choice between Framwellgate Moor and the Charter Trustees, a clear majority of the respondents wanted to retain the Charter Trustees, and taking into account that consultation, it is not proposed to parish these areas, whilst making a contrary proposal for the remaining area.

Results of the Second Consultation with Aykley Vale were as follows:

### **Aykley Vale**

14 responses out of 32 questionnaires sent out, which is a response rate of 43.8%. The figures for the individual total response are set out below:

Aykley Vale individual response.

	<b>Frequency</b>	<b>Percentage</b>
Parish with a parish meeting	9	64.3%
Join Framwellgate Moor Parish Council	5	35.7%

The total household responses were 13 out of 30 households, which is a response rate of 43.3%. The figures for these responses are set out below:

	<b>Frequency</b>	<b>Percentage</b>
Parish with a parish meeting	9	65.4%
Join Framwellgate Moor Parish Council	5	34.6%

Aykley Vale has shown a response in favour of parishing with a parish meeting the area, with 64.3% preferring this option. This remains the case when the survey is a household survey, although the percentage increases slightly to 65.4%.

### **Dryburn Park**

The total individual responses were 29 out of 68 questionnaires sent out, which is a response rate of 42.6%. The results of these responses are shown below:

	<b>Frequency</b>	<b>Percentage</b>
Parish with a parish meeting	19	67.9%
Join Framwellgate Moor Parish Council	9	32.1%

The total household responses were 27 out of 66 households, which is a response rate of 40.9%. The results of these responses are shown below.

	<b>Frequency</b>	<b>Percentage</b>
Parish with a parish meeting	17	65.4%
Join Framwellgate Moor Parish Council	9	34.6%

Dryburn Park has shown a response in favour of parishing with a parish meeting the area, with 67.9% preferring this option. This remains the case when the survey is a household survey, although the percentage decreases slightly to 65.4%.

### **Priory Road**

#### **Individual Return Result:**

The total responses were 35 out of 330 questionnaires sent out, which is a response rate of 10.6%. The results are set out below:

Priory Road individual response.

	<b>Frequency</b>	<b>Percentage</b>
Parish with a parish meeting	12	36.4%
Join Framwellgate Moor Parish Council	21	63.6%

## Household Return Result:

The household response is the same as the individual response as no further questionnaires were requested.

Priory Road has shown a response in favour of joining Framwellgate Moor Parish Council, with 63.6% preferring this option. Further detailed analysis of the responses is set out in Appendix 3.

Comments made by those people attending the drop in session held on 7 August 2012 are detailed in Appendix 4.

## Written Representations from the three areas

One e mail was received questioning why residents had been given the option of retaining the charter trustees in the first place. No other letters were received, although in the previous consultation an e mail and a letter were received (see entry nos. 19 and 20 of Appendix 4). One was against the formation of a parish council and expressed concern that the proposal to parish was a tidying up exercise. Another suggested that the existing Framwellgate Moor Parish Council should be merged with other unparished areas and form a new City of Durham and Framwellgate Town Council. This was not an arrangement suggested by the Council in the first consultation and had therefore not been subject to consultation.

The comments made at the drop-in sessions can be found in Appendix 4. It can be seen that there were two comments relating to a preference to join Durham City. This highlights one of the complications of the review; that two of the areas (Aykley Vale and Dryburn Park) would not form viable wards of a Durham City parish council. The comments also reflected concerns about paying a precept to Framwellgate Moor parish council when there was no perceived benefit for that area. One comment was to leave arrangements as they were and another commented that a parish council would be a waste of money. In common with Durham and Newton Hall, there was a comment regretting the removal of the Durham City Council.

The following table contains the issues for and against a parish council:-

<b>For a Parish</b>	<b>For a Parish Council</b>
It imposes less of a structure on communities that showed limited appetite for formal parish council arrangements.	The guidance supports the formation of parish councils (although it is not prescriptive).
It will address the issue of complications caused by continuation of the Charter Trustees if the remaining area was parished.	These areas are small areas which if left without a parish council will be small islands in areas surrounded by democratically elected bodies. Such a position could arguably put the areas in a position of disadvantage in

	relation to having a voice in important local issues when compared to the other areas.
It would provide a focus for the areas to decide on and debate issues relevant to their communities and would provide a community engagement mechanism.	They are logically linked to Framwellgate Moor Parish Council.
It would leave the area free to consider future parish council arrangements (will not close the door on a parish council in the future).	A twice yearly meeting (parish arrangement) will have a much more limited effect on community engagement than a regular meeting of an elected parish council.
It will avoid moving the communities into a pre-existing precept levying body that has previously not included them at a time of austerity. There are concerns that such a move would not enhance community cohesion.	The residents of Framwellgate Moor Parish Council appear to welcome this proposal and have not produced a comment that these areas have nothing in common with them.

### **Other Forms of Community Engagement Available**

There are no specific avenues for community engagement within the three areas. The Council has considered whether other forms of community governance should be provided, but at this stage, given that in the first and second consultation, there have been no representations for the formation of other forms of community governance. It is not considered appropriate to propose any at this stage, but the Council recommends that the local Members supported by Council Officers, offer any assistance to these areas if required to form such groups.

### **Final Recommendation**

The Council has found this review to be complex. A statutory timetable of twelve months gives little space to carry out a complex task.

The Council identified the main significant competing issues in its report to Council of 19 September 2012.

The Council is acutely aware of the fact that residents were advised that the consultation was important and that the Council wished to hear from them. Every household was sent a questionnaire and was offered more if there were others in the household who wished to complete their own. Staff held presentations at Area Action Partnership sessions to heighten the consultation and manned drop in sessions in an exercise in which members of the public were told that their views mattered. The Council is reluctant to

ignore those views, whilst acknowledging that this was not a ballot or a binding referendum.

The Council is also aware of the guidance which states: *“What sets parish councils apart from other kinds of governance is the fact that they are a democratically elected tier of local government, independent of other council ties and budgets, and possesses specific powers. This is an important distinction to make. Parish councils are the foundation stones for other levels of local government in England. Their directly elected parish councillors represent local communities in a way other bodies, however worthy, cannot, since such organisations do not have representatives elected to those bodies”*. The Council has considered this guidance carefully, and does acknowledge the special role that parish councils have in a community.

On the other hand, having considered all the matters referred to in the report to the Council of 19<sup>th</sup> September 2012, the Council had significant concerns that in terms of community cohesion and effective local governance, the establishment of a precept raising body at a time of recession, in a community that shows only limited support for it and some clearly articulated opposition to it, may not be perceived by some to be an act supportive of effective local governance. The Council’s concern about this was heightened by the fact that the consultation response from some areas was clearly against the formation of a parish council. The Council had some concern when it took into account the fact that current guidance does not allow for an easy dissolution of a parish council, once it is established. The guidance states that the abolition of parishes should not be undertaken unless clearly justified and there is clear and sustained local support for such action.

The Council was also aware of the fact that if there was no parish council formed for these areas, there are other forms of community governance available and not creating a council would not leave a vacuum in terms of community engagement.

The final recommendation of the Council has been a finely balanced one, but it has concluded that the final recommendation is to not, at this stage, create a parish council for Durham and Newton Hall. Having made that recommendation, the council does not propose any parishing arrangements for Aykley Vale, Priory Road or Dryburn Park. In making this recommendation, the Council acknowledges that further work may need to be done with the community to further explore if there is a parishing arrangement that can secure the broad support of the residents involved.

Enquiries for further information on the final recommendations please contact:-

Colette Longbottom, Head of Legal and Democratic Services on  
0191 383 5643