

Council Meeting	
Meeting Date	13 June 2018
Report Title	Community Governance Review for Sheerness
Cabinet Member	Cllr Andrew Bowles, Leader
SMT Lead	Mark Radford, Chief Executive
Head of Service	NA
Lead Officer	Katherine Bescoby, Democratic and Electoral Services Manager
Key Decision	No
Classification	Open
Recommendations	<ol style="list-style-type: none"> 1. That Council considers and notes the consultation response to the Community Governance Review. 2. That Council considers whether a new Town Council for Sheerness should be created or if the status-quo should be maintained. In making a decision, attention is drawn to the requirement for the Council to give reasons for the decision it has taken.

1 Purpose of Report and Executive Summary

- 1.1 This report gives an update on the Community Governance Review (CGR) in Sheerness, and presents the results of the second consultation which asked for feedback on the draft recommendations agreed by the Council meeting on 21 March 2018, to set up a Town Council in Sheerness comprising of nine Members.
- 1.2 Council is asked to consider the consultation response and to decide on how to proceed.

2 Background

- 2.1 In December 2017, Council agreed the terms of reference and a consultation plan for a CGR in Sheerness, following the receipt of a valid petition. A copy of the terms of reference is set out in Appendix I.
- 2.2 A CGR is undertaken for any of the following reasons:
 - Creating, merging, altering or abolishing parishes;
 - The naming of parishes and style of new parishes;

- The electoral arrangements for parishes (the ordinary year of election, council size and warding arrangements); and
 - Grouping parishes under a common parish council or de-grouping parishes.
- 2.3 The Sheerness Town Team had submitted a valid petition asking for the Council to set up a town council. The petition was signed by 635 electors, or 8% of the electorate, which meets the criteria for triggering a review (at least 7.5% of the electorate).
- 2.4 Statutory Guidance has been issued by the Department for Communities and Local Government on how to conduct CGRs which must be adhered to. The consultation took place between 8 January 2018 and 2 March 2018, and the results were presented to the Council on 21 March 2018.
- 2.5 Section 93 of the 2007 Act requires principal councils to ensure that community governance within the area under review will be reflective of the identities and interests of the community in that area, and effective and convenient. Principal Councils should also take into account a number of influential factors, including the impact of community governance arrangements on community cohesion and the size, population and boundaries of a local community of parish.
- 2.6 Draft recommendations were agreed by the Council on 21 March 2018, as follows. A full copy of the Minute is set out as Appendix II.

Resolved:

2. *(a) That a new parish area is created for Sheerness (This is to be the same area as the borough ward of Sheerness)*
(b) That the new parish area should have a parish council
(c) That the new parish council should be an alternative style and be known as Sheerness Town Council
(d) That Sheerness Town Council comprises of 9 Members, with the first elections to take place in May 2019.
 3. *That in making the draft recommendations, the Council considers that the establishment of the Town Council will meet the criteria in the Local Governance and Public Involvement in Health Act 2007, in that it will be reflective of the identities and interests of the community in that area, and effective and convenient, and will have a positive impact on community cohesion.*
- 2.7 The draft recommendations were subject to consultation, which was in the form of a letter to all electors as set out in the report to Council on 21 March 2018, and in accordance with the terms of reference of the review agreed by Council in December

2017. The results of the second consultation are set out later in this report for the Council to consider.

3 Proposals

- 3.1 Council is asked to consider and note the feedback from the second consultation, to consider how to proceed with the review, given that the outcome of the second consultation is against setting up a town council, when the first consultation indicated that there was support for a town council to be established.
- 3.2 If the Council is minded to agree that a town council is established, then consideration does need to be given to the size of the town council. The statutory guidance refers to the Aston Business School analysis of the number of parish councils compared to electorate, which suggests that for an electorate of between 2,501 and 10,000, parish councils tend to have between nine and 16 councillors. A comparison has been made with parish and town councils for Swale in the above mentioned range, and discussion has taken place with the Kent Association of Local Councils. If a town council is to be established, it is recommended that the town council comprises of 9 councillors.
- 3.3 Whilst there is a presumption in the Guidance issued by the Department for Communities and Local Government in favour of parish creation, the Guidance also states:

94 - In deciding what recommendations to make the principal council must have regard to the need to secure that community governance reflects the identities and interests of the community in that area and is effective and convenient. The 2007 Act provides that it must also 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.

95 - The recommendations must take account of any representations received and should be supported by evidence which demonstrates that the recommended community governance arrangements would meet the criteria set out in the 2007 Act. Where a principal council has conducted a review following the receipt of a petition, it will remain open to the council to make a recommendation which is different to the recommendation the petitioners wished the view to make. This will particularly be the case where the recommendation is not in the interests of the wider local community, such as where giving effect to it would be likely to damage community relations by dividing communities along ethnic, religious or cultural lines.

96 – In making its recommendations, the review should consider the information it has received in the form of expressions of local opinion on the matters considered by the review, representations made by local people and other interested persons, and also use its own knowledge of the local area. In taking this evidence

into account and judging the criteria in the 2007 Act against it, a principal council may reasonably conclude that a recommendation set out in a petition should not be made. For example, a recommendation to abolish or establish a parish council, may negatively impact on community cohesion, either within the proposed parished area, or in the wider community within which it would be located, and therefore should not be made.

97 – The aim of the 2007 Act is to open up a wider choice of governance to communities at the most local level. However, the Government feels that there is sufficient flexibility for principal councils not to feel ‘forced’ to recommend that the matters included in every petition must be implemented.

98 – Under the 2007 Act the principal council must both publish its recommendations and ensure that those who may have an interest are informed of them. In taking a decision as to whether or not to give effect to a recommendation, the principal council must have regard to the statutory criteria. After taking a decision on the extent to which the council will give effect to the recommendations made in a community governance review, the council must publish its decision and its reasons for making that decision. It must also take sufficient steps to ensure that persons who may be interested in the review are informed of the decision and the reasons for it.

4 Alternative Options

- 4.1 The Council must consider the results of the consultation before making a decision on whether:
 - (a) To go ahead with setting up a Town Council for Sheerness with nine members (or this could be a different number of members).
 - (b) To maintain the status-quo, i.e. not set up a new Town Council for Sheerness.
- 4.2 The Council must give reasons for its decision.
- 4.3 The legislation requires that the Community Governance Review is completed within one year of the petition being received, i.e. by 16 August 2018. If a further consultation was undertaken, the time limit would not be met and there could be risk of legal challenge.

5 Consultation Undertaken or Proposed

- 5.1 The Council has a statutory duty to consult electors and other persons or bodies with an interest. Those persons must be informed of any recommendations and the reasons for the decisions must be published. The terms of reference set out how the Council proposed to consult as part of the review, and further details were set out in the Communications Plan. The terms of reference advised that draft recommendations will be published for further consultation between April

and May, and a letter was sent to all registered electors advising of the draft recommendations and inviting comments. Other promotion was also undertaken by contacting various organisations, via media release and social media.

5.2 The report to Council on 21 March 2018 set out details of the consultation undertaken, which comprised of sending 7995 registered electors a questionnaire (to answer Yes or No), and letters were sent to 987 'empty' properties in Sheerness to draw their attention to the review. (By 'empty', this refers to properties with no registered electors). There was also an appendix which set out the range of comments received. A copy of the letter and questionnaire is set out in Appendix II.

- Questionnaire - Total responses – 1978
 - Yes – 1406
 - No – 569
 - Yes or No not selected and choice not clear from comments made – 3
 - Those who voted yes but their comments imply no – 10 (i.e. they support having a town council but do not wish to pay an additional precept).
- Minster Parish Council also responded in support of setting up a town council for Sheerness.
- Two questions were received via the CGR consultation email regarding the amount of precept, whether that would result in a reduction in the Swale element of the Council Tax, and what the Council Tax base for Sheerness is.

5.6 Two information sessions were held at the Sheerness Gateway which were supported by the Chief Executive, the Democratic and Electoral Services Manager and the Electoral Services Officer, the Sheerness Town Team and the Chief Executive of the Kent Association of Local Councils. Whilst these were not very well attended, this did allow for useful informal discussions to take place between those present. Kent County Council were notified of the review, but have advised that they will not be responding to the consultation. The review was also drawn to the attention of local businesses, fire, police, volunteer and community groups.

5.7 In line with the terms of reference and the Council decision on 21 March 2018 (an extract of the Minute is set out in Appendix III), further consultation took place and letters were sent to all registered electors in Sheerness, notifying them of draft recommendations and to invite comments on the proposals, in particular regarding the size of the council. Care was taken to maintain a neutral stance in the wording of the letter to electors to make it clear that a town council would not replace the borough council, and to ensure a consistent approach an extract from the first consultation was included. A copy of the consultation is set out in

Appendix IV. The second stage of the review was also drawn to the attention of local businesses, fire, police, volunteer and community groups.

- 5.8 Prior to the consultation letter being sent, a political party sent out a flyer which drew attention to the potential costs of having a town council and seeking to clarify what areas a town council could get involved in. Up until 20 May, 8 emails and 1 letter had been received against setting up a town council, and 1 email had been received in support. On the 21 May 2018 (the closing day of the consultation) 900 letters were handed in by a Member. The 900 letters are pre-printed and with name, address and signature added. 896 of the 900 letters are against setting up a town council and 4 are unclear as to what their view was as they had crossed out "I am NOT in favour of a Town Council for Sheerness"). An example of the two types of blank pre-printed letter is attached as Appendix V.
- 5.9 Members may wish to note that the first stage of the consultation was by way of a questionnaire to all electors asking for a yes/no answer on whether a town council should be set up, so in effect this was like a ballot. The second stage of consultation was via letter and asked for views on the draft recommendation that a town council be established, comprising of 9 members.
- 5.10 Whilst the results of the two stages of consultation are set out within this report, the following table may assist Members in their deliberations. It is not clear from the results obtained as whether there has been a shift in view from those who voted 'yes' in the first stage to 'no' at the second stage, or how many of those who indicated that they were against setting up a town council in the second stage, responded to the first stage of the consultation. Conversely, we are not aware that there was a pre-printed letter for people to complete in support of the proposal to set up a town council. However, all electors (as well as interested persons) have been given the opportunity to make their views known.

Consultation (review triggered after petition signed by 635 electors)	Yes (i.e. in support of setting up a town council)	No (i.e. against setting up a town council)
First Stage (Yes/No questionnaire)	1406	569
Second Stage (Letter asking for views on draft recommendations to set up a town council comprising of 9 members)	1	905
Total of both consultations	1407	1474

6 Implications

Issue	Implications
Corporate Plan	Conducting the CGR in a way which fulfils our statutory obligations as efficiently as possible while also encouraging all sections of the

	community to make their views known will contribute to the council's corporate priority theme of being a council to be proud of. The council has previously been supportive of the establishment of town/parish councils in unparished areas, and a new town council for Sheerness could contribute to the key corporate plan outcome of 'communities...in which people work together to solve the issues that confront their local areas' and to the medium-term strategic objective to 'encourage active communities and support the voluntary sector'.
Financial, Resource and Property	It is possible that external funding may be available via New Burdens Funding and this is being explored, but alternative provision will be made by way of a performance fund bid should this be necessary for the consultation work. Democratic Services will take the lead on the review within existing resources.
Legal and Statutory	<p>Principal councils are required under Part 4, Chapter 3 of the Local Governance and Public Involvement in Health Act 2007 to undertake a Community Governance Review where a valid petition is required and under section 100(4) of the Act to have regard to the Statutory Guidance on Community Governance Reviews which is issued by the Secretary of State, under section 100(1) and (3) and the Local Government Boundary Commission for England (LGBCE) under section 100(2).</p> <p>The Guidance states that Section 93 of the 2007 Act requires principal councils to ensure that community governance within the area under review will be reflective of the identities and interests of the community in that area, and effective and convenient. When considering the criteria identified in the 2007 Act, principal councils should take into account a number of influential factors, including: the impact of community governance arrangements on community cohesion and the size, population and boundaries of a local community or parish. The impact on community cohesion is linked specifically to the identities and interests of local communities. Size, population and boundaries are linked to both but perhaps more specifically to community governance being effective and convenient.</p>
Crime and Disorder	None identified at this stage.
Environmental Sustainability	None identified at this stage
Health and Wellbeing	None identified at this stage.
Risk Management	None identified at this stage.

and Health and Safety	
Equality and Diversity	In undertaking the consultation, the council will have regard to the joint statutory guidance issued by the Department for Communities and Local Government (now the Ministry of Housing, Communities and Local Government) and the Local Government Boundary Commission for England in respect of reflecting the identities and interests of the local community and that it is effective, convenient and accessible to everyone. This is particularly important given the socio-economic make up of Sheerness and other factors such as levels of deprivation, literacy, disability (including people with visual impairment), and electors whose first language may not be English. A full Equality Impact Assessment has been undertaken.
Privacy and Data Protection	None identified at this stage.

7 Appendices

- 7.1 The following documents are to be published with this report and form part of the report:

Appendix I – Terms of Reference agreed by the Council on 13 December 2017
Appendix II – First consultation leaflet and questionnaire sent to electors
Appendix III – Extract of minutes of Council meeting on 21 March 2017
Appendix IV – Second consultation letter sent to electors
Appendix V – Example of pre-printed letter in response to second consultation
Appendix VI – Equality Impact Assessment

8 Background Papers

Guidance on Community Governance Review which is issued by the Department for Communities and Local Government.

<https://www.gov.uk/government/publications/community-governance-reviews-guidance>

Reports and Minutes of Council 13 December 2017

<http://services.swale.gov.uk/meetings/ieListDocuments.aspx?CId=128&MId=1916&Ver=4>

[Reports and Minutes of Council 21 March 2018](#)

<https://services.swale.gov.uk/meetings/ieListDocuments.aspx?CId=128&MId=1920&Ver=4>