

Gambling, Licensing & Regulatory Committee 7 November 2016

Report of the Assistant Director of Legal and Governance

City of York Council Community Governance Review

1. Summary

- 1.1 This report brings forward proposals in respect of the governance arrangements for three parish councils and seeks approval to further direct consultation.

2. Background

- 2.1 Each district and Unitary council must regularly undertake community governance reviews looking at the parishing arrangements within their area. Government guidance suggests these should be carried out every 10 to 15 years. The last full review undertaken in York, and under previous legislation, was in 2002 although only finally implemented by the Department of Communities and Local Government in 2008.
- 2.2 Staffing Matters and Urgency Committee initiated and approved terms of reference for a Community Governance Review in 2014. Following a period of public consultation a number of proposals were put forward for changes. In February 2015 the Committee recommended changes to two Parish Councils which were subsequently approved by Council allowing for new arrangements to be implemented for the 2015 elections. The Committee also asked Officers to pursue further work in respect of other proposals - including those in respect of Osbaldwick and Heslington Parish Councils which are now being brought forward for consideration.

3. Request from the Osbaldwick Parish Council to remove the development of Derwenthorpe from the Parish area.

- 3.1 Osbaldwick Parish Council has asked to have the development known as the Derwenthorpe Estate removed from the parish. The area affected is marked as Area A on Annex B. The Parish Council believes that this would represent a return to more traditional boundary of the parish. The Parish Council also says that the Derwenthorpe Estate is a private estate for which the Parish Council provide no services or infrastructure.
- 3.2 The Ordnance Survey map for the area dating back to the 1950's shows the Derwenthorpe area as within the Osbaldwick parish boundary. However, at that stage neither that area nor the nearby Meadlands estate had been developed. There is therefore an argument that the traditional boundary is close to the existing one. However, the traditional area of the settlement of Osbaldwick is also clearly somewhat smaller than the entire parish.
- 3.3 An Officer visit to the Parish Council meeting in October 2015 reinforced the points made in the Parish Council's representation. However, the proposal is not universally popular. At a meeting of the Derwenthorpe Residents Association in November 2015 the view was clearly expressed by residents of the estate present at that meeting that they wished to remain part of the parish.
- 3.3 It is apparent that there are links between the Derwenthorpe Estate and the settlement of Osbaldwick. For example the catchment area for Osbaldwick Primary School includes the estate and there is a cycle track which runs through both areas. Additionally during a site visit in August 2016 an Officer spoke to a number of residents of Derwenthorpe and was told that they used the Church, shops and local bus service in Osbaldwick. The Officer also spoke to Osbaldwick residents who use the Derwenthorpe play park.
- 3.4 Residents of the Derwenthorpe Estate do pay a management charge for some services akin to those provided by the Parish Council in other parts of the Parish. That aside the development appears to have a similar connection with the wider Osbaldwick community as do other recent residential developments in the parish, including the large estate that includes Beckett Drive on the east of the parish.

- 3.6 In considering this request the position of the older Meadlands Estate (marked as Area B on Annex B) also needs to be considered. It is located on the northern edge of the parish, beyond Derwenthorpe and the residents have fewer links with Osbaldwick. Their natural migration for local shops includes Heworth, Heworth Without and for schools Hempland Primary School on Whitby Avenue.
- 3.6 In accordance with the law and the terms of reference for the community governance review the City Council should ensure that community governance within the area under review will be: *“effective and convenient”*
- 3.7 It is the view of Officers that the removal of Derwenthorpe from the Parish would raise very serious questions as to whether effective and convenient local government would be maintained by leaving Meadlands within the Parish. Officer’s view is that any proposal to remove Derwenthorpe should be accompanied by a proposal to remove Meadlands.
- 3.8 The law and terms of reference also require that community governance should be: *“reflective of the identities and interests of the community in that area”*. Guidance from the Department for Communities and Local Government recognises however that:
- “The identification of a community is not a precise or rigid matter. The pattern of daily life in each of the existing communities, the local centres for education and child care, shopping, community activities, worship, leisure pursuits, transport facilities and means of communication generally will have an influence. However, the focus of people’s day-to-day activities may not be reflected in their feeling of community identity. For instance, historic loyalty may be to a town but the local community of interest and social focus may lie within a part of the town with its own separate identity.”*
- 3.9 Officers view is that the links between Derwenthorpe and the settlement of Osbaldwick described in this report could clearly sustain a conclusion that maintaining the current Parish boundaries would be reflective of the interests of the community in the whole area. However, the argument is balanced in that there is clearly a sense from the Parish Council that the historic settlement has its own identity.

- 3.10 An option that could be considered is to create Wards reflecting different identities within the community. The Government guidance suggests:

“The warding of parishes in largely rural areas that are based predominantly on a single centrally-located village may not be justified. Conversely, warding may be appropriate where the parish encompasses a number of villages with separate identities, a village with a large rural hinterland or where, on the edges of towns, there has been some urban overspill into the parish. However, each case should be considered on its merits, and on the basis of the information and evidence provided during the course of the review.”

Osbalwick perhaps comes within the category of having experienced “urban overspill”.

- 3.11 A third option would be to establish a separate Parish Council for Derwenthorpe and Meadlands. Until the Derwenthorpe estate is complete that option may be considered to be a little premature but Warding could provide a basis for any future consideration of a separate Parish Council.
- 3.12 Officers recommendation is therefore to consult directly with the residents of the parish on three options:
- Consult on no change.
 - Consult to ward the parish. This would involve creating three wards. A northern Ward could include Meadlands and Derwenthorpe, a central Ward would cover the older settlement and a southern Ward close to Hull Road. The precise boundaries would be drawn with a view to ensuring, as far as possible, that each Ward has a similar number of parish councillors.
 - Consult to remove Derwenthorpe and Meadlands Estates from the parish, with a sub option of creating a new Parish Council for those areas.

3.11 If Members agree the proposals would be for consultation with each household in the parish over a six week period, supported by a leaflet setting out the three options and reasons for the survey. The findings would then be reported back to this Committee.

4. Request from Osbaldwick Parish to include streets around Broughton Way on the south west of the parish and streets around Tranby Avenue on the South east of the parish.

4.1 In line with the request for what the Parish Council believes to be a more traditional boundary to the Parish of Osbaldwick, a request was also made to include a number of streets that border the parish, where the Parish Council believes that residents identify as part of the Osbaldwick parish community. These are:

- On the South West boundary the streets of Broughton Way, Seaton Close, Elwick Grove, Whitton Place, Sadberge Close, Wolviston Avenue and Carlton Avenue as suggested as being incorporated to the parish as marked as Area C on Annex B.
- On the South East boundary the start of Tranby Avenue from properties 1 to 17 and 2 to 24, along with Cavendish Grove be incorporated to the parish as marked as Area D on Annex B.

4.2 The Electoral Services Manager believes that this proposal would give a slightly confused boundary but this could be resolved if, on the south west side, the public right of way on the west side of Osbaldwick Primary school in a straight line to 227 Hull Road be used as the boundary. This would include Mallard Court, Drake House, Frobisher House and several more on Woolnough Avenue.

4.3 On the south east side the use of Osbaldwick Link Road to create a new boundary, which also includes Redbarn Drive would be advantageous.

4.4 The views of residents are not yet known but it is noteworthy that the properties on the south west boundary are currently not in a parish and do not therefore currently pay a precept. This may act as a disincentive to them supporting change.

- 4.5 The properties on the south east are currently part of Murton Parish. In the initial representation, Osbaldwick Parish did not express a wish to include Redbarn Drive within Osbaldwick as it was felt the loss of precept would be detrimental to Murton Parish.
- 4.6 However, during the Police and Crime Commissioner Election in May 2016 and Referendum on UK Membership of the EU in June 2016, the Deputy Returning Officer received a number of phone calls from the residents of Redbarn Close unhappy that they had to travel to Murton to vote, when they believed they were part of Osbaldwick. This has reinforced his view that the Osbaldwick Link Road may make a more logical boundary.
- 4.7 The recommendation would be to consult with residents, ward councillors and Murton Parish on the incorporation of the properties indicated in Area A and Area B of Annex D

5. Request from Heslington Parish Council to have the two wards removed

- 5.1 The Local Government Boundary Commission (LGBCE) for England review of the City Council's Wards resulted in the creation of the Fulford and Heslington Ward and the expansion of Hull Road Ward to include the University of York. This left the parish of Heslington split between those two council wards. Common practice for the LGBCE in this situation is to create two parish wards. This is what happened in Heslington as shown on the map at Annex C.
- 5.2 The two parish wards are of uneven size, reflecting the electorate when created. The North Ward of Heslington Parish (seven parish councillors) covers the University Campus; the South Ward of Heslington Parish (two parish councillors) covers the village of Heslington.
- 5.3 The feelings of the parish are that the two wards do not provide effective representation and governance. This view is supported by the fact that at the parish elections held in May 2015 only nominations from the South Ward were received and the parish was not in quorum. This required a further election to fill the vacancies in the North Ward.

- 5.4 The Deputy Returning Officer believes the same situation is very likely to occur at future elections, as student involvement in the parish council is rare.
- 5.5 Taking the step of de-warding the Council would require the approval of the LGBCE. The LGBCE has confirmed that it has no objection for the parish to be de-warded.
- 5.6 In deciding whether to recommend that a parish should, or should not, be or continue to be divided into wards the City Council is legally obliged to consider
- (a) whether the number, or distribution, of the local government electors for the parish would make a single election of councillors impracticable or inconvenient;
 - (b) whether it is desirable that any area or areas of the parish should be separately represented on the council.
- 5.7 Officers view is that the arguments set out above demonstrate that it is the current arrangement which is impracticable and it is desirable to dispense with separate representation for different areas of the Parish.
- 5.8 If the City Council agrees to change the warding arrangements it must also consider the number of Councillors to be elected for the Parish and have regard to the number of electors and any change anticipated in the five years after the commencement of the review.
- 5.9 The current electorate for the Parish is 6254. Heslington village is unlikely to grow to any significant extent. The greater population is at the University. Nationally rates of student registration at term time addresses are falling. This reflects the impact of individual electoral registration. York is doing better than many student areas but it is not anticipated that Heslington Parish will see any growth in its electorate. Numbers of parish councillors vary significantly between different parishes. The current number of nine Parish Councillors for Heslington reflects the arrangement before the LGBCE review. That was a recent review and Officers are unaware of any factors which would suggest that the number of Councillors needs to change.

- 5.10 Whenever a review of an existing Parish is undertaken the City Council is obliged to make one of the following recommendations:
- (a) recommendations that the parish should not be abolished and that its area should not be altered;
 - (b) recommendations that the area of the parish should be altered;
 - (c) recommendations that the parish should be abolished.
- 5.11 The review must also make recommendations as to whether or not the name of the parish should be changed.
- 5.12 Finally where the parish already has a council the review must make recommendations as to whether or not the parish should continue to have a council.
- 5.13 In respect of each of the matters referred to in paragraphs 5.10 to 5.12 Officers would recommend that the status quo is preserved in the absence of any public demand or obvious reason for change.
- 5.14 It is therefore recommended that the Committee asks Council to grant approval to de-ward Heslington Parish Council and to confirm that the number of Parish Councillors should remain at nine. No other changes are recommended arising from this review.

6. Outstanding requests

- 6.1 Officers are still working with relevant parties on requests to create a Parish Council in Guildhall, and for changes to Rawcliffe, Haxby and Wheldrake Parish Councils. None of these requests will have any impact on the decisions which the Committee is being recommended to consider in respect of Heslington and Osbaldwick parishes.

Annex A is a schedule of all requests and the current status of consultation or information gathering.

7. Request from Kexby Parish Council for change of name.

- 7.1 The Parish of Kexby has submitted a request for the name of the parish to be changed. The parish would like to change the name to Kexby and Scoreby Parish Council.

Changing the name of the geographical area covered by a Parish does not require a community governance review to be undertaken. Section 75 of the Local Government Act 1972 allows the City Council to approve requests from Parish Councils within the City's area for changes of name.

- 7.2 The name change would reflect a more historic link of the parish with area that is covered; Scoreby does appear on the Register of Electors as part of the address of a number of properties and also is accepted by the Royal Mail as a valid address.
- 7.3 Ward councillors have been consulted and support the change.
- 7.4 It is recommended that Members support this request and refer it to Council for approval.

8. Options

- 8.1 Members may approve or decline the recommendations.

Members could consider further public consultation in relation to the request from Heslington and Kexby Parish Councils.

9. Implications

- **Financial**

The costs of undertaking the alterations to electoral arrangements will be met from existing resources.

- **Human Resources (HR)**

None.

- **Equalities**

The current recommendations are not considered to have any significant equalities implications.

- **Legal**

The Council's powers and duties in respect of community governance reviews are set out in the Local Government and Public Involvement in Health Act 2007.

The changes to electoral arrangements to parishes must be conducted having regard to guidance from the Secretary of State and Electoral Commission. The Local Government Act 1972 makes provision for changing the name of a Parish.

- **Crime and Disorder**

None

- **Information Technology (IT)**

None

- **Property**

None

- **Other**

None

Recommendations

9. The Committee is requested to:

- a) Ask Officers to commence public consultation on the options for future arrangements for Osbaldwick Parish as set out in the report
- b) Recommend to Council that Heslington Parish Council should no longer be divided into Wards and that there be a single parish area represented by nine councillors
- c) Recommend that Council formally confirms that Heslington Parish should not be abolished, that its area and name should be unchanged and that it should continue to have a Parish Council
- d) Recommend to Council that the name of Kexby Parish Council be changed to Kexby and Scoreby Parish Council.

Reason: To allow better local representation for the electors of the parishes.

Contact Details

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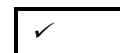
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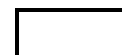
Date: 27 October 2016

Report Approved



Wards Affected:

Fulford & Heslington, Hull Road and Derwent & Osbaldwick



For further information please contact the author of the report

Background Papers: None

Annexes

Annex A: Schedule of Representations for the Community Governance Review

Annex B: Map of the Parish of Osbaldwick

Annex C: Map of the Parish of Heslington

Annex D: Map of purposed new Parish of Osbaldwick boundary.