CHESHIRE EAST COUNCIL

REPORT TO: COMMUNITY GOVERNANCE REVIEW MEMBER GROUP

Date of Meeting:	5th October 2009
Report of:	Borough Solicitor
Subject/Title:	Crewe Community Governance Review – Formulating The Council's Draft Recommendations

1.0   Report Summary

1.1   This paper provides members with an outline of the process to be followed in conducting this review. It is based on the statutory guidance in respect of the process for creating a new local council 'Guidance on community governance reviews' issued by the Department for Communities and Local Government and the Electoral Commission.

2.   Petition

On 30th March 2009 Crewe & Nantwich Borough Council received a valid petition which called for a Community Governance Review (CGR) and identified three recommendations arising from a Review:

1) That a new parish be constituted under Section 87 of the Local Government and Public Involvement in Health Act 2007
2) That the new parish should have a council to be known as Crewe Town Council.
3) That the area to which the review is to relate is the whole of the Electoral Wards of Coppenhall, Delamere, Grosvenor, Maw Green, St Johns, Valley and Waldron; and those parts of the following Electoral Wards which do not already fall into an existing parish: Alexandra, Leighton, St Barnabas, Wistaston Green.

3.   Procedure

1.   Since February 2008 the power to take decisions about matters such as the creation of parishes and their electoral arrangements has been devolved from the Secretary of State and the Electoral Commission to principal Councils such as Cheshire East.

2.   Cheshire East Council can, therefore, decide whether to give effect to the recommendations made arising from the Community Governance Review, provided it takes the views of local people into account.

3. In broad terms the process will follow a number of phases outlined below:
    −   Determine viable options for community governance in the area under review.
    −   Draw up a Consultation Plan focused on consulting on those viable options.
    −   Stage 1 Consultation on the options.
    −   Evaluation and analysis of responses.
    −   Draft recommendation for Governance & Constitution Committee to consider for recommendation to Council.
    −   Draft Proposal advertised
    −   Stage 2 Consultation on the Draft Proposal
    −   Council decides Outcome of the review.

4. The key element of the Review is the consultation process. The Member Group agreed the list of consultees, method of consultation and the timing of the consultation process.

5. The consultation process is central to the Review and must include:
    −   Local government electors in the area under review
    −   Local businesses, local public and voluntary organisations, schools, health bodies
    −   Residents and community groups
    −   Area working arrangements.

6. The views of the Electoral Commission on any proposed electoral arrangements must also be sought.

7. In view of the fact that this Review was initiated by petition, the organisers of that petition were asked to participate in the consultation process. Any views received as part of the consultation process must be taken into account.

8. The initial phase of consultation has been based largely on written representations received in response to public notices and specific invitations. Two public meetings were held to give members of the public the opportunity to express their views in a public forum. A voting paper and explanatory leaflet was also sent to the electorate. The website has also been used to allow people to record their views.

4. Criteria when undertaking a Review

1. The Council now needs to consider the results of the initial phase of consultation and formulate recommendations ensuring that community governance within the area under review will be
    −   Reflective of the identities and interests of the community in that area
    −   Effective and convenient

2. Key considerations in meeting the criteria include:
   − The impact of community governance arrangements on community cohesion
   − The size, population and boundaries of a local community or parish
   − Parishes should reflect distinctive and recognisable communities of interest with their own sense of identity
   − The degree to which the proposals offer a sense of place and identity for all residents
   − The ability of the proposed authority's ability to deliver quality services economically and efficiently providing users with a democratic voice
   − The degree to which a parish council would be viable in terms of a unit of local government providing at least some local services that are convenient, easy to reach and accessible to local people.

5. Recommendations and Decisions on the Review Outcome

1. The guidance requires that recommendations must be made with respect to the following:

   a) Whether a new parish or any new parishes should be constituted

   b) The name of any new parish

   c) Whether or not the new parish should have a parish council (if the parish has more than 1000 electors, the review must recommend that the parish should have a parish council)

   d) What the electoral arrangements for new parishes which are to have parish councils should be

2. These recommendations must have regard to:
   − The need to ensure that community governance reflects the identities and interests of the community in the area and is effective and convenient
   − Any other arrangements that have already been made for the purposes of community representation or engagement
   − Any representations received and should be supported by evidence which demonstrates that the community governance arrangements would meet the criteria.

3. The Review may make a recommendation which is different from that which the petitioners sought. The Review may, for example, conclude that the proposals were not in the interests of the wider local community, or may negatively impact on community cohesion either within the proposed parish or in the wider community. It may, for example, decide that the arrangements for local area working represent the best option for fulfilling the criteria.

6. Electoral Arrangements

The Review must give consideration to the electoral arrangements that should apply in the event that a parish council is established. In particular the following must be considered:

a) The ordinary year of election – if a parish council was established the first year of election would be 2011
b) Council size – the number of councillors to be elected to the parish
c) Parish warding – whether the parish should be divided into wards; this includes the number and boundaries of such wards; number of councillors per ward and the names of wards

In considering whether to recommend that a parish should or should not be warded, the council should consider:

▪ whether the number or distribution of electors would make a single election of councillors impractical or inconvenient;
▪ whether it is desirable that any area of the parish should be separately represented on the council

If the council decides to recommend wards – in considering the size and boundaries of the wards and the number of Councillors for the wards it must have regard to the following factors:

i) the number of electors for the parish
ii) any change in number / distribution of electors likely to occur in period of 5 years
iii) desirability of fixing boundaries which will remain easily identifiable
iv) any local ties which will be broken by the fixing of any particular boundaries

6.1 Council Size

The Local Government Act 1972 Act specifies that each parish council must have at least 5 members; there is no maximum number. There are no rules relating to the allocation of those Councillors between parish wards.

There is a wide variation of council size between parish councils. Research in 1992 has shown this is influenced by population:

Between 2501 and 10,000 population had 9 to 16 councillors
Between 10,001 and 20,000 population had 13 to 37 councillors
Almost all over 20,000 population had between 13 and 31 councillors.

The National Association of Local Councils suggests that the minimum number of councillors for any parish should be 7 and the maximum 25.

Each area should be considered on its own merits, having regard to population, geography and patterns of communities. Principal councils should bear in mind that the conduct of parish business does not usually require a large body of councillors. However, a parish council's budget and planned level of service provision may be important factors in reaching a decision on Council size.

6.2   Parish warding and names of wards

There is likely to be a stronger case for the warding of urban areas. In urban areas community identity tends to focus upon a locality, with its own sense of identity.

In terms of naming parish wards consideration should be given to existing local or historic places, so that these are reflected where appropriate.

6.3   Number and boundaries of parish wards

The Council should take account of community identity and interests and consider whether any ties or linkages would be broken by the drawing of particular ward boundaries.

When considering ward boundaries the Council should consider the desirability of fixing boundaries which will remain easily identifiable.

6.4   Number of Councillors to be elected for parish wards

If the council decides that a parish should be warded, it should give consideration to the levels of representation between each ward.

It is best practice for each persons vote should be of equal weight as far as possible.

7.   Grouping of Parish Councils

Section 11 of the LGA 1972 sets out the powers for Parishes to be "Grouped", which means that different Parishes in a particular area may apply to be grouped under a Common Parish Council. Such applicant parishes must not already have their own Parish Council, so they are acting through their Parish Meeting.

Section 91 of the LGPIHA 2007 applies these Section 11 provisions to the Community Governance Review process, so that a CGR may make recommendations for the grouping of any new Parishes which it is proposed to create in the Review area. Such recommendations are subsequently brought into effect through the Reorganisation Order.

However, Section 94(2) of the 2007 Act provides that if a proposed new Parish has 1000 or more Electors, the CGR **must** recommend that the Parish has a Council. As a result it is impossible for a new Parish for the Crewe area to form part of a Group under a Common Parish Council.

Clearly the total Electorate size of approximately 35000 in the unparished area of Crewe means that it would be practically impossible for Parishes of less than 1000 Electors each to be recommended through the CGR. Grouping is not therefore a relevant issue for the Crewe Community Governance Review.

It is also worth noting that a Grouped Parish cannot resolve to confer on itself the status of a Town (Section 245(6) of the LGA 1972). So if Grouping had been possible in Crewe, there could have been a residual issue over the Mayoralty passing from the Charter Trustees.

Paragraph 113 of the statutory Guidance for Community Governance Reviews says "It would be inappropriate for it [Grouping] to be used to build artificially large Units under single Parish Councils....." . The Grouping powers are more directed at areas which contain a number of small Parishes - rather than a large urban area.

8.   Charter Trustees

Charter Trustees were established following the local government re-organisations from the 1970's onwards to preserve the historic identity of the former Boroughs. Charter Trustees have the power to carry out ceremonial functions. Charter Trustees have been established for Crewe, following local government re-organisation in Cheshire on 1 April 2009.

Proposals to create a parish council covering all or part of a Charter Trustee area need to be judged against the following considerations:-

a)   The effect on historic cohesiveness of the area
b)   Is there a demonstrable sense of identity encompassing the Charter Trustee area? Are there smaller areas within it which have a demonstrable community identity and which would be viable as administrative units?

In summary, section 15 of The Local Government (Parishes and Parish Councils) (England) Regulations 2008 provides that:

1)   The following provisions of this regulation apply where, in consequence of a re-organisation order, a town for which charter trustees have been constituted becomes wholly comprised in a parish or in two or more parishes.

2) On the date on which the first parish councillors for the parish or parishes come into office -
   - The charter trustees shall be dissolved
   - The mayor and deputy mayor shall cease to hold office as such
   - All property, rights and liabilities of the charter trustees shall become those of the parish council

3) "The Parish Council" in relation to a town which becomes comprised in the area of more than one parish, means the council of such one of those parishes as is specified in the re-organisation order.

Therefore, if more than one parish council was created, the Council would need to determine which parish the Charter Trustee responsibilities would transfer to.

9. Other forms of Community Governance

In conducting the Community Governance Review, the council must consider other forms of community governance as alternatives to establishing parish councils, for example:

1. Area Committees
2. Neighbourhood management
3. Tenant Management Organisations
4. Area/ community forums
5. Residents/ Tennants organizations
6. Community Associations

The Member Group considered a summary of these options at a previous meeting, and attached was the initial evaluation:

OPTION	EVALUATION
Area Committees – formed as part of the structure of principal Councils, often including local councillors. They can be involved in a wide range of service provision and fulfil a number of community governance roles. Their primary role is to contribute to the shaping of Council services and improving local service provision	The Local Area Partnerships do provide a coherent and consistent pattern across the whole of Cheshire East. The approach is premised on coordination of partners in relatively small local area. The Crewe LAP is bigger than the area under review and includes a number of parishes that surround the area. To that extent, although the area is represented by Cheshire East members there can be no representation by democratically elected organisations as there is for those surrounding parished areas. At present there is no intention for

OPTION	EVALUATION
	the LAPs to act as direct service providers but rather to maximise the potential for partnership working. To that extent they do not necessarily provide the means by which at least some local services that are convenient, easy to reach and accessible to local people could be provided.
Neighbourhood Management – generally aimed at service delivery improvement and implementation at the local level. Often facilitated by a neighbourhood manager rather than advising or making decisions at local level.	As indicated, this option is primarily aimed at service delivery issues at the local level and does not seek to provide democratically elected element to ensuring effective and convenient local governance. At present there are no area management arrangements throughout the area under review Does not necessarily provide a strong sense of local identity as the emphasis is on delivery on services or specific aspects of service rather than being reflective of local identity and community structure.
Tenant Management Organisations – usually estate based, largely public/social housing focused.	Parts of the area under review are covered by social housing, provided principally by Wulvern Housing. Tenant representation is a key element for RSLs in particular. However, the principal concerns of such organisations are in respect of housing conditions and tenants representations in terms of the services they receive from their landlords. The area under review is not predominantly made up of social or rented housing and does not therefore provide a democratically elected basis for governance arrangements, nor could it be said to be reflective of the interests or identity of the whole of the area covered by the review.

OPTION	EVALUATION
Area/Community Forums – often established as a mechanism to give communities a say on principal council matters or local issues and to influence decision making. Membership usually consists of people living or working in a specific area.	Although there are some good examples of area/community forums in parts of the area under review the pattern of such organisations is not uniform across the whole of the area. Their focus is, by definition on matters of concern to people within a relatively small geographic area when compared to the area under review. The key emphasis is on influencing decision making rather than providing a more comprehensive set of governance arrangements across a wider area. They are strong in terms of community identity and convenience. Although this option has some history of operating well in some parts of the area under review; that experience has been not been consistent across the whole of the area. The emphasis has also been on influencing rather than making decision making. Experience suggests that they require a significant degree of support from the local authority to develop the necessary abilities to operate effectively. While reflecting a strong sense of identity and being potentially convenient there is little evidence to suggest that they would be able to provide a range of services efficiently and effectively.

OPTION	EVALUATION
Residents' & Tenants' Associations – usually focused on issues affecting neighbourhood or estate. They may be established with or without direct support from the principal council.	As in the case of tenants management organisations there is no consistent and coherent pattern of residents' and tenants' associations throughout the whole of the area under review. Focus tends to be on highly localised areas and issues rather than broader governance or service provision in an area. There are questions about the ability of such organisations to represent effectively all of the interests of the people in a particular area. There is no uniform or consistent pattern across the area under review. Strong in terms of local identity and recognisable local communities but may not be able to deliver quality services economically and efficiently providing users with a democratic voice.
Community Associations – democratic model for local residents and community organisations to work together to work together for the benefit of the neighbourhood. The principal council may be represented on the management committee.	Community Associations can, dependent on their structure represent a democratic means of providing a range of services and facilities. By definition, they have a strong sense of community identity and interest. However, there is no consistent pattern of such organisations across the whole of the area under review. There is a potential that some areas would be better organised and motivated than others. The ability in these circumstances, to provide some quality services economically and efficiently and thus providing all users with a democratic voice is open to question.

10.   RECOMMENDATION

In summary, in forming a draft recommendation for the Community Governance Review, the Member Group needs to have regard to all representations received, and consider and recommend to the Governance and Constitution Committee:

b. Forms of community governance as alternatives to establishing parish councils, for example:

1. Area Committees
2. Neighbourhood management
3. Tenant Management Organisations
4. Area/ community forums
5. Residents/ Tenants organisations
6. Community Associations

c. Whether a new parish or any new parishes should be constituted
d. The name of any new parish
e. Whether or not the new parish should have a parish council (if the parish has more than 1000 electors, the review must recommend that the parish should have a parish council)
f. What the electoral arrangements for new parishes which are to have parish councils should be
g. The ordinary year of election – if a parish council was established the first year of election would be 2011
h. Council size – the number of councillors to be elected to the parish
i. Parish warding – whether the parish should be divided into wards; this includes the number and boundaries of such wards; number of councillors per ward and the names of wards
j. If more than one parish council was created, the Council would need to determine which parish the Charter Trustee responsibilities would transfer to.

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