

Council	Council	Agenda Item No.:	12
Date:	20th June 2012	Category	3 rd report
Subject:	The Bolsover District Council (Reorganisation of Community Governance) Order 2012 number 1	Status	Open
Report by:	Head of Democratic Services		
Other Officers involved:	Solicitor to the Council Senior Principal Solicitor Legal and Standards Officer Democratic Services Officer		
Director	Chief Executive Officer		
Relevant Portfolio Holder	Councillor D Kelly as Chair of the Community Governance Review Working Group		

RELEVANT CORPORATE AIMS

CUSTOMER FOCUSED SERVICES – Providing local communities with an opportunity to express their views on preferred community governance arrangements at Parish level.

TARGETS

The subject matter does not contribute to any targets specified in the Corporate Plan.

VALUE FOR MONEY

This is a statutory obligation for the Council once a valid Petition has been received.

THE REPORT

Background information

Receipt of Petition

At its meeting on 20th July 2011 the Council agreed to carry out a Community Governance Review under the Local Government and Public Involvement in Health Act 2007 into whether Langwith, Whaley Thorns, Upper Langwith and Langwith Junction should have a separate Parish and Parish Council from Hillstown, Palterton and Scarcliffe. This followed receipt of a valid Petition.

Community Governance Review Working Party

Council established a Community Governance Working Party to consider the detailed arrangements regarding the timetable, process of the review, consultation process, evaluate responses and to make recommendations to Council.

First stage Consultation

This took place from 1st September to 30th November 2011 and involved meetings with the Parish Council and public meetings in Hillstown, Whaley Thorns and Langwith.

In order to capture responses an online consultation was set up at www.askderbyshire.gov.uk and printed feedback forms were provided and distributed at the public meetings and could also submit their feedback by email.

The majority of respondents, including Scarcliffe Parish Council were in favour and supported the creation of a separate Parish Council for Langwith.

Scarcliffe Parish Council was invited to consider whether they would wish the parish to be warded or not and what representation they would wish to see for the parish. Their initial proposal was for three wards returning 4 councillors per ward.

A meeting also took place between the Clerk of Scarcliffe Parish Council, the Solicitor to the Council, the Head of Revenues and Finance and the Head of Democratic Services to discuss issues that need to be incorporated into a draft Order, e.g. land/property; staff; proposed budgets and potential shadow arrangements.

Issues Considered by the Community Governance Review Working Group

The Community Governance Review Working Group met on 13 December and considered the following matters:

- all the representations received.
- Whether Langwith Parish should be warded and the representation per ward.
- Whether Scarcliffe Parish should be warded and the representation per ward. The Working Group determined that better electoral equality could be achieved by two wards one covering Hillstown and one for Palterton and Scarcliffe each returning 4 councillors.
- Whether to convene an additional meeting of the Working Group to allow verbal representations and if the Group wish to ask any further questions.
- Transitional arrangements – in order to comply with The Local Government Finance (New Parishes) (England) Regulations 2008 any new parish needs to come into force on 1 April in the year of election. It is necessary therefore to have shadow councillors in place to take decisions for the newly created Parish and open a bank account etc.
- TUPE – there are staff employed by the Scarcliffe Parish Council who may need to be transferred from Scarcliffe Parish to Langwith Parish
- The date of implementation of the order – this was a very contentious issue with one section of the community preferring 2013 and another 2015, at the next scheduled District and Parish elections.
- The review must be completed by July 2012
- Electoral registration amendments must come into effect on 15th October in the year before the elections are due to be held.
- Any new parish needs to come into force on the 1 April in the year of the election in order to comply with The Local Government Finance (New Parishes) (England) Regulations 2008.

Report and Recommendations to Council in January 2012

The recommendations, Draft Order and maps showing warding arrangements were submitted to and considered by Council and the recommendations below were approved as the basis of the next stage consultation.

1. A new Parish of Langwith be created from the 4 Scarcliffe Parish wards of North, East, Langwith Junction and Recreation Road.
2. Langwith Parish be split into the 3 wards of Bathurst, Bassett and Poulter Wards.
3. The numbers of councillors to be elected to each ward of Langwith Parish to be 4.
4. The remaining Scarcliffe Parish be divided into 2 wards – North Ward (comprising Hillstown) and South Ward (comprising Palterton and Scarcliffe)
5. The numbers of councillors to be elected to each ward of Scarcliffe Parish to be 4.
6. There is sufficient evidence to support the proposals without the need for an additional meeting of the Working Group to consider verbal evidence or ask any additional questions.
7. The Transitional arrangements for the newly formed Langwith Parish to be the two County Councillors covering the Scarcliffe Ward of the District and the District Councillor for Scarcliffe Ward who lives outside the ward.
8. TUPE transfers of staff be considered after the next stage consultation.
9. The implementation date in the Draft Order contain the two dates of 2013 and 2015 and views be sought as part of the next stage consultation.
10. The draft order now submitted form the basis of the consultation to take place from 1st February to 30th April 2012.

Second Stage Consultation

This took place from 1st February until 30th April 2012. This was available online via www.askDerbyshire.gov.uk – to participate via this method giving a name is optional but the address is mandatory. As it turns out all 8 participants did give their name. Democratic Services also devised a feedback form, in consultation with the User Engagement Officer and in order to standardise to the online method names were optional but addresses must be given. These were provided to facilitate participation but any written form of communication expressing views would be considered.

The commencement of the second stage consultation was publicised on our website and in the In Touch magazine that would be delivered to every household encouraging people to respond. Unfortunately the way this was worded looked as though it was only for people in the Langwith Parish to respond. This was not deliberate but an oversight. A councillor for Scarcliffe Parish Council telephoned and asked how citizens of Scarcliffe could respond. In order to rectify this anomaly I agreed that a letter and feedback form should be hand delivered to every property in the Scarcliffe South Ward to ensure they were aware they could participate.

Petitions have been accepted from both areas.

In order to ensure fairness in this evaluation all responses received have been included on a spreadsheet and the following have not been included:

- Where multiple entries have been submitted only 1 has been counted
- where the citizen is not registered or lives outside the area
- where an address is incomplete – e.g. no house number
- Where nursing home or warden accommodation either contains no signatures and/or has been completed in the same hand writing these have been discounted as it is uncertain that the resident has been consulted and has agreed.

Discounted Forms

Number of forms discounted:

2013 Option – 43

2015 Option – 53

Outcome of Responses - Implementation Date

Option 1 for elections to take place in 2013 – 148 in favour (approx 6.5% of electorate of Langwith area)

Option 2 for elections to take place in 2015 – 205 in favour (approx 15% of electorate of Scarcliffe area)

Warding Arrangements

Respondents were invited to confirm if they agreed with the warding arrangements and number of councillors per ward for each Parish. If they disagreed they were invited to submit alternatives for consideration. The majority of respondents agreed with the warding arrangements for both Parishes.

Legal Advice

Concerns have been expressed at the earlier implementation date and the Council's Legal Team advise that:

Section 10(1) of The Local Government (Parishes and Parish Councils) (England) Regulations 2008 applies and all of the Councillors elected in 2011 have the right to continue in office until 2015.

The Council is required to have regard to the Guidance on Community Governance Reviews issued by the Department for Communities and Local Government and the Local Government Boundary Commission for England. Paragraph 150 makes it clear that the default position is that the changes will come into effect at the next scheduled election (in this case 2015). This is not mandatory but a decision to hold an election earlier must be supported by clear

reasoning as to why we are deviating from what the guidance describes as usual procedure.

The new arrangements could be brought into effect before 2015 (provided that it did not effect the term of office of any existing Cllr) but, it would be a deviation from what the guidance says is the usual position (“new or revised parish electoral arrangements come into force at ordinary parish elections ... so they usually have to wait until the next scheduled parish elections...”) so the Council would have to demonstrate that it had good reasons (that could be evidenced) for a decision to bring the revised arrangements in early.

Usual Arrangements

To demonstrate what the “usual arrangements are” examples are given below:

- The Local Government Boundary Commission carried out a review of all of the District Wards and Parishes and made its final recommendations in 1998, the Order bringing this into effect “The District of Bolsover (Electoral Changes) Order 1999” was made on 27 September 1999 and came into effect on 1 May 2003.
- The Parliamentary Constituencies were reviewed in 2006 the order “The Parliamentary Constituencies (England) Order 2007” was made on 13 June 2007 and came into effect into effect for the scheduled Parliamentary election held in 2010.
- There is currently an Electoral Review of the arrangements for the County of Derbyshire and the final recommendations will arrive later this year. The Local Government Boundary Commission for England advise that the County electoral arrangements will come into effect in May 2013 (next scheduled election) the consequential arrangements for Parishes will come into effect at the next scheduled elections in May 2015.

Recommendations of the Community Governance Review Working Group

The outcome from the second stage consultation would indicate there is more support for an implementation date of 2015.

Section 150 of the CLG guidance makes it clear that the default position is that the changes should come into effect at the next scheduled elections. This is evidenced as normal practice in the reviews set out under the heading Usual Arrangements. As there is a strong consultation response in favour of the date of 2015, and in the light of the legal advice outlined above, there is no need to consider the alternative date.

The Community Governance Review Working Group noted that the present councillors representing the 3 wards of the proposed new Parish have been elected by those communities to represent them for the period until elections in May 2015 and they should continue to do so.

ISSUES FOR CONSIDERATION

To agree the content of The Bolsover District Council (Reorganisation of Community Governance) Order 2012 number 1.

IMPLICATIONS

Financial :	Costs of the process have been absorbed in existing budgets.
Legal :	As in the report.
Human Resources :	Officer time in administering the review.

RECOMMENDATIONS that

(1) The Council make The Bolsover District Council (Reorganisation of Community Governance) Order 2012 number 1 including the date of 2015 for the new Parish Council to come into existence.

ATTACHMENT:	Yes – the Draft Order and Order maps
FILE REFERENCE:	
SOURCE DOCUMENT:	The 2011 Petition

LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007

The Bolsover District Council (Reorganisation of Community Governance) Order 2012 number 1

Made - - - - [day] [month] 2012

Coming into force in accordance with article 1(2)

Bolsover District Council (“the council”), in accordance with section 83 of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”), has undertaken a community governance review and made recommendations dated June 2012:

The council has decided to give effect to those recommendations and, in accordance with section 93 of the 2007 Act, has consulted with the local government electors and other interested persons and has had regard to the need to secure that community governance reflects the identities and interests of the community and is effective and convenient:

The council, in accordance with section 100 of the 2007 Act, has had regard to guidance issued under that section:

The council makes the following Order in exercise of the powers conferred by sections 86, 98(3), 98(4), and 240(10) of the 2007 Act.

Citation and commencement

1.—(1) This Order may be cited as the Bolsover District Council (Reorganisation of Community Governance) Order 2012 number 1.

(2) Subject to paragraphs (4) and (5) below, this Order comes into force on 1st April 2015.

(3) Articles 7 and 8 shall come into force on the ordinary day of election of councillors in 2015

(4) For the purposes of:

(a) this article; and

(b) proceedings preliminary or relating to the elections of parish councillors for the parishes of Scarcliffe and Langwith, to be held on the ordinary day of election of councillors in 2015,

this Order shall come into force on 15th October 2014.

Interpretation

2. In this Order—

“district” means the district of Bolsover District;

“existing” means existing on the date this Order is made;

“map” means the 2 maps marked “Map referred to in the Bolsover District Council (Reorganisation of Community Governance) Order 2012 number 1” and deposited in accordance with section 96(4) of the 2007 Act: and any reference to a numbered sheet is a reference to the sheet of the map which bears that number;

“new parish” means the parish constituted by article 4;

“ordinary day of election of councillors” has the meaning given by section 37 of the Representation of the People Act 1983; and

“registration officer” means an officer appointed for the purpose of, and in accordance with, section 8 of the Representation of the People Act 1983.

Effect of Order

3. This Order has effect subject to any agreement under section 99 (agreements about incidental matters) of the Local Government and Public Involvement in Health Act 2007 relevant to any provision of this Order.

Constitution of a new parish

4.—(1) A new parish, comprising the area outlined with a blue line on the map, shall be constituted within the district.

(2) The name of the new parish shall be Langwith.

(3) In consequence of paragraph (1) of this article, the area of the new parish shall cease to be part of the existing parish of Scarcliffe.

Parish council for the parish of Langwith

5.—(1) There shall be a parish council for the parish of Langwith.

(2) The name of that council shall be “The Parish Council of Langwith.”

Elections for the Langwith Parish

6. The election of all parish councillors for the parishes of Scarcliffe and Langwith shall be held on the ordinary day of election of councillors in 2015.

Wards of the parish of Langwith and numbers of parish councillors

7.—(1) The parish of Langwith shall be divided into 3 wards which shall be named Bathurst, Bassett and Poulter wards.

(2) Each ward shall comprise the area designated on the map by reference to the name of the ward and demarcated by orange lines

(3) The number of councillors to be elected for each ward shall be 4.

Wards of the parish of Scarcliffe and numbers of parish councillors

8.—(1) The existing wards of the parish of Scarcliffe shall be abolished.

(2) The parish shall be divided into 2 wards which shall be named North (comprising Hillstown), and South (comprising Palterton and Scarcliffe villages).

(3) Each ward shall comprise the area designated on the map by reference to the name of the ward and demarcated by orange lines.

(4) The number of councillors to be elected for each ward shall be 4.

Annual meeting of parish council

9. The annual meeting of the new Langwith Parish Council in 2015 shall be convened by the Chief Executive Officer of the Bolsover District Council. The meeting shall take place no later than 14 days after the day on which the councillors elected to the new parish council take office.

Electoral register

10. The registration officer for the district shall make such rearrangement of, or adaptation of, the register of local government electors as may be necessary for the purposes of, and in consequence of, this Order.

Transfer of property, rights and liabilities.

11. The land, property, rights, liabilities, funds and balances described in Schedules 3 and 4 shall transfer from the Scarcliffe Parish Council to the Langwith Parish Council on the date specified in column (2) of those Schedules.

Transitional provision

12. Until the councillors elected to the council of the new parish of Langwith at the elections to be held on the ordinary day of election of councillors in 2015 come into office, the new parish shall be represented by those persons who immediately before 1st April 2015 are the elected councillors for the Parish.

Order date

13. 1st April 2015 is the order date for the purposes of the Local Government (Parishes and Parish Councils) (England) Regulations 2008.

Sealed with the seal of the council on the day of 2012

Chairman

Solicitor to the Council

SCHEDULE 1

article 7

WARDS OF THE PARISH OF LANGWITH

NAMES AND AREAS OF WARDS AND NUMBERS OF COUNCILLORS

<i>Column (1)</i>	<i>Column (2)</i>	<i>Column (3)</i>
<i>Name of Ward</i>	<i>Area of Ward</i>	<i>Number of Councillors</i>
Bathurst Ward	The Langwith Parish Council	4
Bassett Ward	The Langwith Parish Council	4
Poulter Ward	The Langwith Parish Council	4

SCHEDULE 2

article 8

WARDS OF THE PARISH OF SCARCLIFFE

NAMES AND AREAS OF WARDS AND NUMBERS OF COUNCILLORS

<i>Column (1)</i>	<i>Column (2)</i>	<i>Column (3)</i>
<i>Name of Ward</i>	<i>Area of Ward</i>	<i>Number of Councillors</i>
North Ward	Scarcliffe Parish Council	4
South Ward	Scarcliffe Parish Council	4

SCHEDULE 3

article 11

LAND AND PROPERTY TO BE TRANSFERRED

<i>Column (1)</i>	<i>Column (2)</i>
<i>Land and property to be transferred</i>	<i>Date</i>
[description]	[date]
Langwith Whaley Thorns & Langwith Village Hall	
Langwith Whaley Thorns Old Caretakers House	
Langwith Whaley Thorns Recreation Ground - off Cockshut Lane	
Langwith Whaley Thorns Recreation Pavilion	
Langwith Langwith Cricket Ground	
Langwith Langwith Cricket Pavilion	
Langwith Langwith Playground - sited on Cricket Ground	
Langwith Langwith Hardplay area - sited on Cricket Ground	
Langwith Langwith Memorial Gardens	
Langwith Phoenix Centre	
Langwith Devonshire Drive Recreation Ground	
Langwith Devonshire Drive Recreation Pavilion	
Langwith Devonshire Drive Playground - sited on Recreation Ground	
Langwith Dale Close Playground - sited on green	
Langwith Bus Shelters - Woodland View/Cockshut Lane	
Langwith Bus Shelters - North St - Opposite Nursing Home	
Langwith Bus Shelters - Main St - Adj to Hard Play area	
Langwith Bus Shelters - Main Rd - Next to Gate Hotel	
Langwith Bus Shelters - Langwith Rd opposite Dale Close	
Langwith Bus Turning area	
Langwith Allotments - Moorfield Lane	
Langwith Junction Langwith Junction Community Centre & Grounds	
Langwith Junction Langwith Junction Recreation Ground	
Langwith Junction Langwith Junction Playground (sited on Recreation Ground)	
Langwith Junction Langwith Junction Recreation Pavilion	
Langwith Junction Langwith Junction Bowling Green	
Langwith Junction Langwith Junction Allotments - Off Bramble Close	
Langwith Junction Langwith Junction Allotments - Off Recreation Road	
Langwith Junction Bus Shelter - Bassett Hill opposite School	

SCHEDULE 4

article 11

OTHER MATTERS TO BE TRANSFERRED

Column (1)			Column (2)
[Other matters] to be transferred			Date
[description]			[date]
Location	Land/Property	Site	
Langwith	Litter Bin	West Street	
Langwith	Dog Foul Bin	West Street	
Langwith	Notice Board	Main Road (Attached to Gate Hotel Pub)	
Langwith	Notice Board	Dale Close	
Langwith	Stone Planter - with name plate	Main Road - Dale Close	
Whaley Thorns	Litter Bin	North Street (near Phoenix centre)	
Whaley Thorns	Litter Bin	North Street - Memorial Gardens	
Whaley Thorns	Stone Planter - with name plate	Bottom of Pitt Hill	
Langwith Junction	Dog Foul Bin	Recreation Road	
Langwith Junction	Notice Board	Recreation Road	

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to recommendations made by Bolsover District Council for the new parish of Langwith, and the creation of a council for the parish of Langwith within the district of Bolsover.

The parish of Langwith will be created with effect from 1 April 2015. The electoral arrangements apply in respect of parish elections to be held on and after the ordinary day of election of councillors in 2015.

Article 6 provides for parish elections in the parish of Langwith in 2015, and then to continue according to the established system of parish elections every four years.

Articles 7 and 8 and the map establish the names and areas of the wards of the new parish of Langwith and the altered parish of Scarcliffe and the numbers of councillors for each ward.

Article 10 obliges the Electoral Registration Officer to make any necessary amendments to the electoral register to reflect the new electoral arrangements.

The map defined in article 2 shows the new wards of the parish of Langwith and the wards of the altered parish of Scarcliffe. It is available, at all reasonable times, at the offices of Bolsover District Council.