

Central Bedfordshire Council

16 December 2021

General Purposes Committee

Community Governance Review – Eggington Parish

Responsible Officer:

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Purpose of this report

This report contains the results of the initial consultation which sought residents' views on the three options for the future Eggington Parish boundary.

RECOMMENDATIONS

The Committee is asked to

1. Consider whether any of the information attached at Appendix C to E was potentially misleading and if so whether any of that information had any undue influence on the outcome of the stage 1 consultation; and
2. Consider whether the results of the stage one consultation are too close for the Committee to be able to make a valid decision based on residents' preferences; and
3. Consider whether they need a more detailed understanding of the responses from "other interested parties" before coming to a decision on the preferred recommendation to proceed to stage 2 consultation.

Dependent on the view of the Committee in relation to (1) to (3) above the Committee are then asked to agree either: -

4. In order to have a firmer basis for their future decisions, a further stage 1 consultation be undertaken, making clear to the residents the importance of participating in the consultation; and
5. Revise the terms of reference for the community governance review in order that a further stage 1 consultation can be carried out on the initial options.

Or

6. Confirm their preferred recommendation to proceed to the next stage of the community governance review.
7. Confirm they are content to progress to a Stage 2 Consultation based on their preferred recommendation.

Background

1. Following a request from Leighton-Linslade Town Council (LLTC), it was resolved at a meeting of this Committee held on 10 June 2021 to carry out a Community Governance Review (CGR) of the parish of Eggington. Terms of Reference for the review were approved by this Committee on 26 August 2021.
2. CGRs are required to be undertaken in two stages. The first stage is a consultation on a wide range of options that takes place for 8 weeks. The second stage consultation 'Draft Recommendations' is undertaken on one specific option based on the results of the first stage. This stage two consultation is undertaken over 12 weeks and is currently proposed to commence from the week commencing 03 January 2022, subject to the consideration of General Purposes.
3. Whilst two stages of consultation are required as part of this process it remains at the full discretion of General Purposes Committee as to the draft recommendation, which is the subject of the second stage consultation. Similarly, it is at the discretion of the General Purposes Committee following the conclusion of the second stage consultation as to whether any of the proposals are implemented.
4. The whole process must be concluded within 12 months from the start of the first consultation.

Consultation

5. The Stage 1 consultation of the CGR commenced on 16 September and closed on 11 November 2021 and was available for completion on the Council's website. A consultation, and reminder, letter and questionnaire were hand-delivered to all Eggington residents. The reminder letter also invited residents to participate in a virtual meeting. The consultation document sought the residents' views on the three options for consideration. Also, other interested individuals and organisations who "appeared to have an interest in the review" were invited to share their views.
6. Additionally, Leighton-Linslade Town Council circulated their own 'area-specific' letters to the residents of the Clipstone Park development, Eggington village and selected parts of the town of Leighton-Linslade (shown at Appendices C, D and E respectively). These letters provided the Town Council's perspective on the issue and the likely impact of the options on residents, in particular relating to changes to Council tax.
7. Although no CBC officers were in attendance the matter was also discussed at a meeting of Eggington Parish Council on 06 October 2021, which was attended by representatives of both Eggington Parish Council and Leighton Linslade Town Council.
8. In undertaking the consultation, the Council has sought to abide by the Consultation Institute's principles of good practice as laid out in the equalities implications later in this report. Before proceeding to a second stage consultation on a draft recommendation the Committee should ensure it is satisfied that the letters distributed by Leighton Linslade Town Council did not unduly influence the outcome of the consultation in a way that was contrary to these principles.
9. If the Committee concludes that there was no undue influence on the outcome of the consultation, then the Committee may take the responses to that consultation into account in determining a draft recommendation to proceed to the next stage of the governance review. The nature of that draft recommendation is in the gift of the Committee.

10. If however, the Committee feels that there has been undue influence which questions the fairness of the process it can therefore choose to amend the terms of reference and re-consult residents on the initial options before proceeding to stage 2.

Options upon which residents were consulted

11. The Council prepared three possible outcomes to be put forward during the stage 1 consultation:

Option 1: Eggington Parish boundary remains unchanged and continues to include Stearn Land development, the section of the Clipstone Park development that currently falls within the Eggington boundary, land marked as Leedon, and land marked The Pastures.

Option 2: Leighton Linlade Parish boundary is extended to incorporate the Stearn Land development, the section of the Clipstone Park that currently falls within the Eggington boundary, Leedon and The Pastures. The Eggington parish area would be reduced.

Option 3: A new parish is created comprising the Stearn Land development and the section of Clipstone Park development that are currently part of the Eggington boundary, along with The Pastures and Leedon. The process to create a new parish would follow on from this Community Governance Review and has a number of steps to it.

Possible Consequences of the Options.

12. The possible consequences of each of these options are as laid out below: -

Option 1: Eggington Parish boundary remains unchanged. The development of the area marked as Clipstone Park on the map (1210 dwellings) will at some point extend to and traverse the parish of Leighton-Linslade. Consequently, unless the developers are minded to adhere to the exact boundaries, neighbours from the same streets could find themselves in separate parishes and pay different precepts and be provided with differing services. It is most likely that Eggington Parish Council will have to review both the services it currently provides and the parish precept. This option has no 'consequential matters' affecting the Local Government Boundary Committee for England (LGCBE) recent review of the Electoral Arrangements for Central Bedfordshire

Option 2: Leighton Linlade Parish boundary. At present the development of Clipstone Park and Stearn Land is contained entirely in the parish of Eggington. Moving the boundary would eliminate the future anomaly of part of Clipstone Park being within Leighton-Linslade parish and the other part being in Eggington parish. However, it would also mean that the adjacent hamlet of Briggington (10 properties) would also be swept up and moved into the parish of Leighton-Linslade. This option will also mean that that the future warding arrangements and the number of parish councillors for each parish ward as determined by the LGCBE in their recent review of the Electoral Arrangements for Central Bedfordshire as contained in the Statutory Instrument 2021 No 1051 (Schedule 2, Table 3) for Eggington parish will subject to agreement by the LGCBE require to be countermanded.

Option 3: A new parish is created. The formation of a new parish would require a considerable amount of further work and therefore would be unviable at this particular stage in the development.

Conclusions of Stage 1 Consultation

13. The detailed results of the stage 1 consultation are laid out in Appendix A. In summary 47% of respondents (228 people) preferred the option to extend the Leighton Linlade Parish boundary (option 2), whilst 46% of respondents (223 people) preferred the option to leave the Eggington Parish boundary remaining unchanged (option 1).
14. To enable the Committee to consider the preferences of residents the analysis has also been broken down into 4 geographical areas, based on postcode, where provided, and details of the street in which the respondent lived.
15. Eggington village has approximately 215 electors. On the basis of this, the response rate for Eggington village is approximately 18%.
16. Clipstone Park has approximately 696 electors. On the basis of this, the response rate for Clipstone Park is 25%.

Eggington village residents

17. Fewer people from Eggington village than Clipstone Park took part in the consultation. Respondents living in Eggington village were most likely to prefer that the Leighton Linlade Parish boundary should be extended (58% of respondents). Eggington residents were concerned that the continued inclusion of Clipstone Park residents in Eggington Parish would lessen the voice of the existing village by decision makers. There were also concerns that Eggington Parish Council is not equipped to support a larger population, therefore it was felt that Leighton-Linslade Town Council would be more able to do so. There were also comments about wanting to preserve the existing village

Clipstone Park residents

18. Respondents living in Clipstone Park were most likely to prefer that the Eggington Parish boundary remains unchanged (83% of respondents). Their comments were likely to reiterate the need to leave the boundary alone. They felt that by remaining as part of Eggington Parish, they would have more opportunity to be heard by decision-makers, in comparison to if they joined Leighton-Linslade. They felt that remaining in Eggington Parish made the most sense, and that there were no significant benefits to joining Leighton-Linslade. There were also some comments about the council tax in Eggington being cheaper than Leighton-Linslade. Some respondents were open to the possibility of creating their own parish council, but they felt they needed more information – and that it was not the right time to make any changes.
19. The consultation response received from Eggington Parish Council identified that they felt the consultation was premature, as the Clipstone Park development is not yet finished.

Leighton-Linslade residents

20. Leighton-Linslade respondents were most likely to prefer that the Leighton Linslade Parish boundary should be extended (76% of respondents). The main reason for this, is that they felt that those using/accessing the town's facilities should pay towards them (through council tax). A large number of respondents also felt that Clipstone Park is a natural extension of Leighton-Linslade as it joins up with other housing developments which are already part of Leighton-Linslade.

Other respondents

21. Other respondents were most likely to prefer that the Eggington Parish boundary remains unchanged (70% of respondents). They felt that those accessing/using Leighton-Linslade's facilities should pay towards them (through council tax)

Overall comments

22. Respondents identified issues with the infrastructure in and around Leighton-Linslade as a result of increased population due to house building. Comments also reiterated the respondents preferred options, as well as questioning why this is being raised now – should it have been discussed at the planning stage? A number of comments were also received about the information provided by Leighton-Linslade Town Council and how they conducted themselves during the consultation period.

Statutory Duties

23. Whilst principal councils have been given considerable freedom of action in the conduct of reviews, there is a duty to have regard to guidance issued by the Secretary of State of the Department of Communities and Local Government and the Local Government Boundary Commission for England (LGBCE) in undertaking reviews, making recommendations, and giving effect to recommendations.

24. It is important to note that there are still some 'protected electoral arrangements' that cannot be considered during a Community Governance Review unless the consent of the LGBCE is had. If, as part of a Community Governance Review, a principal council wishes to alter the electoral arrangements for a parish whose existing electoral arrangements were put in place within the previous five years by an order made by the Secretary of State, the Electoral Commission, or the LGBCE, the consent of the LGCBE is required.

Council priorities

25. This report contributes to the Council's achievement of 'creating stronger communities' and a 'more efficient and responsive Council'. Government guidance states that 'Ultimately, the recommendations made in a community governance review ought to bring about improved community engagement, more cohesive communities, better local democracy and result in a more effective and convenient delivery of local services.

Corporate Implications

Legal Implications

26. Community Governance Reviews operate under the following legislative framework:
- i. Local Government & Public Involvement in Health Act 2007;
 - ii. Guidance on Community Governance Reviews, issued jointly by the Department for Communities and Local Government and the Local Government Boundary Commission for England (March 2010 edition)
 - iii. Local Government Act 1972 (as amended);
 - iv. Local Government (Parishes and Parish Councils) (England) Regulations 2008 (SI2008/625); and
 - v. Local Government Finance (New Parishes) Regulations 2008 (SI 2008/626)
27. The general principles derived from case law as to how consultations should be conducted, known as the “Gunning principles” are: consultation should occur when proposals are at a formative stage; consultations should give sufficient reasons for any proposal to permit intelligent consideration; consultations should allow adequate time for consideration and response. There must be clear evidence that the decision maker has considered the consultation responses, or a summary of them, before taking its decision.
28. If during the consultation new evidence or information is brought to the Council’s attention, the council should consider this evidence or information and the impact it has on the community governance review.
29. In most consultation legal challenges, the court’s main issue to determine is *“What does fairness require in all the circumstances of the particular case?”* This question can be broken down into two issues:
- Whether there is a duty to consult anyone at all.
 - If there is a duty, what fair consultation entails in the circumstances.
30. The requirements of fairness are heavily dependent on context and do not readily lend themselves to the formulation of clear rules, but it is possible to extract from the relevant cases some key factors that should steer a public authority and, in turn, the courts in determining whether fairness requires consultation and, if so, in what form.
31. In the case of *US Tobacco*, the court held that fairness required disclosure of an expert report on the sale of oral snuff because it was clear that the advice of the expert committee had been crucial to the decision, given that the underlying facts and evidence had not altered from a time when the government permitted the sale of snuff. The court rejected the argument that disclosing the report could lead to committee members feeling inhibited in expressing their views, reasoning that these were scientific experts of significant standing and integrity, but noted that they could:
- “understand and respect the need for ministers to preserve confidentiality as to the in-house advice they receive on administrative and political issues from their civil-service staff.”*

32. In the case of R (Alconbury Developments Ltd) v SoS for the Environment, Transport and the Regions [2003] at page 14, Lord Clyde qualified Lord Diplock's statement, reasoning that disclosure would be required if necessary to enable consultees to comment on "some significant factual material" that had come to light as a result of internal inquiries and of which consultees may not be aware.
33. In R (Edwards and anor) v Environmental Agency and others 2006, the Court of Appeal summarised the correct approach as:
- "In general, once public consultation has taken place, the rules of natural justice do not require a decision-maker to disclose its own thought processes for criticism before reaching a decision. However, if the decision-maker, in the course of decision-making, becomes aware of some internal material or factor of potential significance to the decision to be made, fairness may demand that the party or parties concerned should be given the opportunity to deal with it."*
34. Cases such as Edwards make clear that the receipt of new information during or after the consultation process may require the re-opening of the consultation process to enable consultees to comment on that new information before the decision is taken.
35. Similarly, while there is generally no requirement for a public authority to set out the reasons against its proposals, nor to provide copies of the objections it receives to consultees during the consultation process so that they can comment on them (R (Beale and Carty) v LB of Camden 2004, if the receipt of objections or other information leads the public authority to change its proposals, fairness may require that there is further consultation on the revised proposals.
36. In a case involving Medway Council, a successful challenge was brought to a decision to commence a consultation on airport options based on an unfair consultation document. A similar challenge was permitted in R v SoS for Transport, ex p LB of Richmond 1995.
37. In R v Richmond upon Thames LBC, ex p Wainwright, flaws in the council's distribution of letters to local residents when consulting on proposals for a pedestrian crossing amounted to a breach of its duty to act fairly and rendered the decision to establish the crossing unlawful. The Court of Appeal, however, accepted that the decision should not be quashed. The claimant had undertaken to consult widely with local residents herself and had made detailed representations to the council. In her claim, she had been unable to identify any point that any resident may have made that could have made any difference to the proposals or the ultimate decision, despite having been in close touch with all those living in the area. There was, therefore, no real possibility that the council would have reached a different decision, even if the consultation process had been flawless.

Financial and Risk Implications

38. The costs of carrying out the boundary review are not expected to exceed £5000 and will need to be borne by the budget for Electoral Registration.

Equalities Implications

39. The Local Government Boundary Commission for England and the Department for Communities and Local Government have published guidance on community governance reviews, part of which is set out below. In light of this guidance the

Council's consultation was very deliberate in not asking questions in relation to the pattern of people's daily lives in coming to a decision about which option to pursue because the guidance indicated that such factors might not be reflected in their feelings of community identity in terms of a parish boundary.

"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. Some of the factors which help define neighbourhoods are: the geography of an area, the make-up of the local community, sense of identity, and whether people live in a rural, suburban, or urban area."

40. In considering its draft recommendations for further consultation under stage 2 the Committee should be mindful of the Consultation Institute's Charter, which outlines seven key aspects of good consultation. The following aspects are relevant to the Council in its consultation material and to all other interested parties in relation to any material that is distributed or presented to local residents during the consultation:-

- Integrity: Intentions must be honest, and with a genuine willingness to listen and be influenced
- Visibility: There should be a real effort to make all of those who have a right to participate aware of what's going on
- Accessibility: There needs to be reasonable access, using appropriate methods and channels and catering for hard-to-reach groups
- Transparency: Things submitted need to be made public and data disclosed, unless there's a specific reason to make them exempt
- Disclosure: All relevant material and context should be disclosed by the council, and in return residents should disclose the full range of local opinion
- Fairness: Assessments and interpretations of consultations need to be objective. Decisions need to be representative of the spread of opinion
- Publication: Participants have a right to receive feedback on the final output, and on the eventual outcome of the process before, during and after a consultation process, these seven components should be things Councils abide by, steering their decision processes and marking good practice.

41. In line with these principles the Council has done all it can to comply with this charter. To ensure insofar as possible that there is no legal challenge of the decision the Committee is asked to consider whether they feel that any information that was circulated calls into question the integrity of the consultation. If the Committee feels that it has then it would be prudent to seek the views of residents as to the extent to which any information may have impacted on the outcome.

42. Central Bedfordshire Council has a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics: age disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Consultation is a key mechanism in demonstrating due regard and must include engagement with people directly affected by the decision to identify potential adverse impacts in advance of a decision being taken.
43. There are no direct equalities implications that have been identified as relevant to this report. However, achieving a more even distribution of electoral representation in every ward will provide an opportunity for fairer representation.

Sustainability Implications

44. The broader definition of sustainability that has been adopted by the council is based on the UN Sustainable Development Goals. This includes objectives such as developing effective, accountable, and transparent institutions at all levels, and to ensure responsive, inclusive and participatory, representative decision making at all levels. The process outline in this report and decision-making process that this request is subjected to demonstrates these objects in action.

Conclusion and next Steps

45. The Committee is asked to consider the outcome of the stage 1 consultation and subsequently to determine whether it wishes to proceed to a stage 2 consultation on any one of the particular options or to regather the views of residents if it feels that anything unduly effected the outcome of the consultation or that the results are too close as to be able to draw valid conclusions.
46. Once the review has been completed a Community Governance Review Order may not alter the electoral 'protected electoral arrangements' unless the LGBCE agrees to it; protected electoral arrangements are defined as:
- i. The electoral arrangements relating to the council of an existing parish;
 - ii. Electoral arrangements were made or altered in an order made under Section 17 LGA 1992 or under Section 14 LG&RA 1997; and
 - iii. An order was made during the period of five years ending with the day on which the Community Governance Review started.

Appendices

- Appendix A: Stage 1 Consultation Results
- Appendix B: Map of Area
- Appendix C: LLTC Letter to Clipstone Park Residents
- Appendix D: LLTC Letter to Eggington Village Residents
- Appendix E: LLTC Letter to Leighton-Linslade Residents
- Appendix F: Terms of Reference

Background Papers

None

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