

Report to: Cabinet



Date of Meeting 5 December 2022

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## **Colyford Community Governance Review**

### **Report summary:**

In late 2021, Cabinet and Council agreed that a Community Governance Review be undertaken following a request from the Colyford Village Residents' Association. In July 2022 Cabinet agreed to the principle of a new parish being created and draft proposals were formally published. The second statutory period of consultation expired on the 22<sup>nd</sup> November 2022 and this report now recommends alternative decisions for the Cabinet and Council to consider.

### **Is the proposed decision in accordance with:**

Budget Yes  No

Policy Framework Yes  No

### **Recommendation:**

**That having regard to all the representations received and the relevant statutory criteria that Cabinet consider whether to recommend to Council to either:**

**A – take no further action with regard to this Community Governance Review.**

**or:**

**B – establish a new Parish Council for the area known as 'Colyford' and;**

- **That the boundary be as detailed in Appendix I and paragraph 17 or such alternative boundary as Members consider appropriate in light of considerations detailed in the report**
- **That the new Parish Council be known as 'Colyford Parish Council'**
- **That the Membership will comprise of 7 councillors**
- **That no warding provisions are incorporated in the Parish Council**
- **That the membership of Colyton Parish Council be reduced from 13 to 11 councillors**
- **That these recommendations are duly published and the appropriate Order made with delegated authority given to the Chief Executive to incorporate all necessary provisions into the Order and to make any supplementary arrangements as may be necessary. In order to facilitate this Members are asked to consider the Vesting Statements provided by the Colyford Village Residents' Association and comments from the Colyton Parish Council and give a view on the acceptability of what is requested.**
- **That it be noted the Parish Council will come into formal legal effect on the 1<sup>st</sup> April 2023 and the first elections will be held in May 2023.**
- **Agree a budget of £8k to pay Capita to implement the changes to the Council Tax system.**

## Reason for recommendation:

In accordance with the provisions of Part 4 of the Local Government and Public Involvement in Health Act 2007; the principal legal framework within which councils must undertake these reviews.

Members will recall that the rationale for undertaking this review arose from a 249 signature petition which claimed that: *'The community of Colyford has thus clearly expressed their wish for a village council to be set up, and this should be given considerable weight. We have shown that Colyford has its own identity and sense of place, and that community cohesion will be enhanced by having its own village council. We have shown that a village council for Colyford will be effective and convenient, and will provide strong and accountable local government and community leadership. We therefore respectfully request that East Devon District Council exercise their powers under the Act and undertake a Community Governance Review and recommend the formation of a village council for Colyford.'*

Cabinet considered the outcome of the first stage statutory consultation exercise at its meeting of 13<sup>th</sup> July 2022 and agreed, on the basis of the guidance and consultation responses, to publish draft proposals for consideration. This report reviews the second stage statutory consultation responses and presents options for Cabinet and Council to consider as to how to conclude the community governance review.

Officer: Henry Gordon Lennox, Strategic Lead Governance & Licensing

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Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Low Risk;

**Links to background information:**

[Agenda for Cabinet on Wednesday, 3rd November, 2021, 6.00 pm - East Devon](#)

[Agenda for Cabinet on Wednesday, 13th July, 2022, 6.00 pm - East Devon](#)

[Local Government and Public Involvement in Health Act 2007](#)

[Communities and Local Communities - Guidance on community governance reviews March 2010](#)

**Link to [Council Plan](#)**

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

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## Background

1. Community governance reviews are carried out under a statutory framework set out in the Local Government and Public Involvement in Health Act 2007. Statutory guidance has been produced and regard must be had to this when taking decisions (see background links).
2. This report follows the Council's decision to progress a community governance review in relation to Colyford / Colyton following a request by the Colyford Village Residents' Association. The reports to November 2021 and July 2022 Cabinet meetings (see background links) provides the background and further detail in relation to the statutory framework and initial decision making.
3. Having agreed to publish draft proposals for the creation of a new Parish Council, these were published on 22<sup>nd</sup> August 2022. A copy of the published draft proposals can be found at **Appendix A**. As part of this stage there is a requirement to undertake a further period of consultation on the draft proposals. The consultation period ran from 23<sup>rd</sup> August to 22<sup>nd</sup> November 2022. The proposals were provided to the statutory consultees and were published online and in the locality by the Parish Council. Landowners affected by the proposed boundary line were written to and their comments invited.
4. The community governance review petition organisers submitted four responses while Colyton Parish Council submitted two responses. There were a further thirty one separate responses received from individuals or organisations. All the responses received within the consultation period are appended to the report and considered in further detail below.

## Details of the Stage 3 consultation responses

5. In general terms the responses can be broken down into different areas and these are considered below, although it should be noted that there is a degree of cross over at times so all comments should be read and taken into account.
6. Firstly, there are the four responses from the community governance review petition organisers – the Colyford Village Residents' Association ('CVRA') – dated 25<sup>th</sup> August, 11<sup>th</sup> October, 31<sup>st</sup> October and 3<sup>rd</sup> November, all of which can be found in **Appendix B**.
7. Secondly, there are the two responses from Colyton Parish Council dated 28<sup>th</sup> September and 22<sup>nd</sup> November, which can be found in **Appendix C**.
8. Thirdly, there are seventeen responses which object primarily to the principle of the re-organisation. There can be found in **Appendix D**.
9. Finally, there are fourteen responses from those commenting primarily on the appropriateness of the proposed boundary. There can be found in **Appendix E**.

### *Principle*

10. A number of individuals have taken this consultation opportunity to either repeat their concerns or express their concerns for the first time around the proposal to create a new Parish Council. There are also a number of supporters for the proposed changes.
11. The Council has previously considered the response to the first statutory consultation exercise at its meeting of the 13<sup>th</sup> July where there was a full analysis of the 789 responses to the consultation. In relation to this consultation exercise, it should be noted that there were only 31 responses. Members should consider the comments provided and determine,

having regard to the statutory criteria (see previous report and background links) and outcome from the first consultation exercise, whether Cabinet / Council should proceed with the reorganisation.

12. Assuming Members consider it appropriate to proceed with the reorganisation and creation of Colyford Parish Council then the issue of the boundary needs further consideration.

#### *Boundary*

13. I have shown on **Appendix F** the responses received from those living in the border area and which relate to the appropriateness of the boundary. Blue dots highlight those respondents who are of the view that their community identity and interest remains with Colyford rather than Colyton. Red dots denote those respondents who consider their community identity and interest is with Colyton.
14. Beyond the comments of the specific property owners, there are comments suggesting that the appropriate boundary for a new parish of Colyford should reflect the Colyford polling district. **Appendix G** has a plan showing the Colyford polling district (coloured green) with the proposed boundary which has been consulted on plotted on it.
15. Colyton Parish Council recommend a smaller boundary while the CVRA are broadly happy with the proposed boundary and further make comment on the suggestion of Colyton Parish Council. See the consultation responses in **Appendices B & C**.
16. In light of the comments it is considered appropriate to revise the northern boundary to reflect the wishes of the residents who have commented and to take on board the logic of reflecting the polling district boundary (given familiarity of the residents of going to Colyford or Colyton to vote). The two plans at **Appendix H** show land recommended to be excluded (blue hatched) and land to be included (yellow hatched).
17. As a result of considering the responses it is recommended that if Cabinet/Council continues to be minded to approve the creation of a new Parish Council that the boundary should be as shown by the red line on the plan at **Appendix I** with the blue hatched areas excluded and the yellow hatched area included. It is considered that this boundary best reflects community identity and interest as it is based on the evidence of those who actually live in the affected area.
18. A number of the consultation responses comment on the issue of fields owned by Colyton Parish Council at Sidmouth Road, opposite Ashdown Caravan Park (also referred to as land northeast of Stafford Cross / Stafford Common). There is comment that this land is let on a Farm Business Tenancy and is used to fund Colyton Parish Council's cemetery. Both Colyton Parish Council and the CVRA, particularly their last response of 3<sup>rd</sup> November, address this land in their comments. The land is shown green hatched on the plans at **Appendix H & I**. Members may wish to consider whether it is appropriate to revise the boundary in the south west corner to exclude that land (and any other land to ensure land contiguity) such that it remains within Colyton Parish Council's administrative area. In relation to this, Members will need to consider the expressed wishes of the owners of Ashdown Farm (the most western blue dot on the plan at **Appendix F**) who have expressed the view of wishing to be part of Colyford. Alternatively, Members could decide to progress a re-organisation on the basis of the plan at **Appendix I** and determine that those three fields (hatched green) should not be transferred to Colyford Parish Council as part of the confirming Order. In that regard the CVRA initially suggested a 28% share of ownership and future rental income should be 'transferred' to Colyford Parish Council but revised this position and now seek that this land be transferred in its entirety to Colyford Parish Council and that the new Parish Council receive the rental income. This position is detailed in **Appendix B** and the 11<sup>th</sup> October and 31<sup>st</sup> October submissions with attached

'Proposed Vesting Statement for Parish Land and Associated Rental Income' (VS1). Members will need to consider how to treat the land to the South West corner of the proposed administrative area and the land hatched green.

*Other matters*

19. Should the decision be to proceed, there will be a number of matters that require further consideration and which will need to be dealt with either as part of any Order or by supplementary arrangements. Members will see from the representations submitted by the CVRA and from those made by Colyton Parish Council that this relates to land, funds and assets. The final detail to be included in the Order (or dealt with via supplementary agreement) is recommended to be delegated to the Chief Executive to progress once a final decision is made. However, Members are asked to give their view on the appropriateness of what is requested by the CVRA through the Vesting Statements provided (**Appendix B**) taking into account the comments of Colyton Parish Council (**Appendix C**).
20. To assist;
  - a. Vesting Statement 1 – seeks the transfer and future rental income from land at Stafford Common. It also seeks a 28% rental income from two other pieces of land which, on the proposed boundary, would be retained by Colyton Parish Council. The land at Stafford Common is the land referred to in paragraph 18 above. Members are expressly asked to consider the Stafford Common land above. It is questionable whether a new Parish Council should receive an ongoing rental income from land not within its administrative area and which it does not have any legal or beneficial interest in.
  - b. Vesting Statement 2 – seeks the vesting of the children's play equipment (and land) to the new Parish Council. The land is owned by a third party and this situation is unlikely to be capable of resolution as part of any Order and will in all likelihood have to be dealt with by subsequent discussion between the new parish council and the land owner. As to the play equipment, the principle seems reasonable but will depend on the current ownership arrangements which are unclear and require further investigation.
  - c. Vesting Statement 3 – seeks the vesting of responsibility for the Colyford Village gateways to the new parish council. The gateways are on highways land but in general this seems reasonable.
  - d. Vesting Statement 4 – seeks the transfer of £10k held by Colyton Parish Council and ring fenced for road safety projects in Colyford. In light of the spend purpose and that it is ring fenced, this seems reasonable.
  - e. Vesting Statement 5 – seeks the transfer of unspent cash in the Colyton Parish Council operating budget (for financial year 2023/24) as a contribution towards the proposed £20k contingency fund for the new parish council.
  - f. Vesting Statement 6 – seeks any CIL funding arising in financial year 2021/22 from within the proposed boundary to be ring fenced for spend by the new parish council. Further that 28% of future CIL income arising from development in Colyton Parish Council be ring fenced for spend in the new parish council. The CIL legal framework is likely to preclude such a request, although it should be acknowledged that once a new parish is created, any development occurring within the administrative area which is liable for CIL will mean a contribution to the new parish council.

g. Vesting Statement 7 – seeks the transfer of a cash equivalent (28%) of equipment held by Colyton Parish Council estimated to be worth £10,000. This is to help purchase equipment for use in the new Parish.

21. Any re-organisation will require changes to East Devon's Council Tax system and Capital charge for this service. Accordingly, a budget of £8k is requested to cover this cost.

22. If a new parish is created its first precept will be set by the District Council.

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### **Financial implications:**

The financial details are contained in the report.

### **Legal implications:**

The legal requirements for recommendations arising out of the community governance review are set out in Part 4 Chapter 3 of the 2007 Act. This includes recommendations as to what new parish or parishes (if any) should be constituted in the area under review, and its electoral arrangements. There must be recommendations as to the name of any new parish, and as to whether or not the new parish should have a parish council, and if so, its style [parish / town / community / neighbourhood / village]. The Council must have regard to guidance issued by the Secretary of State under s100 of the 2007 Act about carrying out community governance reviews and giving effect to any recommendations arising out of the review. The Council must also have regard to guidance from the Electoral Commission on electoral recommendations arising out of the review.