

**BARNSELY METROPOLITAN BOROUGH COUNCIL**

**This matter is not a Key Decision within the Council's definition and has not been included in the relevant Forward Plan**

**Report of the Assistant Chief Executive  
Legal and Governance**

**LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN  
HEALTH ACT 2007: COMMUNITY GOVERNANCE REVIEW:  
PETITION: BRIERLEY TOWN COUNCIL**

**1. Purpose of Report**

- 1.1 To give consideration to the basis of a Community Governance Review which the Council is required to carry out under the 2007 Act in respect of Brierley Town Council.

**2. Recommendation**

- 2.1 That the Community Governance Review be progressed in accordance with the provisions of the 2007 Act and having regard to the statutory guidance issued by the Secretary of State.
- 2.2 That a consultation exercise be undertaken with regard to the scope of the Terms of Reference for the Review.
- 2.3. That a further report be considered by the Cabinet as to how the Review should be undertaken and to formalise its Terms of Reference at its meeting on 15th January 2014 to make appropriate recommendations to the Council at its meeting on 6th February 2014.
- 2.4 That the 12 months statutory period for the completion of the Review commence from the date of the meeting of the Council held on 6<sup>th</sup> February 2014.
- 2.5 That consideration be given to instructing officers to undertake a parallel exercise to examine the scope for alleviating the current burden of the cost of the Parish precept as set out in section 4.18 of the report and that officers report back to the Cabinet within the statutory period for the conclusion of the formal Community Governance Review.

**3. Background**

- 3.1 The Council has received a petition signed by the prescribed number of registered electors to undertake a Community Governance Review in respect of the Parish of Brierley. The Parish of Brierley presently contains 5,494 electors. A map showing the area of the Parish is attached as Appendix 1.

- 3.2 The 2007 Act gives discretion to a local authority to undertake a Community Governance Review in respect of a Parish within its area. Such a Review may also be requested by at least 10% of the registered electors for the Parish. If such a request is made then the local authority has a duty to undertake such Review.
- 3.3 The petition was required to be signed by 529 registered electors to exceed the 10% threshold so as to give rise to such a duty. The petition received has been signed by 1,459 registered electors which represent 27.6% of the registered electors for the Parish of Brierley at the time of the Petition.
- 3.4 The Council therefore has a duty to undertake a Community Governance Review in respect of the Parish of Brierley.
- 3.5 At its meeting on 12<sup>th</sup> May 2011 the Council formally referred the request for a Review to the Cabinet for detailed consideration to be given as to how the Review should be undertaken.
- 3.6 The Cabinet took the view that the ability to carry out a proper consultation exercise was constrained by the particular context in which the request for a Community Governance Review has arisen. Attached as Appendix 2 is a copy of the letter accompanying the petition which calls for the abolition of Brierley Town Council. Reference is made to the justification for arguments in support of abolition of the Town Council being based on the significant financial difficulties which the Town Council has experienced.
- 3.7 At its meeting on 10<sup>th</sup> November 2010 the Cabinet approved the making of a loan of up to £ 500,000 by the Council to the Town Council to help to stabilise its financial position. This followed the revelation of significant unauthorised financial commitments which had been undertaken on behalf of the Town Council by its former Clerk. The loan was provided by the Council in order to assist the Town Council in stabilising its financial position but the Town Council remains subject to significant commitments and challenges which are placing pressure on the Parish Precept.
- 3.8 It is suggested in the letter that there has been mismanagement within the Town Council which gave rise to these financial difficulties. The circumstances giving rise to the unauthorised transactions were the subject of on-going police investigations. It was realistic to anticipate that the issue of the management of the Town Council's finances would be ventilated during any public consultation process with regard to the Review.
- 3.9 There was legitimate concern that any public discussion with regard to these issues which were the subject of on-going police enquiries could prejudice their outcome or any proceedings that were to arise. The Cabinet resolved that the commencement of the Review ought therefore to be deferred so that it would not be prejudicial to the on-going enquiries or any proceedings that were to arise from them. The former Clerk was subsequently charged with various offences of dishonesty and at Sheffield Crown Court on 1<sup>st</sup> October 2013 the former Clerk was convicted of various offences of dishonesty and received a custodial sentence. The criminal proceedings were

substantially delayed due to issues raised as to the state of health of the former Clerk.

#### **4. Current Position**

- 4.1 Given that the criminal proceedings have finally been concluded the Council is now required in accordance with its statutory obligations under the 2007 Act to give consideration to the basis for the Review of the Town Council and to take the Review forward.

#### **Statutory Procedure**

- 4.2 A Principal Council undertaking a Community Governance Review must comply with the following duties, but subject to doing so it is for the Principal Council to decide how a Community Governance Review should be undertaken. The 2007 Act replaces earlier legislation which required the outcome of a Review to be referred to the Secretary of State. It is now essentially for the Principal Council to determine what course of action to take arising from the Review. There are a range of potential outcomes including as the Petitioners have requested the dissolution of the relevant Parish Council.

- 4.3 The relevant duties in conducting a Review are as follows:

- (i) The Principal Council shall consult:

- the local government electors for the area under the review;
- any other person or body which appears to the Principal Council to have an interest in the Review.

- (ii) The Principal Council must have regard to the need to secure that Community Governance within the area under review:

- reflects the identities and interests of the community in that area;
- is effective and convenient.

- (iii) The Principal Council must take into account any other arrangements (apart from those relating to Parishes) that have already have been made or that could be made for the purpose of community representation or engagement in respect of the area under review. This would include for example the existing Area Governance arrangements established under the Council's Constitution.

- (iv) The Principal Council must take into account any representations received in connection with the review.

- 4.4 A Community Governance Review must be concluded by a Principal Council within 12 months beginning with the day on which the Review commences.

## Statutory Guidance

4.5 The Principal Council must have regard to the statutory guidance which has been issued by the Secretary of State. The guidance emphasises the need to undertake initial consultation before formally determining the scope of the Review and key issues to be taken into consideration in conducting the Review. The Review commences for the purposes of the 12 month period after that initial consultation exercise has been carried out and its scope has been formally determined.

4.6 The following extracts from the statutory guidance are of particular relevance.

4.6.1 *“Terms of reference will need to be drawn up or modified where a valid community governance petition has been received by the principal Council. Local people will be able to influence the terms of reference when petitioning”.*

*“Local people may have already expressed views about what form of community governance they would like for their area, and principal Councils should tailor their terms of reference to reflect those views on a range of local issues.*

*Ultimately, the recommendations made in a community governance review ought to bring about improved community engagement, better local democracy and result in more effective and convenient delivery of local services”.*

4.6.2 *“Principal Councils will need to consult local people and take account of any representations received in connection with the review.*

*When undertaking the review they must have regard to the need to secure that community governance reflects the identities and interests of the community in the area under review, and the need to secure that community governance in that area is effective and convenient”.*

4.6.3 *“In deciding what recommendations to make the principal Council must have regard to the need to secure that community governance reflects the identities and interests of the community in that area and is effective and convenient”.*

*“In making its recommendations, the review should consider the information it has received in the form of expressions of local opinion on the matters considered by the review, representations made by local people and other interested persons.*

*In taking this evidence into account and judging the criteria in the 2007 Act against it, a principal Council may reasonably conclude that a recommendation set out in a petition should not be made. For example, a recommendation to abolish or establish a Parish Council, may negatively impact on community cohesion, either within the proposed parish area, or in the wider community within which it would be located, and therefore should not be made”.*

- 4.6.4 *“Section 88 of the 2007 Act provides for a community governance review to recommend the alteration of the area of, or the abolition of, an existing parish as a result of a review. The area abolished parishes does not have to be redistributed to other parishes, an area can become unparished.*

*However, it is the Government's view that it would be undesirable to see existing parishes abolished with the area becoming unparished with no community governance arrangements in place”.*

- 4.6.5 *“The abolition of parishes should not be undertaken unless clearly justified. Any decision a principal Council may make on whether to abolish a Parish Council should not be taken lightly.*

*Under the previous parish review legislation, the Local Government and Rating Act 1997, the Secretary of State considered very carefully recommendations made by principal Councils for the abolition of any parish (without replacement) given that to abolish parish areas removes a tier of local government.*

*Between 1997 and 2008, the Government rarely received proposals to abolish Parish Councils. It received only four cases seeking abolition and of these only one was approved for abolition by the Secretary of State”.*

- 4.6.6 *“Where a community governance review is considering abolishing a Parish Council we would expect the review to consider what arrangements will be in place to engage with the communities in those areas once the parish is abolished. These arrangements might be an alternative forum run by or for the local community, or perhaps a residents' association.*

***It is doubtful however, whether that abolition of a parish and its council could ever be justified as the most appropriate action in response to a particular contentious issue in the area or decision of the Parish Council”.***

#### Determining the Terms of Reference of the Review

- 4.7 Whilst therefore the Petition is in principle valid in seeking the dissolution of the Parish Council it is apparent that the basis on which dissolution is being sought is not within the scope of the legislation or the Guidance. The issues that need to be addressed relate to an assessment as to the needs of the effective governance of the relevant Parish area. The paragraph in the guidance highlighted above is of particular significance. It would not therefore be appropriate to include issues relating to the circumstances in which the Town Council got into financial difficulties within the Terms of Reference of the Review.
- 4.8 In any event the issues of concern with regard to the financial management of the Town Council are historical and are attributable to the dishonest behaviour of the former Clerk. The finances of the Town Council have been stabilised with Barnsley officers providing significant on-going support albeit that the Town Council faces considerable financial burdens and pressure on the Parish Precept. There is no basis to conclude that the Town Council will not

be managed properly in respect of the future conduct of its affairs. The substance of the concern with regard to the financial position of the Town Council is essentially founded in the public dissatisfaction as to the level of the Parish Precept and this is not an issue relevant to effective Community Governance.

- 4.9 It is therefore recommended that it is made expressly clear in the consultation exercise with regard to the proposed Terms of Reference of the Review that it would not be appropriate to have regard to such issues.

#### Community Perception

- 4.10 The community perception however nevertheless remains strongly focused on the issue of the background to the financial difficulties of the Town Council and also to the on-going financial burden of the Parish Precept. At a public meeting organised by the Town Council held on 16th October 2013 this issue was the focus of the debate and a clear view expressed amongst those attending that the Town Council should be abolished to avoid the continued burden on the local taxpayers of the cost of the Parish Precept.
- 4.11 There is a perceived expectation within at least a section of the local community that Barnsley Council should act to relieve local taxpayers of this burden and attitudes towards Barnsley Council generally within the community seem negative as a result of this particular issue. This perception is relatively long standing. There was a Parish Poll undertaken in July 2001 in which a 91% majority of those voting on a turnout of 35% expressed the view that the Town Council should be abolished.
- 4.12 The Council undertook a Statutory Review following the Parish Poll and concluded that there was no basis not to continue with a Parish Council as a representative body for the area neither was there any significant evidence that the Parish Precept represented a "double rating" liability for facilities that were provided elsewhere within Barnsley funded from the Council Tax. A copy of this report is attached as Appendix 3 by way of background information.
- 4.13 A concession was subsequently made to the Town Council arising from that report through the provision by Barnsley Council with effect from 2005/6 onwards of a grant of £30,000 to assist towards the cost of grounds maintenance expenditure. Nevertheless there has remained a relatively negative perception of Barnsley Council which recent events have had the tendency to reinforce.

#### Financial position of the Town Council

- 4.14 The financial position of the Town Council remains very challenging due to the unauthorised commitments made by the former Clerk and this is reflected in the level of the Parish Precept.

The Band D Council Tax for the Brierley Parish for the previous three financial years is as follows:

2011/12 £1,298.97 [precept £ 98.39]

2012/13 £1,298.98 [precept £97.40]

2013/14 £1,297.95 [precept £97.37]

By way of comparison the Band D Council Tax for non parished areas in Barnsley in 2013/14 is £1,200.58 and the average Band D Precept for the remaining Parished areas is £ 29.20.

Given the additional financial pressures referred to below it can be anticipated that there may be a need for a further increase in the Parish Precept for 2014/15.

- 4.15 Further to the authority given by the Cabinet in November 2010 the Council has made a loan to the Town Council of £480k to assist with its financial pressures. At the present time the Town Council has not been in a position to commence any repayments in respect of this loan. It is facing additional financial pressures due to difficulties with its grounds maintenance workforce where there has been a failure to implement a planned reduction in working hours and also the need to pay a compromise agreement to avoid a potential costly Employment Tribunal claim.
- 4.16 Dissolution of the Town Council would in accordance with the regulations accompanying the legislation result in the residual liabilities being transferred to Barnsley as the Principal Council. This would effectively mean the Council writing off the £480,000 loan given to the Town Council.

#### A Parallel Strategy

- 4.17 It would be advisable to consider in parallel with the conduct of the statutory Review undertaking an exercise to examine the potential for a strategy to alleviate progressively some of the burden on the Parish precept to return it to a level which is more acceptable to the community. Clearly it would not be acceptable to write the loan off at the expense of the taxpayers of Barnsley overall which would also be an unwise precedent to set in respect of other Parish Councils that may encounter financial difficulties in the future.

Such a strategy would need to involve potentially a combination of:

- Assistance to the Town Council in generating capital receipts from the sale of assets;
- Assistance to the Town Council in securing the reduction in the cost of operating existing facilities though promotion of greater co production and reduced use of in house capacity;
- Transfer of Town Council facilities for no capital cost to Barnsley Council albeit with an expectation that levels of service would need to be reviewed

alongside the overall Future Council budget exercise for 2015/16 and beyond;

- Additional limited revenue support from Barnsley to the Town Council.

4.18 Whilst there is the need to undertake more detailed analysis there is the potential to be able to present alongside the outcome of the formal statutory Review, a strategy for containing and reducing the cost of the parish precept in 2015/16 and beyond and prior to the 2015 Parish Council Elections.

#### Timeline

4.19 The timeline for the completion of the Review having regard to the 12 month deadline for its completion is suggested as follows:

##### 4th December 2013:

Cabinet approve basis of consultation for Terms of Reference of Review

##### 6th December 2013:

Advertise requesting representations in respect of Terms of Reference

##### 3rd January 2014:

Deadline for representations

##### 8th January 2014:

Cabinet recommend Terms of Reference to Council

##### 6th February 2014

Council approves Terms of Reference - 12 month period for Review commences

##### 14th February 2014

Advertise requesting representations in respect of Community Governance Review

Town Council sets Parish Precept for 2014/15

##### 30th March 2014

Deadline for representations

##### April 2014

Election Period



22nd May 2014

Borough Elections

July 2014

Cabinet considers analysis of representations and makes recommendations in respect of outcome of Community Governance Review

[Cabinet considers "parallel" report in respect of scope for further assistance to Town Council to alleviate pressure on Parish Precept?]

September 2014

Council makes formal decision in respect of outcome of Community Governance Review

February 2015

Town Council sets Parish Precept for 2015/16

May 2015

Combined Borough and Parish Council Elections

## **8. Consideration of Alternative Options**

- 8.1 There is a statutory obligation to progress the review and undertake a consultation exercise with regard to its terms of reference.

## **9. Proposal**

- 9.1 That it be recommended in undertaking the consultation exercise with regard to the Terms of Reference for the Review that such terms of reference do not include the issue raised in the petition with regard to the financial difficulties faced by the Town Council and the pressure on the Parish Precept.
- 9.2 That consideration be given to a parallel exercise of officers assisting the Town Council in examining the scope for reducing the burden of the Parish Precept as set out in paragraph 4.18 of the report.

## **10. Local Area Implications**

- 10.1 The issue of the future of the Town Council and its financial pressures remain a matter of some controversy within the local community. This has the potential to disrupt work in engaging with the community in particular through the role of the Ward Alliance and Area Council.

## **11. Human Rights Implications**

- 11.1 There are no implications in respect of rights under the Convention.

**12. Risk Management Implications**

- 12.1 Given that the Council has made a significant loan to the Town Council there is a substantial risk in the light of the financial pressures facing the Town Council that it may not be repaid. It is therefore in the interests of the Council for officers to continue to work pro-actively with the Town Council.

**13. Financial Implications**

- 13.1 The cost of the loan which has been provided for within the Council's Medium Term Financial Strategy. There would however be additional adverse financial implications in the event that the Town Council was not in a position to service or repay the loan. There may be further short terms financial assistance which the Town Council may need to address potential solvency issues and this would be the subject of a further report.

**14. Background Papers**

- 14.1 Letter and petition requesting Community Governance Review.
- 14.2 Statutory Guidance issued by the Secretary of State

**15. Contact Officer**

- 15.1 A C Frosdick Ext: 3001

APPENDIX 1

HEMSWORTH





23, Windmill Avenue,  
Grimethorpe,  
Barnsley,  
S.Yorks.  
S72 7AN.

**Subject: The Electors Petition for a Community Governance Review of the Civil Parish of Brierley.**

Dear Mr. Coppard and District Councillors,

The Local Government and Public Involvement in Health Act 2007, empowers the principal council for a district, in this case Barnsley Metropolitan Borough Council, to create new parishes and parish councils, to alter parish boundaries, to dissolve parish councils and to abolish parishes.

This process is known as a 'community governance review'.

On conducting a review the principal council must take into account the wishes of the local inhabitants.

This same Act also allows reviews to be triggered by a petition of local government electors of the area, and such a review is now being called for by the electors of the parish of Brierley.

The review the petition calls for and the recommendation it makes is that the parish of Brierley be abolished as a tier of local government.

To validate this petition it must be signed by 10% of the registered electors for the parish.

On the 14<sup>th</sup> of February 2011 the number of registered electors for the parish of Brierley was, Grimethorpe Ward 3464 electors, and the Brierley Ward 1822 electors making a total of 5286 registered electors.

Therefore the petition was required to be signed by 529 registered electors.

The petition now presented to Barnsley Metropolitan Borough Council has been signed by 1459 registered electors for the parish of Brierley or 27.6% of the registered electors.

From the petition it is clear that the recommendation and wishes of the electors is that the parish of Brierley is abolished as a tier of local government.

The electors' recommendation and reason for calling for the review is as follows:

1. Brierley Town Council being a public body has the responsibility to its precept payers and electors' to manage its finances in accordance with all the appropriate local government regulations. It has not done so.
2. This mismanagement has resulted in very substantial debt being incurred by the Town Council and the need to obtain a loan of up to £500,000 from Barnsley Metropolitan Borough Council.
3. This loan which will be used to pay the Town Council's debts will itself have to be repaid through the parish precept. It cannot benefit the parish because the precept will only be replacing monies previously obtained through the precept and government grants.

4. Because of the £500,000 loan all the Town Council's budgets must be approved by B.M.B.C.  
It is no longer an independent local authority.

The electors will not accept increased parish precepts which are simply to 'make good' the Town Council's debt and repay the loan, they will not accept the Town Council's mismanagement of its finances being the precept payers burden.

In order to abolish an existing parish council the principal council must provide evidence that it is in response to 'justified, clear and sustained local support' from the area's inhabitants. The numbers signing the petition believe that it answers all of these requirements and this is supported by the fact that the electors also sought the abolition of the parish of Brierley in 2001/02

So there has long been a latent support for its abolition.

This was when a parish-poll was held for it to be abolished.  
Of the poll 1231 of the electors (91% ) voted for the parish to be abolished.  
123 of the electors ( 09% ) voted to keep the parish.

The turnout was 36% which for a parish-poll was exceptional.  
The review by B.M.B.C decided to ignore the expressed wishes of the majority and accept the vote of the minority.  
The recommendation of the electors is that they wish the civil parish of Brierley to be abolished as a tier of local government and the reason why is clear and unambiguous, and on their behalf I submit this petition for a community governance review of the parish of Brierley.

Yours faithfully,  
*F. Hardy*  
F.Hardy



BARNSELY METROPOLITAN BOROUGH COUNCIL

Report of the Borough Secretary to  
Cabinet 3<sup>rd</sup> March 2004

Local Government and Rating Act 1997: Review of Brierley Town Council

**1. Purpose of Report**

- 1.1 To present to the Cabinet an analysis of relevant issues relating to the future of Brierley Town Council and its electoral arrangements.

**2. Recommendation**

- 2.1 That it be recommended to the Council that the outcome of the Review undertaken pursuant to the Local Government and Rating Act 1997 be as follows:

(i) that no further action be taken with regard to promoting the abolition of Brierley Town Council.

(ii) that the electoral arrangements in respect of Brierley Town Council be amended by the transfer of an Elected Member seat from the Grimethorpe Ward to the Brierley Ward with the effect that there be nine Members elected for the Grimethorpe Ward and four Members elected for the Brierley Ward. These arrangements to take effect at the expiry of a current full term of office of the Town Council in 2007.

- 2.2 That further reports be prepared to consider the distribution of the burden of expenditure between Brierley Town Council and Barnsley Metropolitan Borough Council with regard to parks and related facilities.

**3. Background**

- 3.1 The Cabinet resolved at its meeting on 12<sup>th</sup> September 2001 that a report be prepared to address the implications of the abolition of Brierley Town Council, together with any alternative future options other than total abolition. The Cabinet resolved to give further consideration in the light of such report as to whether the Council should petition the Secretary of State to exercise their powers under the Local Government and Rating Act 1997 with regard to the future of Brierley Town Council.

- 3.2 This Cabinet resolution arose from a Parish poll which was conducted in July 2001. The poll was organised by members of the local community and asked the question whether or not Brierley Town Council should be abolished. This resulted in a 91% majority in favour of abolition on a 35% turnout of the electorate for the Brierley Town Council area, the turnout being broadly

equivalent between the Grimethorpe and Brierley Wards of the Town Council.

- 3.3 The exercise in reviewing future options for the Town Council was affected by the impact of the Periodic Review of the Electoral Arrangements for Barnsley Council. The Electoral Commission embarked upon the Periodic Electoral Review in the autumn of 2001. In discussions the Commission expressed a view that it would be unhelpful for the Council to carry out a review of Brierley Town Council at the same time that the Periodic Electoral Review was being carried out. The Commission argued strongly that there should be a period of stability during the Periodic Electoral Review as parish boundaries are viewed as the essential building blocks for consideration as to appropriate Ward boundaries. The Commission was also concerned that some confusion may arise in the mind of the public if two separate Reviews raising different issues were being carried out simultaneously. The Cabinet, therefore, resolved on 20<sup>th</sup> February 2002 that no formal review of options for the future of Brierley Town Council be undertaken until the conclusion of the Periodic Electoral Review.
- 3.4 The Council had previously considered a separate request from Brierley Town Council for a review of its electoral arrangements. This request was received in May 2000 and the Cabinet resolved at its meeting on the 5<sup>th</sup> July 2000 to conduct a review of the electoral arrangements for Brierley Town Council in accordance with Section 17(2) of the Local Government and Rating Act 1997. A copy of the original letter from the Town Council submitting representations in respect of its electoral arrangements for the Town Council is attached as Appendix A.
- 3.5 A decision was taken to combine the work in respect of the review of the electoral arrangements of the Town Council with a subsequent issue of the examination of future options for its composition following the Parish poll in July 2001.

#### **4. Relevant Statutory Provisions**

##### **4.1 Review of Composition**

4.1.1 A Local Authority may petition the Secretary of State under the Local Government and Rating Act 1997 with proposals which may comprise any of the following:

- Abolition of a Parish Council
- Creation of two or more Parish Councils out of an existing Parish Council
- Merger of a Parish Council with another existing Parish Council

The Secretary of State has a discretion whether or not to adopt any such proposals submitted by a Local Authority.



## **4.2 Review of electoral arrangements under Section 17 of the Local Government and Rating Act 1997**

4.2.1. A Local Authority may at any time review the electoral arrangements for a Parish Council within its area. Such a review does not need to be submitted to the Secretary of State. The discretion as to what decision to take is vested entirely in the Local Authority.

## **4.3 Consultation**

4.3.1 In both cases no particular form of consultation is prescribed. A Local Authority exercising the above powers under the Local Government and Rating Act 1997 has a discretion to carry out such consultation as is deemed to be appropriate.

4.3.2 In the case of the proposals under consideration in respect of Brierley Town Council the parish poll represents a relevant representation of local opinion, albeit that it was undertaken as long ago as July 2001. A public notice has recently been placed in the Barnsley Chronicle inviting any interested persons to make representations in respect of the issues under consideration. A copy of the public notice is attached for information as Appendix B.

## **5. Current Position**

5.1 Following the recent public advertisement 130 letters of representation have been received expressing opposition to any abolition of the Town Council. These representations consist of essentially two standard letters which have then been signed by various individuals. More substantial letters of representation supporting the Town Council have been received from Councillor P. Doyle, the Mayor of Brierley, from the Clerk of the Town Council, and from Councillors Vodden and Whittaker, two of the three Brierley Ward Members. The Town Council has also passed a formal resolution with regard to the issue. A letter has also been received from the local MP Jeff Ennis. The relevant letters are reproduced for information as Appendix C.

5.2 Two letters have been received expressing support for the abolition of the Town Council. A letter has also been received from Councillor Middleton which raises the issue of the transfer of facilities from the Town Council to Barnsley Council. These letters are attached as Appendix D.

## **5.3 Summary of Consultation Responses**

5.3.1 Those arguing in favour of the abolition of the Town Council have raised the issue of the level of the Brierley Parish precept. They have also raised the question of whether or not there is an element of double

taxation with services being provided by the Town Council, which in other area of the Borough are provided out of the Council Tax by Barnsley Council. It is also suggested that there is an element of duplication in having two separate Authorities.

5.3.2 Those arguing in favour of retaining Brierley Town Council raise a number of issues.

- (i) The Parish poll decision was taken in isolation prior to any assessment as to whether the services presently provided by Brierley Town Council would be continued to be provided by Barnsley Council if the Town Council were abolished.
- (ii) Brierley Town Council provides specific support for local activities that will be placed at risk if the Town Council did not continue in existence.
- (iii) Abolition of the Town Council would not be consistent with the general arrangement whereby rural areas to the east and west of the Borough are parished.
- (iv) The size of the Parish precept is influenced by the proportion of Band A and Band B properties. This results in the precept having to be set at a relatively high level to raise sufficient finance to pay for facilities provided by the Town Council.
- (v) No support is now available to the Town Council through the present national non-domestic rating system, unlike the previous non-domestic rating system.
- (vi) Any issue of double taxation can be most effectively addressed by Barnsley Council through the provision of financial assistance.

## **6. Background Service and Financial Information**

6.1 The Town Council enjoyed historically as did other parish councils the power to levy a precept in respect of the non domestic properties within its area as well as in respect of the domestic properties contained in the rating valuation list. Given the extent of the non domestic property within its area, much of it related to the coal industry, it was not necessary historically for the Town Council to levy a significant level of precept to raise sufficient levels of income to finance its activities. In recent years following the abolition of the former non domestic rating system parish councils have lost this opportunity to raise revenue and have been required to rely for their income solely on the power to levy a precept on the Council Tax.

- 6.2 The Brierley Town Council precept levied over the previous three financial years is as follows:
- (i) 2001/2 - £109,643.00
  - (ii) 2002/3 - £103,364.00
  - (ii) 2003/4 - £90,000.00
- 6.3 The Band D addition representing the Brierley precept added to the Council Tax levied by Barnsley Council for the above three financial years is as follows:
- (i) 2001/2 - £69.48
  - (ii) 2002/3 - £66.74
  - (iii) 2003/4 - £58.38
- 6.4 The additional tax burden arising from the Brierley precept in 2003/4 represented an additional 5.6% with the Brierley Council Tax being £1,097.84 for a Band D equivalent property compared with the Barnsley Council Tax of £1,039.46.
- 6.5 The Brierley Town Council precept has not yet been received for 2004/5 but on the assumption that a precept of £90k is levied, this would result in tax payers in Brierley paying an extra £64.04 for a Band D equivalent property, representing an extra 5.8% tax burden in addition to the Council Tax levied by Barnsley Council.
- 6.6 Attached as Appendix E is the income and expenditure account for 2002/3, from the most recently published set of accounts for Brierley Town Council. This essentially shows that the Town Council is incurring revenue expenditure in the region of a £100k per annum supported by other income of approximately £10k, which includes a contribution from reserves of £5k.
- 6.7 The published balance sheet for 2002/3 shows capital reserves of £10,582.00 and revenue balances of £45,819.00.
- 6.8 **Summary of assets and facilities provided by Brierley Town Council**

Attached as Appendix F is a summary of the various facilities and activities of the Town Council, together with the most recently published asset register. This information, together with the published accounts, demonstrates that there is expenditure in the region of £11k per annum to support activities in the community. The majority of the balance of the expenditure is incurred on staffing and related costs to support community facilities; essentially parks and recreational facilities and their associated grounds maintenance. The extent of these facilities is somewhat greater than those provided elsewhere by other Parish Councils.

- 6.9. Attached as Appendix G is a map which shows the Brierley Ward of the Town Council, marked A and B, and the Grimethorpe Ward marked C, D and E. The areas marked F and G show the adjacent Shafton Parish Council Wards.

## 7. Analysis

- 7.1 Consideration needs to be given to a range of key issues in determining the future position with regard to Brierley Town Council and its relationship with Barnsley Council.

### 7.2 The future composition of the Town Council

Consideration needs to be given to the following:

- (i) The extent of public support for any abolition.
- (ii) The significance of the Parish poll and the extent to which the question of the abolition of the Town Council was considered in the context of what may be the implications of abolition.
- (iii) The implications in respect of the future of the services and facilities at present provided by the Town Council if these were not to be continued following abolition.
- (iv) The financial implications for Barnsley Council if it were to absorb the burden of some or all of these facilities.
- (v) The extent to which it could be argued that there is an element of double taxation.
- (vi) The scope and implications for the creation of two or more Parish Councils.
- (vii) The scope and implications for the merging of Brierley Town Council with any other Parish Council.

### 7.3 Future Electoral Arrangements of the Town Council

Consideration needs to be given to the extent to which there is an equality of representation between the Grimethorpe and Brierley Wards of the Town Council and whether that can be improved.

## 7.4 Detailed Analysis

### 7.4.1 Extent of public support

- (i) There was clearly an overwhelming majority in support of abolition amongst the people who voted in the Parish poll. The turnout, although less than 50%, was also significantly higher than for the previous or subsequent local elections. The question has been raised, however, to what extent the Parish poll was something of an exercise in the abstract and whether those voting were of the view that the Parish precept would reduce but that the existing services provided by the Town Council would continue. The question was not posed in the context of what would be the view of those voting for the abolition of the Town Council if the facilities and services presently provided were not to be continued.
- (ii) A substantial number of letters of representation have been received, albeit it needs to be recognised that the majority of these are in the form of a proforma letter. However, in comparison only three letters have been received arguing in support of the abolition of the Town Council. The representations that have been received do highlight concern that abolition of the Town Council would not be welcome if the result were to be the loss of the facilities currently provided by the Town Council.
- (iii) It needs to be recognised that whilst the mechanism for the abolition of a Parish Council is contained in legislation this does represent the removal of a tier of elected Local Government. It may normally be expected that there should be substantial public support for such a course of action. It may be open to question in the context of the future of Brierley Town Council whether there is sufficient concurrent support within the community for the removal of an elected tier of Local Government.

#### 7.4.2. Implications of abolition for services currently provided by Brierley Town Council

- (i) It can clearly be anticipated that significant community facilities would be lost on the abolition of Brierley Town Council if these facilities were not to continue to be provided. The representations received place emphasis upon the role of the Town Council in providing direct support for certain community activities.
- (ii) Upon abolition of a Local Authority it would be normal practice for assets and facilities to be transferred to a successor body. Realistically Barnsley Council would be viewed as the successor body if Brierley Town Council were to be abolished. It would not in the circumstances be realistic to promote the abolition of

the Town Council if the existing services and facilities were not to be continued to be provided or substantially provided.

- (iii) A key issue, therefore, is whether or not Barnsley Council would be prepared to absorb the burden of some or all of the additional expenditure that would be necessary to enable the facilities to be provided, or substantially provided. This issue is likely to be influenced significantly by whether or not there is evidence to support the argument that the Town Council is funding services from the Parish precept which in other circumstances would be provided by Barnsley Council funded by the Council Tax. This issue is examined further in paragraph 7.4.4 below.

#### **7.4.3. Financial Implications for Barnsley Council**

- (i) Analysis of the accounts of the Town Council and its current expenditure would indicate that Barnsley Council would need to incur additional expenditure in the region of £100k to continue to support all of the existing services and facilities provided by the Town Council. Any such additional expenditure would represent a further commitment against the Council's resources for 2004/5.
- (ii) Some analysis would need to be undertaken as to the extent to which the Council could continue existing arrangements more cost effectively by incorporating them within its existing operations, which may have an impact on the overall burden of expenditure.
- (iii) Additional expenditure of £100k would equate to an estimated in Council Tax of 0.15%. This would represent an increase for a Band D property for the Council Tax to be recommended to the Council for 2004/5 of £ 1.42 .

#### **7.4.4. Is there any element of double taxation?**

- (i) An analysis of the parks and related facilities and services provided by Brierley Town Council suggest that they do not entirely represent " add on" facilities over and above a standard level of service provided elsewhere by Barnsley Council.
- (ii) The element of financial support provided for local community activities in the region of £11k would seem to represent additional expenditure for which there is no equivalent provision by Barnsley Council. The level of the Community Support Fund for the Cudworth/Brierley/Monk Bretton Area Forum, for example, is at the same level as for all other areas of



the Borough and has not been top sliced in any way in view of additional expenditure of a similar nature carried out by the Town Council. Indeed the Town Council has been the direct recipient of financial support from the Community Support Fund in 2003/4 of £2,500.

- (iii) To the extent, therefore, that Brierley Town Council is not providing significant additional facilities over and above those provided by Barnsley Council, it may be suggested that residents are paying through the Parish precept for facilities which elsewhere are funded directly by the Council Tax.
- (iv) Some consideration needs to be given, however, as to whether the position in respect of the Brierley Town Council area is necessarily unique. There is no standard level of provision for the parks and related facilities of the kind provided by the Town Council across the Borough as a whole. Surveys carried out in the past in respect of the nature and distribution of these facilities necessarily show a variable level of provision. It has always been the case that parks and related facilities exist where historically these have been appropriate and established in land use terms. Given the variable density of development and population settlement it would indeed be difficult to come up with any standard level of consistent provision for such facilities. There are other locations within the Borough, therefore, where there are no such facilities directly available for the use of the community but where this is not reflected in a lower level of Council Tax.
- (v) Brierley Town Council could be said to be in a category of its own, however, to the extent that no facilities of a similar kind are provided on anything like a comparable scale funded out of the Parish precept anywhere else within the Borough. The issue does require examination therefore, even if there is not a case to support the abolition of the Town Council, as to whether it is incurring expenditure which in other circumstances would be borne by Barnsley Council out of the Council Tax. This is however likely to require more detailed consideration.

#### **7.4.5 Creation of two or more Parish Councils**

This is unlikely to be a realistic option and certainly would not address the concerns of those who have been arguing for abolition of the Town Council on the basis that there is an unfair burden of expenditure on local tax payers. Any logical division of the existing Town Council area into two Parish Councils would involve creating two new Authorities based on the Brierley and Grimethorpe ward boundaries of the Town Council. The distribution of facilities between Brierley and

Grimethorpe is such that any creation of more than one Parish Council is likely to result in a disproportionate burden of the expenditure needed to maintain the existing facilities falling on Grimethorpe residents. Whilst this may be attractive to residents in Brierley it would clearly be necessary to increase significantly further the precept to be levied by any new Council for the Grimethorpe area.

#### **7.4.6 Merger with an adjacent Parish Council**

Shafton is the adjacent parished area which could be amalgamated with the Brierley Town Council area under the provisions contained in the 1997 Act. However there is no natural community of identity between the areas. The extent of the facilities provided by Shafton Parish Council is on a much smaller scale than the Town Council so any amalgamation would bring together as one Authority two very different organisations. There is no local expression of support for such a proposal which would be a significant factor for the Secretary of State to take into account. Furthermore the effect of such an amalgamation would be to transfer some of the burden of the cost of providing the existing Town Council facilities to the local taxpayers in Shafton who are unlikely to derive any benefit from them. This proposal would do nothing therefore to address the issue of the perceived fairness of the impact of the burden of taxation for the cost of providing the Town Council facilities.

### **7.5 Future Electoral Arrangements**

- 7.5.1 If Brierley Town Council is to continue as an elected tier of local government there is a significant argument for reviewing its electoral arrangements. The original submission of the Town Council highlights the discrepancy that existed and continues to exist between the number of electors represented by elected members in the Brierley and Grimethorpe wards. The figures for the most recent register of electors show that the disparity in the balance of representation has continued to increase which will have been influenced by recent demolitions of properties in the Grimethorpe ward.
- 7.5.2 There are at present 280 electors per member for the Grimethorpe ward and 556 electors per member for the Brierley ward. There are longer term objectives to increase the number of dwellings in Grimethorpe but this is unlikely in itself to address the present imbalance of representation.
- 7.5.3 The Electoral Commission has recently carried out the Periodic Electoral Review for Barnsley based on the principle that there should as far as possible be equality of representation for all electors. There is clearly scope through a review of the electoral arrangements for the



Town Council to move towards greater equality of representation between the Grimethorpe and Brierley wards.

- 7.5.4 The issue has been raised by the Town Council as to the ratio of the number of higher council tax banded properties between the two wards and the extent to which this should influence their respective balance of representation. However this in itself should not be viewed as a relevant criteria to take into account. There is no established principle that the balance of electoral representation for an area should be greater on the basis that it contains a greater proportion of higher banded properties.
- 7.5.5 In determining the extent of any adjustment in levels of representation between the two wards the issue arises as to whether the number of elected members overall should be increased. Such a proposal was put forward by the Town Council in its original submission in 2000. However it is appropriate in addressing this issue to have regard to the recommendations of the National Association of Local Council as to the overall size of a parish council. In view of the size of its electorate Brierley Town Council should under such guidance continue to have thirteen members. In these circumstances it would be more appropriate to address the balance of the level of representation by adjusting the number of elected members between the two wards rather than increasing the overall number of councillors. This would involve increasing the representation of the Brierley ward by one member to four members and correspondingly reducing the number of elected members for the Grimethorpe ward to nine members.

## 8. Options

### 8.1 Abolition

- 8.1.1 It is open to question whether there is any significant body of local opinion that the Town Council be abolished in circumstances where its activities were to discontinue. Given the impact which the abolition of the Town Council would have on facilities and other support presently provided to the local community it would also not seem realistic to petition the Secretary of State to abolish the Town Council .
- 8.1.2 Historically there have been very few precedents for the Secretary of State to abolish entirely a parish council. The Secretary of State indicated, in response to a Parliamentary Question when the issue was raised in the House of Commons at the time of the Parish poll in 2001, that the powers in the 1997 Act had only been used in four cases since their introduction. In each of those cases the Parish Council in question had been merged with another Parish Council and there had been no case of outright abolition. Prior to 1997 no Parish Council had been abolished in the period between 1992 and 1997.

## **8.2 Alternative Parish arrangements**

The above analysis suggests that it is not realistic to consider creating more than one parish council out of the existing Town Council area nor merging it with an adjacent parish council.

## **8.3 Alternative Electoral Arrangements**

The Council is not obliged to review the existing electoral arrangements which have operated since 1974. However a transfer of an elected member to the Brierley ward from the Grimethorpe ward would improve the balance of electoral representation between the two wards.

## **8.4 No further action**

8.4.1 The Council has agreed to undertake a review of the Town Council in response to the issue being raised within the local community resulting in a Parish Poll. Whilst the Council has the powers under the 1997 Act to petition the Secretary of State to make changes to the current parish arrangements the arguments in support of such a course of action are not compelling. If such a conclusion were to be supported then that would represent the conclusion of the Review process which the Cabinet has resolved to carry out and no further action is necessarily required.

8.4.2 If no further action were to be considered with regard to the future of the Town Council then the issue of the impact of the current level of the parish precept would remain a matter to be determined by the Town Council.

8.4.3 The Town Council is an elected body and it could be argued therefore that the appropriate way for issues relating to the activities of the Town Council and its spending to be addressed through the democratic process. The next parish elections are due to be held in 2007.

## **8.5 Examining the impact of the parish precept**

8.5.1 A perceived sense of unfairness at the level of the parish precept, and whether the precept is relieving Barnsley Council of the burden of some of the expenditure in the Town Council area, seems to have been at the root of the original request for the Parish Poll. Although the level of provision of the services of the kind provided by the Town Council is not consistent across the Borough there is no equivalent area where a parish council is providing facilities on the scale of those provided by the Town Council funded through the parish precept.

- 8.5.2 It seems clear that at the very least some of the expenditure of the Town Council is not of a nature that could reasonably be expected to be provided by Barnsley Council . This relates essentially to financial support for locally based activities. There may however be scope to consider further, with reference to the expenditure on parks and related services, the extent to which the Town Council may be incurring some expenditure funded by the Parish precept which in other circumstances may be funded by the Council Tax.
- 8.5.3 This would require a more detailed assessment of the parks and related facilities provided by the Town Council. It would be necessary to examine to determine the extent to which these may be viewed as comparable to similar facilities elsewhere and the extent to which they may legitimately be viewed, either in terms of scale or standard of provision as additional facilities over and above what Barnsley Council would normally expect to provide. It is difficult to reach a definitive conclusion at this stage although one effect of the Review that has been carried out is to identify that the issue warrants detailed consideration.
- 8.5.4 Having carried out such further detailed analysis there would be scope to examine further if appropriate two potential options.
- (i) The Town Council itself has raised the issue of whether Barnsley Council should address the impact of the size of the parish precept by providing some financial assistance to the Town Council. The Council does have the statutory powers to provide in its discretion financial assistance to a parish council. This would enable the size of the precept to be reduced whilst maintaining the existing levels of service.
  - (ii) An alternative approach would be for Barnsley Council to consider taking over some of the facilities at present provided by the Town Council and absorb the burden of the cost of providing them. This again would enable the Town Council to reduce the size of the parish precept as it would then be operating on a much smaller scale comparable to most of the other parish councils. It would be possible for the Secretary of State to approve the transfer of relevant assets to Barnsley Council for nominal consideration and the relevant employees could be transferred to its employment. However the Town Council in its letter of representation has expressed the view that it would not support a transfer of assets and facilities. This option would therefore require further discussion with the Town Council.
- 8.5.5 Both of the above options would give rise to financial implications which are examined in paragraph 7.4.3 above. In the case of a transfer of assets there would have to be an assessment as to the longer term

implications of the cost of the ongoing maintenance of the assets. This would require a more detailed survey before the full implications could be assessed.

8.5.6 Careful consideration would need to be given to the impact of adopting either of the above options on the position of other parish councils. The Town Council is providing services and facilities on a scale for which is more extensive than other parish areas. It has also had to rely on the parish precept in recent years to maintain this level of service. The situation may thus be viewed therefore as not directly comparable with other parish council areas. Nevertheless in addition to the financial implications consideration would need to be given to how the provision of selective financial assistance to the Town Council through either of the above options would be perceived by other parish councils and whether this would result in similar requests.

## **9. Proposal**

- 9.1. That no further action be taken with regard to promoting the abolition of Brierley Town Council.
- 9.2. That consideration be given to reviewing the electoral arrangements of the Town Council by transferring one elected member to the Brierley ward from the Grimethorpe ward.
- 9.3 That further reports be prepared to consider distribution of the burden of expenditure between Barnsley Council and Brierley Town Council in respect of parks and related facilities.

## **10. Local Area Implications**

- 10.1 The whole issue of the future of Brierley Town Council and its electoral arrangements is a matter of significant importance for the local community and its engagement with democratically elected government.

## **11. Impact on Crime and Disorder**

- 11.1 The future options for Brierley Town Council do not raise any significant crime and disorder issues.

## **12. Consultations**

- 12.1 There has been consultation through a press advertisement with the local community and this has produced a reasonable level of response. The overwhelming majority of those responding have expressed support for retaining Brierley Town Council.

**13. Employee Implications**

13.1 None specific for Barnsley Council although Brierley Town Council has a small number of employees who may be affected by any proposals for its abolition.

**14. Financial Implications**

14.1 There are no direct financial implications arising from the recommendation. The financial implications of the Council assuming any responsibility for Services provided by Brierley Town Council are addressed in the report.

**15. Appendices**

The contents of Appendices A to F are identified in the relevant sections of the report.

**Contact Officer**

**Tel. No.**

**Date**

A.C. Frosdick

773001

23<sup>rd</sup> February 2004

