MANCHESTER CITY COUNCIL
REPORT FOR RESOLUTION

COMMITTEE: **Constitutional and Nomination Committee**

DATE: **8 October 2008**

SUBJECT: **Community Governance Petition – Northenden**

REPORT OF: **The City Solicitor**

PURPOSE OF REPORT:

To advise the Constitutional and Nomination Committee of the receipt of a petition requesting the establishment of a parish council in the Northenden ward and to enable the Committee to make recommendations to the City Council as to the steps to be taken to initiate a Community Governance Review.

RECOMMENDATIONS:

That the Constitutional and Nomination Committee recommend to the City Council:

i) that the community governance petition of 18th April 2008 be noted;

ii) that preparations be commenced for initiating a Community Governance Review in response to the petition;

iii) the scope of the Community Governance Review; and

iv) that the City Solicitor produce draft terms of reference for the conduct of the Community Governance Review together with draft procedures and a timetable for carrying out such a review.

FINANCIAL CONSEQUENCES FOR REVENUE BUDGET: None

FINANCIAL CONSEQUENCES FOR CAPITAL BUDGET: None

WARDS AFFECTED:

Potentially all

IMPLICATIONS FOR:

Antipoverty	Equal Opportunities	Environment	Employment
No	No	No	No

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BACKGROUND DOCUMENTS:

i) Copy of petition and map

ii) Map of the Northenden ward

iii) Local Government and Public Involvement in Health Act 2007

iv) Guidance on Community Governance Reviews, issued by the Department for Communities and Local Government and the Electoral Commission

Background to the Petition

1. On 18th April 2008 a petition was presented to Manchester City Council requesting the creation of a parish council within part of the Northenden ward. The petition was addressed to the Secretary of State and purported to be a petition for the purposes of s.11 of the Local Government and Rating Act 1997 ("the 1997 Act"). It went on to state:

   > We the undersigned, each being a local government elector for the area of the following proposed new parish council, in pursuance of the above Act of Parliament, hereby request you to constitute a local government parish council for the neighbourhood of Northenden Village, the area of which shall be the same as that outlined on the attached map, part of the Electoral Ward of Northenden of Manchester City Council, such new parish to be called Northenden Parish Council.

2. S.11 of the 1997 Act provided that where a principal council received a petition meeting the relevant statutory criteria for the creation of a parish council within their area, it must forward it, along with its views on the matter, to the Secretary of State. The Secretary of State would then determine whether to give effect to, with or without modification, the petition.

3. On 13th February 2008 the above provisions of the 1997 Act were repealed by the Local Government and Public Involvement in Health Act 2007 ("the 2007 Act") and replaced by a system of Community Governance Reviews ("CGR"s). Under the new provisions the power to decide upon community governance arrangements, including whether to implement proposals contained in petitions for the creation of parish councils, has been transferred from the Secretary of State to principal councils.

4. The petition and legal position have now been considered. The fact that the petition was addressed to the Secretary of State and referenced redundant legislative provisions has no impact on its validity, provided that the statutory requirements for a valid petition under the 2007 Act are met. In this case they are, as:

    a) the petition contains 520 valid signatures (as measured against the entries in the relevant register of local government electors) and this is greater than 10% of the local government electorate (5067) for the area concerned;

    b) the petition defines the area to which it relates – it does so by reference to a map, which shows an area encompassing polling districts 5NOC, 5NOD, 5NOE and 5NOF of the Northenden City Council ward; and

    c) the petition specifies one or more recommendations for the CGR to consider making, namely:

        - the constitution of a new parish council within Northenden (the 2007 Act requires that this is to be interpreted as also being a request for the creation of a parish);

        - for it to be within the boundaries indicated; and

        - for it to be called Northenden Parish Council.

5. Where a principal council is satisfied that a petition is valid, it is under a duty to carry out a CGR.

<u>The Scheme</u>

6. Under the 2007 Act principal councils have full responsibility for undertaking CGR's and (in most cases) deciding whether to give effect to the recommendations made in them.

7. Issues that may be the subject matter of a CGR include the creation of new parishes and parish councils or the abolition of existing ones, changing existing parish boundaries and parish council electoral arrangements, and grouping or de-grouping of parishes. The principal council must decide and publish terms of reference which it will comply with in undertaking the CGR. The terms of reference must specify the area under review. If a CGR is undertaken in response to a petition the terms of reference must enable the petition's proposals to be considered as part of the review, although this does not prevent them being drafted more widely and including a wider review area.

8. In undertaking a CGR the principal council must comply with a number of duties specified in the 2007 Act. These are to:

a) consult local government electors for the area covered by the review and also any other person or body (including a local authority) which appears to the principal council to have an interest in the review;

b) 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 and is effective and convenient;

c) in deciding what recommendations to make to take into account what other arrangements (apart from those relating to parishes and their institutions) have already been made, or could be made, for the purposes of community representation or community engagement in respect of the area under review;

d) take into account any representations received in connection with the review;

e) as soon as practicable after making any recommendations, publish them and take such steps as it considers sufficient to secure that persons who may be interested in the review are informed of those recommendations; and

f) conclude the review within 12 months of it beginning.

Subject to these duties, it is for the principal council to decide its own procedures for carrying out the CGR.

9. At the completion of the CGR, the review must recommend whether new parishes should be constituted in the area under review and if so what they should be named and how they should be styled (i.e. a parish, community, neighbourhood or village). A proposal as to whether any parishes created should have parish councils must also be made. Where a parish recommended for creation would have 1000 or more local government electors then the creation of a parish council must also be recommended, where the local government electorate would be 150 or fewer then it must be recommended that a parish council should not be created for the parish. In addition, a recommendation as to the electoral arrangements to apply to any new parish council must be made (electoral arrangements include the ordinary year of election, the number of councillors and the warding of the parish).

10. Where the review relates to any existing parishes, when making recommendations at the conclusion of the CGR the principal council must recommend:

a) whether the parish should be abolished or retained, and if the latter whether on its current or alternative boundaries;

b) if the parish does not have a council whether it should have one (if the parish has an electorate of 1000 or more local government electors then the creation of a parish council must be recommended and if the local government electorate would be 150 or fewer then it must be recommended that a parish council should not be created); and

c) if the parish does have a parish council, whether it should continue to have one and if so what changes (if any) to its electoral arrangements (as defined at para.9) should be made.

11. Once recommendations have been made, the principal council may by order (a reorganisation order) give effect to them, unless they relate to protected electoral arrangements or consequential amendments to a principal council's electoral areas in which case the approval of the Electoral Commission is required. A map giving a general outline of the area affected must accompany the order.

12. After the principal council has decided to what extent it will give effect to the recommendations of the CGR, it must publish its decision, giving reasons, and take such steps as it considers sufficient to ensure that persons who may be interested in the review are informed of the decision and the reasons for it. If a reorganisation order is made, as soon as practicable after its making the principal council must deposit a copy at its principal office, along with a map showing the effects of the order in greater detail than in the map that originally accompanied the order. These should be available for public inspection at all reasonable times, and their availability publicised.

Conducting a Community Governance Review in Response to the Northenden Petition

13. The Constitutional and Nomination Committee is asked to recommend to the City Council that the petition be noted and that preparations be made for holding a community governance review in response. The Committee is also asked to recommend the scope for the review, setting out the areas of the City to be considered under it.

14. Once a review has been carried out the obligation to hold CGR's in response to valid local governance petitions is suspended for two years in relation to the areas covered by the review.

15. In considering the above, it should be noted that parish arrangements already exist in Manchester. The Parish of Ringway and its parish council cover the area of polling district 5WPF in Woodhouse Park ward. It has a local government electorate of 87 and is currently moribund, with no candidates having stood at recent elections. As Ringway Parish Council is failing to fulfil its statutory functions, this is a matter that needs to be addressed. However, unless the CGR is to be large-scale, it is proposed that Ringway parish should not form part of the review. It is suggested that the future of Ringway parish should be examined by the Parish Meeting.

16. The Committee is asked to recommend that the City Solicitor be responsible for drafting terms of reference that accord with the scope proposed by the Committee for the review. The Committee is also asked to recommend that the City Solicitor draft procedures and a timetable for carrying out the review (including the date of commencement). The City Solicitor will report to the Committee at its next meeting on the draft terms of reference, procedures and timetable to enable the Committee to consider them and recommend their adoption by the City Council.

17. In terms of the timescale for carrying out a review, this will depend upon its scope and the procedures adopted for carrying it out. The period involved could range from 6 to 12 months from the review commencing.