

Appendix A

Public Questions and Responses

Name	Question
<i>Mike Ginger</i>	<p>1.SCC is now deciding which routes in Somerset to submit under the next tranche of Department for Transport funding. The new routes need to be transformational-not just tinkering. For Taunton, we have asked officers to look at four routes which people in Taunton feel are very dangerous. These are: Station Road-Wellington Road-Cheddon Road and East Reach. We are asking that councillors support us in this.</p> <p>2. We urged that SCC focuses on implementation rather than producing more and more plans.</p>
Response from The Lead Member for Transport and Digital	
<p>Thank you for continuing to promote cycling in the Taunton area, we are pleased to continue to work with TACC to identify and prioritise the cycling investment in the area that will have the greatest likelihood of increasing the number of people cycling. I am pleased to confirm that following a recent assessment by Active Travel England, Somerset is now in the top 35 authorities in the Country for its Active Travel ambition and capability, with only 5 authorities ranking higher than us in terms of the assessment categories. This is a huge achievement for a rural authority competing with cities for active travel funds. This puts us in a good place to bid for forthcoming Government active travel funds, although we do not know how much funding might be made available to Somerset through the new active travel programme. We will make an ambitious bid in December and will make sure that further funding for Taunton is included in our bid which must of course also cover priorities across the whole County. We will consider the four corridors you have mentioned as we further develop our Active Travel proposals, and as these are also key corridors in our Bus Service Improvement Plan we will need to consider how active travel and bus priority integrate.</p> <p>These new capital funds are focused on implementation but we still have a duty to prepare cycling infrastructure plans across the County, and indeed we have a statutory obligation to prepare a new Local Transport Plan over the next 2 years which may include a refresh of our active travel plans; so unfortunately I can't commit to there being no more plans.</p>	
<i>Mike Ginger</i>	<p>If a Taunton Town Council is formed, we ask that active travel routes and safety become part of its remit. Frome TC has demonstrated leadership in this way and we urged that Taunton follows that example.</p>

Response from The Leader of the Council

This would be a matter for the newly elected Town Council in May 2023 to set its own priorities.

Mike Batsch

This is the story of Somerset West & Taunton Council’s Community Governance Review as seen through the eyes of Cheddon Fitzpaine Parish Council.

At an SWT meeting last October, a small group of Members got the unexpected opportunity to hi-jack the Review process. As a result, the meeting overturned the honest efforts of their then CGR Working Group. Its key recommendation to confine the scope of the Review to parishing the unparished area of Taunton had been based on QC advice. It identified that fixing the broken unparished area was the non-controversial, legitimate ‘core’ of the exercise; trying to do more with the CGR might put that ‘core’ ambition at risk and should be postponed to a later stage. Instead, the meeting adopted a greedy ‘let’s go large now’ proposal that wasn’t even tabled at the meeting! Based on the cynical re-engineering of established communities like ours, the Review goes against a fundamental aspect of the relevant Statutory Guidance, which states that carrying the support of the affected communities is paramount. No such support exists in our parish. The consultation consisted of asking our community what we want and then ignoring the bits that don’t fit the desired outcome! The official justification is (quote) “This Review is not a referendum.” What kind democracy is that?

To cut this long story short to 3 minutes, SWT and their new Working Group have steam-rolled their proposal through with undue haste and inadequate publicity, skittling aside all reasonable and legitimate opposition. On the back of that momentum – fearful that the parishing of the unparished area would fall and encouraged by their legal officer’s surprisingly unrealistic advice that the Review was “unchallengeable” – SWT Members voted-through the flawed Review at last Thursday’s SWT meeting.

Well, the pigeons that were released last October have come home to roost. We’ve been forced down the legal route and our QC-based advice is that SWT have mis-interpreted the Statutory Guidance.

Be in no doubt: we shall continue fighting for our community. But it’s more than that. At a time when the standards of our body-

	<p>politic are in decline, we are fighting for the impartial, non-party-political standards that underpin our parish council's business – and are generally characteristic of the traditional third tier.</p> <p>Your members have the power to protect our Cheddon Fitzpaine community by voting-down this legal and social travesty.</p>
<p>Response from the Leader of the Council</p>	
<p>Somerset County Council (SCC) is satisfied that, in relation to the Community Governance Review, all the processes conducted by the Somerset West and Taunton Council (SWTC) and SCC and the decisions reached were lawful. In particular, the Council is satisfied that:</p> <ul style="list-style-type: none"> • The Working Group in the processes adopted, and in the consultation that took place, complied with the Statutory Guidance and relevant legislation. • SWTC, in considering the reports to it and the resolutions it approved on 19th October 2021, 3rd March 2022 and 29th September 2022 was acting lawfully and in accordance with the statutory guidance and legislation. <p>As such, the Council is confident that both the CGR and its own decision to implement the recommendations in the CGR were lawful.</p>	
<p><i>Tony Smith</i></p>	<p>This Statement is solely concerned with the past, present and future arrangements for the transfer of CIL payments from SW&T to Trull Parish Council, arising from development in the Urban Extension.</p> <p>In 1.5 of Appendix "F" (the GRC Terms of Reference), it is stated that Parish Councils "...may also enter into discussion with the principal councils...about the transfer of services, budgets and assets subject to mutual agreement" [my emphasis]. So, no new arrangements can be imposed, unilaterally, by SW&T.</p> <p>Section 8.1 discusses Consequential Matters arising from the proposed Reorganisation Order, including the transfer of assets and liabilities. As far as I am aware, no agreement has been arrived at between Trull Parish Council and SW&T to alter the current or future arrangements for CIL payments accruing to the Parish from the Urban Extension, at the 25% rate applicable on account of the Trull Neighbourhood Plan, or for deferment of those payments beyond the dates on which they fall due.</p> <p>Moreover, under 14.4 and 14.5 of Appendix 2, those payments will continue to accrue to Trull Parish, until vesting-day, in 2023. Even after any potential re-organisation of the Parish boundaries, the Trull Neighbourhood Plan will remain in force until it is revoked, by the Parish - so those CIL payments will continue to be payable, by SW&T or its successor, Unitary authority, to Trull Parish Council.</p>

	These are important matters of democratic principle, as Parish Councils are, and will be, independent statutory bodies, with their own rights and duties.
--	---

Response from the Leader of the Council

You are correct in your recitals. The statutory position in terms of implementing the Re-Organisation order in relation to the affected Parishes is as follows;

- Section 7 (2) of the Structural Change Order provides that the decisions reached in relation to matters in s99 of the 2007 Local Government Involvement in Health Act 2007 are decisions between the County Council and the parishes;
- This is because the effect of s7(2) – the successor council – SCC is to be treated as the principal council in the place of the District Council.

This means that in a practical sense, agreements relating to the matters set out below are between the County Council and the Parishes. However, the County Council is working collaboratively with the District Council on these matters to achieve an orderly completion of the decisions to be made.

So section 99 (1) sets out the following:

any public bodies affected by a reorganisation of community governments may from time to time make agreements with respect to

- any property income rights liabilities and expenses (so far as affected by the order) of the parties to the agreement
- any financial relations between the parties to the agreement

There follows a further series of arrangements for such agreements with default arrangements by arbitration in the event of a dispute.

CIL Neighbourhood Proportion

Some Parish Councils have Neighbourhood Development Plans (NDPs) in place and therefore receive 25% of the CIL collected from development within their parish (CIL Regulation 59A(3)).

Those Parish Councils without NDPs in place receive 15% of the CIL collected from development within their parish, up to a limit of £100 per dwelling (CIL Regulation 59A(5)). Where a Parish Council is being abolished and entirely incorporated within the area of the new town council, any unspent CIL receipts held by the Parish Council will be transferred over to TTC on the date of vesting.

Where a Parish Council is losing part of its administrative area, Regulation 7(2) Local Government (Parishes and Parish Councils) (England) Regulations 2008 requires that any unspent CIL receipts relating to development located in that part the Parish Council's area that is being transferred to TTC should be paid over to the new council on the date of vesting.

Under CIL Regulation 59D, unless SWT and the relevant Parish Council agree on an alternative timetable for payment, then SWT must pay to the Parish/Town Council the required neighbourhood proportion in respect of the CIL it receives from developers between:

- 1st April to 30th September in any financial year by 28th October of that financial year;
- 1st October to 31st March in any financial year by 28th April of the following financial year.

Therefore, if CIL is received by SWT in respect of chargeable development wholly within the proposed/future boundary of the TTC between now and 30th September 2022, then 15% or 25% of those receipts (as the case maybe) must still be paid to the relevant Parish Council by no later than 28th October 2022.

However, if CIL is received by SWT in respect of chargeable development wholly within the future/proposed boundary of TTC between 1st October 2022 and 31st March 2023, then the relevant neighbourhood percentage of those receipts would not have to be paid over by Somerset Unitary Council until 28th April 2023 – by which time TTC will be the recipient council.

Where future development straddles the boundaries of Parish or Town Councils' administrative areas, each council will receive a share of the CIL which is proportionate to the gross internal area of the development within their administrative area. For example, if a development crosses two Parish or Town Council's administrative areas with 50% of the gross internal area created in one parish and 50% in the other, each council will receive 50% of the neighbourhood portion, up to the level of the annual limit for their area.

There may be occasions when future development crosses more than one Parish or Town Council administrative area and where one or more of those areas has a Neighbourhood Development Plan in place (so receives 25%) and one or more of those areas does not. In these cases, the Parish or Town Council receives a proportionate amount of the levy payment based on how much of the gross internal area of the development is in an area for which there is a Neighbourhood Development Plan

There are statutory limitations on how a Parish or Town Council can spend their CIL receipts. The money can only be used to support development of their area, or any part of that area, by funding infrastructure or anything else that addresses the demands development places on their area (CIL Reg 59C)

Subject to these limitations, unspent CIL receipts transferred over to TTC on vesting day can be expended in any part of the TTC area regardless of where the development generating that CIL is located i.e. the neighbourhood percentage does not have to be expended in the area that used to belong to the Parish Council.

Similarly, unspent or future CIL monies transferred or paid to TTC from development located within the boundary of a Neighbourhood Development Plan can be expended in any part of the TTC area i.e. it does not have to be expended in the covered by the NDP. Neighbourhood Development Plans

In terms of the status of existing Neighbourhood Development Plans that fall wholly within or straddle across the new TTC area the following will apply:

- NDPs that have already been finalised and adopted cannot be revoked even if a new Parish is created within the area of the NDP.
- NDP areas cannot overlap, so a new NDP area can only be designated if there is either no existing designation covering that area, or if an existing designation is withdrawn.
- Withdrawing an existing designation and restarting an emerging plan to cover a new area will require re-consultation and a new evidence base.
- Reviewing a made plan to change the NDP area will require all statutory processes to be repeated, including area designation, consultation, examination and referendum.

Jason Woollacott

I am here to make a statement on item #4 on the Agenda, the Community Governance Review.

I am the Chairman of Cheddon Fitzpaine Parish Council and wish to strongly object to the inclusion of Cheddon Fitzpaine in this report. There is no support within the whole of Cheddon Fitzpaine Parish for any part of the parish to be absorbed into the new Taunton Parish. Even the data within this report shows that 91% of the respondents do not want to be absorbed. (Section 8.29)

Within section 8.33 it suggests that growth of the new urban areas have no integral relation to the village. However, this ignores the fact that over the last 22 years the Parish has built these links and has created a community. The new estate has within their address Cheddon Fitzpaine, so to say people don't feel part of that community, is clearly wrong, and that is part of what we as the Parish have built.

Somerset West & Taunton District Council has failed in our opinion to properly consult with the residents, and ignored the information from residents which shows that the residents do not want this change

The Legal Guidance makes clear that "the feeling of local community and the wishes of local inhabitants are the primary considerations". As demonstrated above this has not been considered within this report.

Therefore, we have had no option but to seek legal advice on this proposal. We have engaged a solicitor who has written to the District Council explaining our position including reference to a previous court ruling of Britwell Parish Council v Slough Borough Council. Where the judge ruled that Slough Borough Council had ignored the guidance around the law, during their community governance review, and ruled that the order had been wrong, and quashed the order.

SWT legal has responded disputing this, so we have moved to the next step, which is to get a legal opinion from a Barrister, which

	<p>ultimately will lead to us seeking a judicial review into this order if it is approved today.</p> <p>The Letter was submitted to Somerset County Legal on the afternoon of Thursday 29th September, laying out the issues that our legal team see with the decision that is being made here.</p> <p>We believe in our parish and will fight to keep it intact and will fight this decision all the way.</p>
<p>Response from the Leader of the Council</p>	
<p>By virtue of the Somerset (Structural Changes) Order 2022 (the 2022 Order) and transitional regulations whose effect has been triggered by the 2022 Order it falls to Somerset County Council (the Council) to decide the extent to the recommendations of Somerset West and Taunton Council's (SWTC) Community Governance Review (CGR) should be given effect, and to then implement the CGR.</p> <p>The Council has reviewed the process followed by SWTC and is satisfied that:</p> <ul style="list-style-type: none"> • both the Working Group and SWTC had properly understood and followed the Statutory Guidance and relevant legislation (including the weight to be accorded to the views of the community) in undertaking the CGR; and • SWTC, in considering the reports to it and the resolutions it approved on 19th October 2021, 3rd March 2022 and 29th September 2022 were acting lawfully and in accordance with the statutory guidance and legislation. <p>As such, the Council is confident that both the CGR and its own decision to implement the recommendations in the CGR were lawful.</p> <p>The Council confirms that on 29th September it received a letter sent by lawyers acting for Cheddon Fitzpaine Parish Council and has sent a reply.</p>	
<p><i>Carolyn Warburton</i></p>	<p>I am a passionate supporter of local democracy – are you? If you want communities to trust you, you have to trust them. Today, you are probably going to agree to pursue a proposal for Parish Boundary changes, despite what the communities have said in their consultation responses, despite lack of the requisite 'Clear and sustained local support', because you are told 'you have to do what is right' – remind you of anyone? Is that a good thing? You must want to do good, or you wouldn't have stood.</p> <p>One reason for a review is changes in local population. Trull has a population of 2,288 people. The Urban Extension would add about 5,000. A significant change, and why we wrote our Neighbourhood Plan - to support development by addressing the demands that development places on the area. That is why we earned the CIL money. Trull can support the new community – we will be their green space and, slightly displaced, their beating heart.</p>

	<p>Taunton has a population of 60,000 – the new Town Council will be too big and too centrist to provide the support this new community will need. The urban extension is not connected to Taunton – its only road runs between Comeytrowe and Trull. It is an isolated housing estate, built to outdated standards -1970's? So yes, Trull can support them – but not without the CIL money. The Consultation response (Para14.5) lays claim to CIL from the Urban Extension, if received within the proposed Taunton Parish between 1st October 2022 and 31st March 2023. This is an unsubstantiated claim. Government guidance explains that charges will become due from the date that a chargeable development is commenced. This payment is a legal commitment – both to SWT AND to Trull. Even if you agree the proposed boundary changes, CIL money is liable to be paid to Trull for those areas of Reserved Matters from the date of commencement; not determined by the date that payment is made - even when SWT agrees delayed payment. Trull cannot let this commitment be broken. Locality, the Government support for Neighbourhood Plans, suggests that Trull should take legal advice. Surely this would be regrettable. Please will you send these proposals back for proper reconsideration and the legal advice that has been provided.</p>
--	---

Response from the Leader of the Council

Somerset County Council (SCC) is satisfied that, in relation to the Community Governance Review, all the processes conducted by the Somerset West and Taunton Council (SWTC) and SCC and the decisions reached were lawful. In particular, the Council is satisfied that:

- The Working Group in the processes adopted, and in the consultation that took place, complied with the Statutory Guidance and relevant legislation.
- SWTC, in considering the reports to it and the resolutions it approved on 19th October 2021, 3rd March 2022 and 29th September 2022 was acting lawfully and in accordance with the statutory guidance and legislation.

As such, the Council is confident that both the CGR and its own decision to implement the recommendations in the CGR were lawful.

In relation to the payment of Community Infrastructure Levy (CIL) to parish councils on and after 1st April 2023, Somerset County Council's arrangements will comply with the requirements of the Community Infrastructure Levy Regulations 2010.

Sections 98 and 99 of the Local Government and Public Involvement in Health Act 2007 and the Local Government (Parishes and Parish Councils) (England) Regulations 2008 make provision for the transfer of property, rights and liabilities of parish councils (including CIL monies previously transferred to the parish council) where a reorganisation order which

affects those parishes comes into force. Somerset County Council will comply with the requirements in those legislative provisions.

Tessa Dean

We encourage all of you here to reject these proposals on the following grounds:

The consultation did not follow the required process for local government consultations: people were not informed, postcards were not delivered, local community groups were not consulted. The main finding (most people wanted the new council to cover the unparished area only) was ignored. The working group created a report after the first consultation which in no way represented local people's views. Their suggested plan (which was not actually a finding of the consultation) even included fields in our parish that don't even have planning applications on them. No-one in Trull was informed of the loss of hundreds of thousands of pounds of CIL money if the proposal is sanctioned.

Trull Parish Council stated that they did not want the boundary between us and Comeytrove changed at this time and yet our comments were ignored and buried right down in the report. No-one in the new Urban Extension was informed that a new Taunton Town Council would be increasing their precept by at least 3 times and possible up to 6 times – and for what? Neither CIL money nor precept spent in their area. There will be less representation on the Council (two councillors for the whole of the urban extension and Comeytrove) instead of a whole Parish Council. If this gets approval there will be people in the urban extension who live further from the town centre than Bishops Hull and some will live further from the town centre than people in Trull! It is totally illogical.

Stick to the unparished area and leave the other parishes alone, doing otherwise will be opening SCC up to legal challenge.

Response from the Leader of the Council

Somerset County Council (SCC) is satisfied that, in relation to the Community Governance Review, all the processes conducted by the Somerset West and Taunton Council (SWTC) and SCC and the decisions reached were lawful. In particular, the Council is satisfied that:

- The Working Group in the processes adopted, and in the consultation that took place, complied with the Statutory Guidance and relevant legislation.
- SWTC, in considering the reports to it and the resolutions it approved on 19th October 2021, 3rd March 2022 and 29th September 2022 was acting lawfully and in accordance with the statutory guidance and legislation.

As such, the Council is confident that both the CGR and its own decision to implement the recommendations in the CGR were lawful.

It is on that basis that the District Council takes a strong view that the process undertaken and the recommendations made to the County Council have been legally unimpeachable.

Alan Sawyer

My request to the Councillors is that they do not approve the Taunton Community Governance Review today as I believe it has failed to meet the requirements of The Local Government and Public Involvement in Health Act 2007 or the associated Guidance on Community Governance Reviews March 2010 in several important respects.

First, the Guidance states (paragraph 33) that principal councils must "have regard to the need to secure that community governance reflects the identities and interests of the community under review". The response rate to the consultations was so poor [for Trull 8 residents responded at Stage 1 and 6 at Stage 2 and over the whole area the response was only 1 for every 123 residents that this exercise cannot claim to secure that the recommendations "reflect the identities and interests of the community". An absence of response can not be assumed to be approval.

The working group express their disappointment at the level of response, but report that, possibly due to the limited Stage 1 feedback, for the Stage 2 consultation, in June "over 44,000 postcards were sent to all residential addresses in the area under review drawing attention to the review". Trull Parish is included in the area under review, but I received no postcard and I know of no one who did. Paragraph 59 of the Guidance says "the wishes of the local inhabitants are the primary considerations" when defining parishes, but the responses of, e.g., 6 Trull residents of an electorate of over 1,800, give no support for the Stage 2 proposals representing these wishes.

Further, Somerset West and Taunton Council has chosen to reject all suggestions made in regard to the boundary changes from the parishes affected and the only amendment after over 400 residents responded to Stage 2 is a minor realignment of the boundary between West Monkton and Cheddon Fitzpane parishes, suggesting that Somerset West and Taunton Councillors are imposing their views and agenda on the local communities.

Second, Section 93(5) of the Act requires principal councils to "take into account local residents' associations or community forums which help to make a distinct contribution to the community". There is no evidence that the Trull Neighbourhood Plan has been considered by Somerset West and Taunton Council, neither has the Trull Neighbourhood Planning Group been consulted.

Third, The Somerset West and Taunton Council's recommendation is that two parish councils are abolished. Paragraph 120 of the Guidance says that such a move should only be in exceptional circumstances and there must be "clear and sustained local support for such action", suggesting that informed local support must have been demonstrated for at least eight years. The proposal to abolish these councils was not made until last November, less than a year ago and nowhere near the eight years stated in the Guidance.

Because of these failings I do not believe that Somerset West and Taunton Council has met the requirements of the 2007 Act and therefore this council should not approve their recommendations today.

Response from the Leader of the Council

Somerset County Council (SCC) is satisfied that, in relation to the Community Governance Review, all the processes conducted by the Somerset West and Taunton Council (SWTC) and SCC and the decisions reached were lawful. In particular, the Council is satisfied that:

- The Working Group in the processes adopted, and in the consultation that took place, complied with the Statutory Guidance and relevant legislation.
- SWTC, in considering the reports to it and the resolutions it approved on 19th October 2021, 3rd March 2022 and 29th September 2022 was acting lawfully and in accordance with the statutory guidance and legislation.

As such, the Council is confident that both the CGR and its own decision to implement the recommendations in the CGR were lawful.