

WAVERLEY BOROUGH COUNCIL

EXECUTIVE – 5 FEBRUARY 2013

Title:

**TERMS OF REFERENCE
FOR LOCAL GOVERNANCE REVIEW - ROWLEDGE**

**[Portfolio Holder: Cllr Robert Knowles]
[Wards Affected: All Farnham wards]**

Summary and purpose:

A Petition signed by local government electors from the existing Rowledge ward, calling on Waverley Borough Council to conduct a Local Governance Review for the creation of a separate Parish Council for Rowledge, was submitted on Monday 19 November 2012. On receipt of a valid petition the Council is obliged to conduct a Review within 12 months of drawing up Terms of Reference.

How this report relates to the Council's Corporate Priorities:

Waverley is committed to making continued improvements in community engagement, more effective and convenient delivery of local services and better local democracy.

Equality and Diversity Implications:

Waverley must ensure that all those entitled to participate in the consultation process can do so. A consideration for the Council when conducting a Review is the impact on community cohesion.

Environment and Climate Change Implications:

There are none at this stage.

Resource/Value for Money Implications:

Work conducted so far has been carried out within the current staff and financial resources. Additional financial resources will be required to conduct the Review and carry out the consultation required. A budget provision of £10,000 is proposed for inclusion in financial year 2013 – 2014 as part of separate reports on the agenda. This will cover for the most part postage costs for the issue of a questionnaire in the second consultation period. There is no legal requirement to hold a referendum when conducting a Review. The issue of a questionnaire will be a more flexible and inclusive option, tailored to reflect the findings of the first consultation period and able to give persons consulted a say. If a referendum were to be held during the second consultation period, the estimated cost would amount to £30,000.

Legal Implications:

The Local Government and Public Involvement in Health Act 2007 makes provision for local electors throughout England to petition their principal council for a community governance review to be undertaken. The petition must set out at least one recommendation that the petitioners want the review to consider making. Where a valid petition is received with the requisite number of signatures a Local Governance Review must be held. Section 93 of the 2007 Act allows principal councils to decide how they will conduct a Review provided they comply with the duties outlined in the legislation. In conducting a Review, the Council is required by Section 100 of the 2007 Act above to have regard to the guidance on reviews published by The Local Government Boundary Commission for England in March 2010. Having set the Terms of Reference (for which there is no time limit), the Review must then be held within a period of 12 months.

Background

1. Rowledge currently forms part of the Farnham Town Council area. All town and parish councils are elected together in a four-yearly cycle. The next parish elections will be conducted in May 2015.
2. The Terms of Reference for conducting a Local Governance Review must specify the area under Review and must be published. If any modifications are made to the Terms, these must also be published. Central Government expects the Terms of Reference to clearly set out the matters on which the Review will focus. The Terms should be relevant to local people and their circumstances and reflect the specific needs of their communities.
3. Proposed Terms of Reference for the review are set out in Annexe 2.

Conclusion

4. A valid Petition has been received from the requisite number of local government electors within the Rowledge ward. Waverley Borough Council has not conducted a Local Governance Review within the last two years and is not currently conducting a Review. As a result Waverley is under a duty to conduct a Local Governance Review.

Recommendation

It is recommended to the Council that

1. a Local Governance Review be conducted to review the arrangements in the area of Rowledge to which the Petition relates in accordance with the Terms of Reference outlined above; and
 2. the Terms of Reference for the review be published on 1 March 2013 and Surrey County Council be notified on the same date.
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Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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Annexe 1 PLAN OF AREA TO WHICH THE REVIEW RELATES

Annexe 2 PROPOSED TERMS OF REFERENCE

Annexe 3 PROPOSED TIMETABLE FOR CONSULTATION

Proposed Terms of Reference for a Community Governance Review to be conducted by Waverley Borough Council further to receipt of a Petition pursuant to Section 80 Local Government and Public Involvement in Health Act 2007

Introduction

1. The Local Government and Public Involvement in Health Act 2007 makes provisions for local electors throughout England to petition their principal council for a community governance review to be undertaken. The petition must set out at least one recommendation that the petitioners want the review to consider making.
2. A Petition has been received in accordance with the provisions of Section 80 Local Government and Public Involvement in Health Act 2007, requesting that a separate parish council be established for Rowledge.
3. In order to be determined as valid, a Petition must contain the requisite number of signatures of local government electors in the ward concerned. The Petition has been checked against the most recently published electoral register for Rowledge ward and found to contain the required numbers of signatures. The Petition must define the area to which the Review relates (please see Appendix 1) and it must outline at least one recommendation sought. The Petition meets all of these criteria and is therefore valid.
4. The Petition contains five recommendations:
 - (i) That a separate Parish Council be established for Rowledge, and that
 - (ii) The boundary of the existing Rowledge BQ ward be altered and extended to include the “Sandrock Triangle”, being all that area south-west of Sandrock Hill Road contained by the centre-line of Sandrock Hill Road and the existing boundary of Rowledge BQ ward, and that
 - (iii) A referendum be held for all residents within the existing Rowledge BQ ward together with the additional “Sandrock Triangle” area as described above asking whether there should be a separate parish council for Rowledge, and
 - (iv) That such parish council have 5 elected members, and
 - (v) That such Community Governance Review is undertaken by Waverley Borough Council to facilitate an official order in time for Elections in June 2014.
5. Further to the receipt of a valid petition, Waverley Borough Council is under a duty to undertake a Community Governance Review under Section 83 Local Government and Public Involvement in Health Act 2007. This duty does not apply:
 - (i) Where a Review has been conducted within the last two years which in the Council’s opinion covered the area or a significant part of the area subject to the petition or,
 - (ii) Where a Review is being conducted currently.

Waverley Borough Council has not conducted a Local Governance Review within the last two years and is not currently conducting a Review.

6. Section 93 of the 2007 Act allows principal councils to decide how they will conduct a Review provided they comply with the duties outlined in the legislation. In conducting a Review, the Council is required by Section 100 of the 2007 Act above to have regard to the Guidance on Community Governance Review published by the Department for Communities and Local Government in March 2010.
7. Waverley Borough Council has the power to decide whether or not to establish a new Parish Council. If the Council decides not to create a new parish council, the community concerned can only appeal by way of Judicial Review.

What is a Community Governance Review?

8. A Community Governance Review is a review of the whole or part of the Local Authority's Area for the purpose of making recommendations with regards to establishing, aggregating, amalgamating or separating parishes, the name and style of a new parish and electoral arrangements.

Who will conduct the Community Governance Review?

9. Waverley Borough Council, as the principal council, will conduct the Review.

What area will the Community Governance Review cover?

10. The Council will conduct a Review of the arrangements in Rowledge, being the part of the Local Authority's area that has submitted the Petition.

How long will the Review take?

11. The Review will begin when the Council publishes its Terms of Reference and it concludes with the publication of its recommendations. The Review will be conducted within a twelve month period.

How will the Review be conducted?

12. The Review will be conducted in accordance with the duties outlined in the Local Government and Public Involvement in Health Act 2007 and Guidance on Community Governance Review published by the Department for Communities and Local Government in March 2010.
13. Waverley Borough Council will notify Surrey County Council in accordance with Section 79 of the 2007 Act that a Review is to be undertaken and will provide the Terms of Reference for the Review.
14. In accordance with Section 93 of the 2007 Act Waverley will consult with:

- (i) local government electors for the area under review, and
 - (ii) any other person or body (including another local authority) which appears to have an interest in the review.
15. Waverley will consult with Surrey County Council, Farnham Town Council and others any others who appear to have an interest in the review which might include local businesses and local public and voluntary organisations. The Council will publish the terms of reference of the review, any proposals made as a result of the conduct of the review and any recommendations made on its website.
16. In accordance with the 2007 Act, the Local Authority will have regard to the need to secure that any community governance for the area under review reflects the identities and interests of the local community in that area, and that it is effective and convenient. Relevant considerations will include the impact on community cohesion and the size, population and boundaries of the proposed area. The Government believes that the effectiveness and convenience of local government is best understood in the context of a local authority's ability to deliver quality services economically and efficiently, and give users of services a democratic voice in the decisions that affect them.
17. Consultation methodology – There will be two periods of consultation. The first will commence on 1 March 2013 and conclude on 20 May 2013. The second will commence on 2 September 2013 and conclude on 11 October 2013. Initial consultation will take place with all households residing in Farnham Town Council area, together with local businesses, organisations and any other persons who appear to have an interest in the review. Representations received during the first consultation period will be collated and considered and an Interim Report on initial findings provided for Executive and Full Council. The second consultation period will allow for a questionnaire to be issued to those who appear to have an interest in the review.

Community Governance

18. Parish and Town Councils are the most local tier of government in England. They are a democratically elected tier, independent of other council tiers and budgets. There is a large variation in the size of parishes in England from those with a handful of electors to those with over 40,000 electors. The Government recognises the role that such councils can play in terms of community empowerment at a local level. Parish Councils have two main roles: community representation and local administration. The March 2010 guidance states that for both purposes it is desirable that a parish should reflect a distinctive and recognisable community of place, with its own sense of identity.
19. Waverley Borough Council will consider the wider picture of community governance when conducting this Review and will consider other forms of community governance as alternatives or stages towards establishing a parish council.

Options for consideration

That a separate parish council be established for Rowledge

20. The Petition that has been submitted asks the Council to establish a separate parish council for Rowledge. The Council has a duty to consider the request as a valid petition has been submitted.

Maintenance of the current position

21. If there is no clear support for the establishing of a separate parish council, the Council will consider maintaining the current position. This would leave the area of Rowledge ward within the Farnham Town Council's area.

Area Committees

22. Area Committees are part of the structure of some principal councils where they choose to have them. Area committees are a key initiative for enabling local government to fulfil community governance roles and also to deliver government policy on issues affecting social inclusion in local communities. They can cover large areas and exist to advise or make decisions on specific responsibilities that include parks, off street parking and planning applications. More widely, they contribute to shaping council services and improving local service provision.

Neighbourhood Management

23. Neighbourhood management programmes are set up by Principal Councils and may be led by one of a number of bodies. The March 2010 guidance states that the expansion of neighbourhood management was promoted in the Local Government White Paper¹⁰ as a tool to enable local authorities to deliver more responsive services through their empowerment of citizens and communities. Their purpose is to create the opportunity for residents to work with local agencies, usually facilitated by a neighbourhood manager, to improve services at the neighbourhood level.
24. Neighbourhood management arrangements aim to improve "quality of life" through implementation of (rather than advising or making decisions on) better management of local environment, increasing community safety, improving housing stock, working with young people, and encouraging employment opportunities, supported strategically by relevant stakeholders and Local Strategic Partnerships. They tend to cover smaller populations than area committees.

Area or Community Forums

25. Area or Community Forums can be set up by the Principal Council, or created by local residents to act as a mechanism to give communities a say on principal council matters or local issues. Sometimes forums are set up to

comment on a specific project or initiative that will impact upon the local area, and so may be time-limited. They increase participating and consultation, aiming to influence decision making, rather than having powers to implement services. They vary in size, purpose and impact, but membership usually consists of people working or living in a specific area. Some forums also include ward councillors, and representatives from the council and relevant stakeholders can attend meetings.

Residents' and Tenants' Associations

26. Residents' and Tenants' associations enable local people to participate in local issues affecting their neighbourhood or housing estate, including the upkeep of the local environment, crime, sometimes dealing with anti-social behaviour matters, or on some estates, housing management. They can be set up by any group of people living in the same area and can choose who members will be; how they will be represented and what they want to achieve. To engage effectively with other organisations, residents' and tenants' associations must be able to show that they are accountable and represent the view of the whole community, rather than narrow self interests of just a few local people.

Community Associations

27. Community Associations offer a particular and widespread democratic model for local residents and local community-based organisations in a defined neighbourhood to work together for the benefit of that neighbourhood. They can use a model constitution registered with the Charity Commission. The Principal Council may also be represented on the association's committee. They usually manage a community centre as a base for their activities. Membership is open to everyone resident in the area.

Electorate forecast

28. When considering the electoral arrangements, the Council will take into account the number of registered electors affected when the review starts, and a forecast of the number of electors expected to be in the area within five years. The most recently published electoral register has been used to gain an accurate figure for the existing electorate.
29. Farnham Town Council is split into the following wards:
 - Farnham Bourne – 3204
 - Farnham Castle – 3355
 - Farnham Firgrove – 3285
 - Farnham Hale and Heath End – 3410
 - Farnham Moor Park – 3697
 - Farnham Shortheath and Boundstone – 3230
 - Farnham Upper Hale – 3262
 - Farnham Weybourne and Badshot Lea – 3411
 - Farnham Wrecclesham and Rowledge – 3443The total electorate for Farnham is 30,297

30. The Local Government Act 1972, as amended, specifies that each parish council must have at least five councillors; there is no maximum number. The National Association of Local Councils Circular 1126 suggested that the minimum number of councillors for any parish should be 7 and the maximum 25. In considering the issue of council size the Electoral Commission is of the view that each area should be considered on its own merits, having regard to its population, geography and the pattern of communities and also that the broad pattern of existing council sizes should be considered.

The Conclusion of the Review

31. If, at the conclusion of the Review, Waverley Borough Council decides to create a new parish council, this will be done by way of a Reorganisation Order. A Reorganisation order can be made at any time however for administrative and financial reasons (such as setting up the new parish council and setting its first precept) the order should take effect on the 1 April following the date on which it is made.
32. If such an order is made any additional matters may be considered including the setting of a precept (council tax levy) for any newly established parish council, the transfer and management or custody of any property and any other matters as appropriate.
33. Electoral arrangements will not come into force until the first elections to the parish council following the Reorganisation Order. The new parish council will not be formally constituted until this time. This can be at the same time as the next scheduled parish elections or if there would be some delay, the Council may decide to hold an election earlier for the parish before it falls into line with the normal electoral cycle for Waverley at the next parish elections.
34. In the period after the decision to create a new parish council, but before elections to it, the local authority may create a shadow council for the parish to assist with the transition period. Any decisions taken by a shadow council are not binding on a new parish council when it is elected.
35. The Local Government and Public Involvement and Health Act 2007 removed the requirement for the consent of the Secretary of State for the creation of new town or parish councils. If the Council decides not to create a new parish, no order will be made by Waverley Borough Council.