

MINUTES of the MEETING of the
CORPORATE OVERVIEW AND
SCRUTINY COMMITTEE held on 22
JULY 2013 at 7.00PM

(To be read in conjunction with the Agenda for the meeting)

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| * Cllr Paddy Blagden | * Cllr Tom Martin |
| * Cllr Brian Ellis | Cllr David Munro |
| Cllr Pat Frost | Cllr Elliot Nichols |
| * Cllr Richard Gates | * Cllr Donal O'Neill (Vice-Chairman) |
| Cllr Michael Goodridge (Chairman) | * Cllr Chris Storey |
| * Cllr Tony Gordon-Smith | * Cllr Simon Thornton |
| * Cllr Peter Isherwood | * Cllr Ross Welland |
| Cllr Peter Martin | |

Co-opted Members from Waverley's Tenants Panel

Mrs Brenda Greenslade, Chair

Mr Adrian Waller, Vice-Chair

*Present

In the absence of Cllr Goodridge, Cllr O'Neill chaired the meeting.

Cllrs Wyatt Ramsdale and Jim Edwards attended as substitutes.

Cllrs John Ward and Carole Cockburn attended the meeting and spoke in accordance with Procedure Rule 23.

Cllr Robert Knowles was present as an observer.

1. **APOLOGIES FOR ABSENCE AND SUBSTITUTIONS** (Agenda Item 1)

Apologies for absence were received from Cllrs Pat Frost, Michael Goodridge, David Munro and Elliot Nichols. Cllrs Wyatt Ramsdale and Jim Edwards attended as substitutes.

2. **DECLARATIONS OF INTERESTS** (Agenda Item 2)

Cllr Ramsdale declared a non-pecuniary interest, as he lived in Rowledge and was a member of the Working Group seeking to establish a Rowledge Parish Council.

Cllr Ward declared a non-pecuniary interest as he was a Member of and Spokesman for Farnham Town Council, and Waverley Ward Member for part of the area under discussion (the Sandrock Triangle).

CALL-IN ITEM

3. ROWLEDGE LOCAL GOVERNANCE REVIEW – FIRST CONSULTATION FINDINGS (Agenda Item 3)

- 3.1 At its meeting on 2 July 2013 the Executive considered a report on the outcome of the first consultation on the Rowledge Local Governance Review, together with recommendations for the second stage consultation.

The Executive agreed that:

1. agreement be given to local government electors in the area to which the petition relates, including the village of Rowledge and the area referred to as the Sandrock Triangle, being consulted during the second consultation period; and,
 2. the method of consultation be by way of questionnaire, as outlined in the Terms of Reference, sent to each local government elector falling within the area to which the petition relates.
- 3.2 Following the Executive meeting, four members of the Corporate Overview & Scrutiny Committee – Councillors Christopher Storey, Ian Sampson, David Munro and Paddy Blagden – had asked that the Committee scrutinise the decision taken at that meeting.
- 3.3 The Chairman first invited Mary Orton, the Chief Executive to outline the background to the Local Governance Review.
- 3.3.1 Mrs Orton began by explaining that in December 2012 [*sic* 19 November 2012], the Council had received a petition from electors in the Rowledge area calling for a community governance review. Such reviews used to be conducted by Parliament, but in 2007 the Local Government & Public Involvement in Health Act was passed and brought into being the localisation to district councils of the right to make decisions about political representation and community representation in an electoral area. Thus, it was for Waverley as the borough council for the area in question to take the legal decision over this matter.
- 3.3.2 Local councils could trigger governance reviews of their own volition at any time, and had the legal responsibility and duty to respond to a valid petition. Rules for a petition were – in short – that a minimum of 250 electors on the electoral register for the area in question had to sign the petition. The petition received in December was a valid petition and was found to have been signed by 403 validly registered electors of the area.
- 3.3.3 On receipt of a valid petition, Waverley was obliged to respond to it; not acting was not a legal avenue open to the Council, and it was not in Waverley's power to decide not to have a review. Waverley was legally required to carry out a review, and to decide terms of reference for the review. The terms of reference of the review were agreed by Waverley's Executive on 5 February

2013 and published, and Waverley was required to conduct the review within a 12 month period and to report back through the Executive to Council to make a decision consequent on the finding of the review. In effect, Waverley was taking a constitutional role and it was not necessary at this stage for the Council to have an opinion as to the substance of the question. It was the Council's legal duty to ensure the review was conducted in a manner that would stand up to scrutiny and be seen to be fair. The Council was aware that this was something that residents in the local area were watching closely, as they rightly had an interest in the matter.

- 3.3.4 The Terms of Reference were published on 1 March 2013, and there had been no challenge to the Terms of Reference. The Terms of Reference set out a two-stage consultation process during the course of the 12-month period. The first stage comprised, first of all, consultation with Farnham Town Council and Surrey County Council, which Waverley was legally obliged to do. At the same time, a leaflet with a survey form was sent to every household in the Farnham area, included with householders' council tax bill. The report considered by the Executive on 2 July reported the results of the survey. The Terms of Reference agreed in February said that there would be a second and more focussed stage of consultation with all the electors in the affected area. This was a legal requirement, and as far as the Council was aware no one had disputed that there should be a further consultation with electors in the Rowledge and Sandrock area. The Terms of Reference also stated that at the second stage Waverley would consult with anyone who appeared to show an interest in the matter.
- 3.3.5 Mrs Orton suggested that the focus of the call-in of the Executive's decision regarding the format of the second-stage consultation related to the electorate to be consulted and the method of consultation. The Executive had decided it would consult with electors in the Rowledge and Sandrock areas, and it had taken that decision on the basis that they had shown an interest by way of their response to the first consultation. In the stage-one consultation, from the Rowledge area there had been a response from 25% of households, and from the Sandrock area there had been a response from 14% of households. From the rest of the Farnham area, there had been a 0.8% response rate. The Executive therefore had been of the view that the second-stage consultation should focus on those people for whom this was of immediate concern.
- 3.3.6 The second part of the Executive's decision related to the method of the consultation, and whether it should be by postal questionnaire rather than a referendum with voting in person at a polling station. The Executive had considered the options, and had decided that a postal questionnaire would be more beneficial because it allowed the opportunity to impart more information to the electors. One of the very strong pieces of feedback received after the stage-one consultation was that a lot of people had said that they felt that they did not know enough about the subject to form a view. The Executive felt that it was incumbent on the Council to respond to this feedback and to provide information on the matter to the people whose views were being sought.

- 3.3.7 A postal questionnaire would allow the Council to provide additional information, and it was proposed that the petitioners and Farnham Town Council, representing those with a different point of view, be asked to set out their statement of case in writing so that it could be sent to electors as part of the postal questionnaire. Unlike in a referendum, Waverley was not constrained by law or the Electoral Commission, and had the power to provide background information with a postal survey in order to seek an informed response from electors in the area that was the subject of the petition.
- 3.3.8 In summing up, Mrs Orton reminded Members that at this stage Waverley was not concerned with the subject matter of the petition, only the process of the review; and that the decision that had been called in for scrutiny, and therefore the focus of the debate of the Overview & Scrutiny Committee, related to the scope of the second consultation; specifically, the electorate to be consulted and the method of consultation.
- 3.4 The Chairman asked the Electoral Services Manager to show maps of the Rowledge area that was subject to the petition, including the area referred to by the petitioners as the Sandrook Triangle, which lay within Waverley's Farnham Boundstone & Shortheath ward, rather than the Wrecclesham & Rowledge ward.
- 3.5 The Chairman then invited the Members of the Committee who had called in the decision to explain their reasons for the call-in. Cllrs Storey and Blagden were present at the meeting.
- 3.5.1 Cllr Storey advised that his reason for asking for the call-in was not specifically about Rowledge or its relationship with Farnham, but related to the way in which the Council gathered information and used it as the basis for decision-making. He was concerned that having sent out the first questionnaire to all households, Waverley was using the responses received as the basis for saying that 62% of the people in the Rowledge are believed they ought to be separate from Farnham. Cllr Storey reminded Members that any questionnaire that relied on recipients to send it back would be completely unrepresentative; anyone with strong views, positively or negatively on the subject, would respond, and this would cause bias in the responses.
- 3.5.2 Cllr Storey was concerned that in this consultation, people were also able to respond via the internet; and businesses and local organisations were also invited to respond, so there were various ways in which an individual could respond more than once. Mrs Orton explained that all respondents had been required to provide their name and address, so any duplicates or anonymous responses were discounted. Anyone responding on behalf of a local business or other organisation had to provide their own name and address as well as that of the organisation on behalf of which they were responding.
- 3.5.3 Cllr Storey noted these assurances, but felt that the survey only really showed that 25% of households in Rowledge had taken part, and that 11% of households in Rowledge responded positively to the proposed Rowledge Parish Council. It was not possible to say if this was representative of all the

people in Rowledge, or not. Given that in this case, the Council could be making a legal decision of long-standing consequences for the borough, he felt that it was important that the survey should be conducted in a statistically valid way, with a known level of confidence in the responses and the potential variation. For the 1330 electors in the Rowledge area, a sample size of 90 electors selected at random would give a response with 95% confidence and +/- 10% variation; for a +/- 5% variation, the sample size would have to be 298 Rowledge electors.

- 3.5.4 In summing up, Cllr Storey asked that if a second-stage consultation was undertaken, that instead of a questionnaire being sent to all electors in the Rowledge area, that Waverley conduct a proper statistically valid survey that would provide real information which could be relied upon.
- 3.5.5 Cllr Blagden also questioned the validity of using the questionnaire responses as the basis for a decision on who should be included in the second consultation. He noted that the petition had been submitted with over 400 signatures, but only 125 questionnaire responses had been received from the Rowledge ward, with only 77 positive responses. This was the equivalent of around 5.7% of Rowledge electors; or, assuming an average of 3 electors per household, around 17% of electors responding positively. Either way, this was not a majority of electors in support of the proposals.
- 3.5.6 Cllr Blagden was concerned that no Farnham Town Council members had seen the original petition, and therefore he could not be assured that it included the Sandrock Triangle as part of the proposed Rowledge Parish Council area. Cllr Blagden also noted that the Boundary Commission may not agree to split the Boundstone & Shortheath ward to enable the Sandrock Triangle to move to Rowledge, which was a matter that had received very little consideration so far.
- 3.5.7 Cllr Blagden was concerned that electors in Rowledge and Sandrock had not debated in detail the full financial effects of separation from Farnham, and he also felt that by sending the first consultation out with Council Tax bills, there had been limited time for Farnham Town Council to provide information to its electorate about the financial implications of the establishment of a Rowledge Parish Council. The Farnham Town Council area was the largest area that would be affected by the proposals, and the whole of the Farnham electorate should therefore be allowed to vote in any ballot. It was clear that there would be a financial penalty to be paid by the rest of the Farnham Town Council electorate, and he and many other Farnham members believed the proposals needed further examination and should include the electorate of Farnham as a whole..
- 3.6 The Chairman then invited Cllrs John Ward and Carole Cockburn to address the Committee, having previously registered to speak in accordance with Procedure Rule 23.
 - 3.6.1 Cllr Ward began by urging the Corporate O&S Committee to adopt a form of recommendation (C), and proposed that:

Firstly, the terms of reference and consequent decision on a review that affects the rearrangement of wards in the borough was sufficiently important to be debated at and decided by full Council, as happened with the creation of Churt Parish Council in 2003, and not slipped through as a Part III item (Brief summaries of other items dealt with).

Secondly, as the Local Government Boundary Commission for England guidance directed, the whole range of stakeholders affected and the interests of the wider community should be considered. It therefore followed that the entire Farnham electorate should be consulted throughout the process and have a proper voice in the final decision-making.

Thirdly, taking into account the very poor response to the consultation document, when only 340 replies were received from an electorate of over 38,000 (0.89%), the final consultation should be by way of referendum.

- 3.6.2 Cllr Ward was not convinced that the Executive report presented a proper analysis of the cases for and against. In particular, the conclusion outlining the process of the second phase of the consultation paraphrased part of the guidance by suggesting the questionnaire be issued to all those who appeared to have an interest in the review. Despite the fact that all the electors of Farnham would be significantly affected, it then recommended that only those in the potential breakaway area should have a voice: a very clear contradiction.
- 3.6.3 The report also recommended that the second-stage consultation should be by questionnaire – an already discredited method as less than 1% replied to the first questionnaire. The report cited as evidence that only a very small number of respondents sought a questionnaire [*sic* referendum], but this was not one of the questions asked on the form.
- 3.6.4 Cllr Ward went on to say that the original form had no information about the impact the proposal would have on the area. The [Local Government Boundary Commission] guidance referred to the inclusion in the area of the local centres for education and childcare, shopping, community activities and worship; but whilst the village hall was well within the area of the petition, the main doctors' surgery, the church and the school were not even in Rowledge and the latter two were in a different county and could not be included. The guidance also stated that principal authorities should decline to set up community governance arrangements such as the new breakaway council if to do so would not be in the interests of the local community or surrounding communities. How could this be judged if the surrounding communities were denied a voice?
- 3.6.5 Cllr Ward stated that he felt that a decision that would have a profound affect on the composition of wards within the borough, and would create a BQ 'mega-ward' with consequent un-balancing of other Waverley wards which may not meet with the approval of the Boundary Commission, was a decision that should be taken by the Executive. The guidance consistently referred to the principal authority, not the ruling Executive; and he had been unable to

find in the scheme of delegation, or anywhere else, any indication that the Executive was empowered to re-arrange the current ward boundaries.

- 3.6.6 In summing up, Cllr Ward pointed out that while 400 Rowledge residents signed the petition, only 77 on reflection had been sufficiently enthusiastic to return a questionnaire in favour, which cast great doubt on their enthusiasm for their original signing. Cllr Ward reiterated his request to the O&S Committee that they refer the matter back to the Executive, as set out in his opening statement (in para 3.6.1, above).
- 3.6.7 Cllr Cockburn stated that she had no problem with Rowledge going independent if that was what they wanted, but the way in which the wards would be changed would affect a lot of people beyond the Rowledge area, in the Bourne, Shortheath & Boundstone, and Wrecclesham. Rowledge was just one of a number of similar villages right around central Farnham, and the residents in all of these would be affected financially and in terms of what services Farnham Town Council would be able to provide. If the consultation was to have any validity at all then everyone who would be affected must be asked, and that had to be everyone in the Farnham Town Council area. Cllr Cockburn said that she was all for people having their say, but that must be all people having their say, as the implications were huge. Much more information needed to be given, to everyone involved, so that there could be a fair decision that everyone could live with.
- 3.7 The Chairman then invited the Committee members to consider the report and decision made by the Executive.
- 3.7.1 Cllr Ramsdale highlighted that the cost of extending the second stage consultation to the whole of Farnham, where only 0.8% of households had responded to the first questionnaire, would be in the region of £20,000. He also advised that residents in the Sandrock Triangle had asked the Rowledge Working Group to be included in the proposed Rowledge parish council area.
- 3.7.2 Cllr Gates emphasised that the merits of the proposal were not being debated, and in due course this would come before the full Council. In terms of the process, given the cost of extending the consultation to all of Farnham and the apparent level of interest shown in the first consultation, he was not in favour of consulting with the entire Farnham area at the second stage. Consultation by way of questionnaire had been set out in the terms of reference at the start of the process, and had not been challenged; and provided the opportunity to include some explanatory information, which would not be possible with a referendum. However, he felt that the Executive might want to consider if there was a more statistically robust method of canvassing the Rowledge and Sandrock electors.
- 3.7.3 Cllr Tom Martin made a comparison with Scottish and Welsh referenda for devolution, and the forthcoming Scottish Independence referendum, and the fact that English electors were excluded from voting. With this precedent, he had no objection to the second-stage consultation only involving electors of the petition area. He also felt that consulting by way of a questionnaire was

preferable to a referendum, for which there could be a very low turnout which would then beg the question of what level of turnout was acceptable. Overall, he endorsed the approach for the second stage consultation agreed by the Executive.

- 3.7.4 Cllr Martin raised the issue of whether the proposed parish council could be established without changing Waverley's ward boundaries to be co-terminus with the parish boundary. Mrs Orton advised that Waverley had the power to create a parish council, which would be a decision of the full Council. The Local Government & Public Involvement in Health Act also made provision for Waverley to make recommendations to the Boundary Commission on consequential changes to ward boundaries, although there was no obligation to do so, and this was not a consideration for Waverley at this stage in the process.
- 3.7.5 Cllr Blagden felt that the first consultation questionnaire had been very bland and had not provided information on the impact of the proposed changes, so many residents had not appreciated the importance of what they were being asked.
- 3.7.6 Cllr Gordon-Smith was sympathetic to the wishes of the petitioners to have a parish council, but if was concerned that if this was going to result in a financial cost to the wider Farnham population then they should have a say in the consultation. He recognised the shortcomings of various consultation methods, and suggested that it might be helpful to follow-up with a sample of households who had not responded to the first questionnaire. Overall, he supported Executive decision, subject to the proviso that if it became apparent that it was going to cost the people of Farnham more by having a Rowledge parish council, then they must have a say.
- 3.7.7. Cllr Ellis felt that the 403 people in Rowledge who had expressed the view that they would like to have some kind of say in their future gave a reasonably good steer as to what local people would like to do, and was content to endorse the Executive decision.
- 3.8 In summing up, Mrs Orton emphasised that Waverley had a legal duty to consult with all electors in the second-stage consultation, and therefore a more statistically robust sampling of views was not an option.
- 3.9 The Chairman then invited committee members to agree their observations and to put forward a proposal.
- 3.9.1 Cllr Martin proposed that the Committee endorse the Executive's decision regarding the format of the second-stage consultation.
- 3.9.2 Cllr Gates put forward an alternative proposal, to endorse the Executive's decision, but also to submit observations reflecting the points that had been raised in the debate which the Executive might wish to consider before proceeding with the next stage of the consultation.

3.9.3 Cllr Gates' proposal was seconded by Cllr Blagden, and the Committee RESOLVED to endorse the Executive's decision regarding the format of the second-stage consultation, but to submit observations which the Executive might wish to consider.

There being no further matters needing to be dealt with, the Chairman declared the meeting closed at 8.00pm.

Chairman