

Council



Forest Heath
District Council

Title of Report:	Community Governance Review	
Report No:	COU/FH/17/006	
Report to and date/s:	Council	22 February 2017
Portfolio holder:	Not applicable – electoral matters are not an executive function	
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Purpose of report:	To agree the terms of reference and consultation recommendations for the Community Governance Review of Forest Heath in 2017.	
Recommendation:	It is <u>RECOMMENDED</u> that: (1) Council considers Potential Issues 1-3 for the Community Governance Review of Forest Heath, set out in Appendix C, and reaches an individual decision on each, on the basis outlined in Paragraph 5.2 and Appendix C of this report [NB this will require a separate motion to be proposed, seconded and voted upon at the meeting, in turn, which will be explained at the meeting]; (2) Potential Issues 4 and 5 outlined in Appendix C of this report be not included in the terms of reference for this Community Governance Review on the basis that they involve Principal Area Boundaries and be dealt with in the manner proposed in Appendix C instead;	

	<p>(3) Reflecting the decisions above, terms of reference, maps, electorate forecasts and final recommendations for consultation be prepared and published for this Community Governance Review, on the basis set out in Section 4 and Appendix A of this report; and</p> <p>(4) Consultation on the final recommendations for this review be carried out on the basis set out in Appendix A and a report on the outcomes of that consultation be presented to the Council at its June or July 2017 meeting for final decision.</p>
<p>Key Decision:</p> <p><i>(Check the appropriate box and delete all those that do not apply.)</i></p>	<p><i>Is this a Key Decision and, if so, under which definition?</i></p> <p>Yes, it is a Key Decision - <input type="checkbox"/></p> <p>No, it is not a Key Decision - <input checked="" type="checkbox"/></p>
<p>Consultation:</p>	<ul style="list-style-type: none"> • Consultation has taken place on the terms of reference and the approach to the remaining consultation for the review is explained in Appendix B of this report.
<p>Alternative option(s):</p>	<ul style="list-style-type: none"> • The Council has already agreed to carry out the review. Not carrying out a CGR at this time would mean that changes desired to parish arrangements will not be taken into account in a forthcoming electoral review of the district and may be difficult to implement before the 2019 parish elections. • At this stage of the process, the Council is still able to recommend and/or adopt any option for change to parish electoral arrangements, including doing nothing.
<p>Implications:</p>	
<p><i>Are there any new financial implications? If yes, please give details</i></p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
<p><i>Are there any new staffing implications? If yes, please give details</i></p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
<p><i>Are there any ICT implications? If yes, please give details</i></p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
<p><i>Are there any legal and/or policy implications? If yes, please give details</i></p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <ul style="list-style-type: none"> • Council is following the statutory process.
<p><i>Are there any equality implications? If yes, please give details</i></p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <ul style="list-style-type: none"> • The Council has a legal duty to ensure that its recommendations do not undermine community cohesion, and ensure effective local government for all electors in a parish.

Risk/opportunity assessment:			
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Matters which local communities want included in the CGR are missed	Medium	Consult on terms of reference prior to adoption	Low
Final decisions do not reflect community views	Medium	Consult on recommendations	Low
Consequential impacts on district wards and county divisions	Medium	Feed changes into electoral reviews by the LGBCE	Low
Review is not completed in 12 months	Low	Timetable review phases in terms of reference	Low
Ward(s) affected:	All Wards		
Background papers: <i>(all background papers are to be published on the website and a link included)</i>	<ul style="list-style-type: none"> • Council paper COU/FH/16/025, 22 November 2016 • LGBCE National Guidance: http://www.lgbce.org.uk/_data/assets/pdf_file/0019/10387/community-governance-review-guidance.pdf 		
Documents attached:	<ul style="list-style-type: none"> • Appendix A – Draft Terms of Reference • Appendix B - 'How to' guide for respondents to Phase 1 of the CGR • Appendix C - Potential Issues for inclusion in the CGR 		

Key issues and reasons for recommendation(s)

1. Background

- 1.1 Community Governance Reviews (CGRs) provide the opportunity for principal councils to review and make changes to community governance at parish level within their areas. Changes can range from the creation of new parishes through to minor boundary adjustments or alteration of the number of parish councillors.
- 1.2 A CGR should create the conditions, at parish level, to:
- (a) improve community engagement;
 - (b) provide for more cohesive communities;
 - (c) provide better local democracy; and
 - (d) result in more effective and convenient delivery of local services.
- 1.3 The first informal phase of this review, initial evidence gathering, took place between November 2016 and January 2017 to determine terms of reference. As well as being publicised to other stakeholders, all FHDC parishes were consulted and given the chance to suggest issues to examine. The final phase, and the formal consultation stage, is the publication of the terms of reference, along with recommendations, which will be based on decisions taken at this meeting of the Council. The Council will make its final decision later in 2017.

2. Terms of Reference

- 2.1 Under the legislation, the Council must determine the terms of reference under which a CGR is to be undertaken. The terms of reference must be published and specify both the area under review and the matters on which the CGR will focus. If any modifications are made to the terms of reference later, these must also be published. Draft terms of reference are attached as **Appendix A**, but these will be updated to reflect the outcomes of this meeting. The terms of reference set out a timetable and also proposals for how consultation on the review should take place.
- 2.2 Ultimately, the recommendations made in a CGR ought to bring about improved community engagement, better local democracy and result in more effective and convenient delivery of local services. The Council is therefore expected to use its own local knowledge to frame suitable terms of reference, which should be appropriate to local people and their circumstances, and reflect the specific needs of their communities. However, the national guidance is also clear that the views of local people should be reflected in the terms of reference where these are known, particularly where they may have already expressed views about what form of community governance they would like for their area.
- 2.3 On the basis of the above, it is suggested that the terms of reference for this CGR be framed using the local (and applicable) requests for change received from ward councillors, parish councils and local residents. The Council must consider whether, based on the information in this report, and its own local knowledge, it has sufficient reason to believe that a CGR is justified in relation to each of the issues raised. *If the Council does not believe a review is justified then it should provide reasons accordingly.*

2.4 It is also worth noting that, were the Council to refuse to include a particular issue raised in these terms of reference, then it would be possible for local residents to petition the Council, and require it to carry out a CGR. For an area with less than 500 local electors, the petition must be signed by at least 50% of them; for an area with between 500 and 2,500 local electors, by at least 250; and for an area with more than 2,500 local electors, by at least 10% of them. However, a petition will not be valid if the area in question is currently the subject of a CGR, or has been in the last two years.

3. **Local Plan**

3.1 One of the common reasons for conducting a CGR is in anticipation of significant population changes. However, it is important that changes are only made when there is a degree of certainty in the planning process about what changes will take place, and where, rather than speculatively. In order for this CGR to inform the Electoral Review for FHDC in 2017/18 and to be implemented in time for the 2019 parish elections, it will need to start before adoption of the next local plan and of any supplementary planning guidance or planning applications which emerge from it. Therefore, if there is a need and/or desire for changes to parish electoral arrangements arising from the next local plan, these will need to be addressed in later CGRs. For the same reason, five year electorate forecasts which will be prepared for the review can only take into account new development about which there is a degree of certainty.

3.2 It is also important to record that a CGR has absolutely no bearing on planning matters such as the timing, scale, location and design of new development, all of which are subject to the normal planning policy and development control processes. This is because parish boundaries are not normally regarded as a material planning consideration. For that reason, it is not possible to use the CGR to examine emerging or adopted planning policy. Instead, a CGR is intended only to examine whether or not existing community governance arrangements need to be adapted to reflect community identity and provide effective parish level local government. Which is why a CGR normally follows a key planning decision, and not vice-versa (see para 3.1 above).

4. **Making (Final) Recommendations for the CGR**

4.1 The next stage of this CGR involves consultation on recommendations for all of the issues which it is agreed will be included in the terms of reference. These final recommendations must relate to one or more of the following matters:

- (a) the creation, merger, alteration or abolition of parishes;
- (b) the naming of parishes and the style of new parishes; and/or
- (c) the electoral arrangements for parishes including:
 - the number of councillors to be elected; and/or
 - the warding (if any) of the parish.

4.2 It should also be noted that there are two statutory recommendations that the Council must make in relation to every *existing* parish which is the subject of the CGR, namely whether its name will stay the same or not, and whether or not it will continue to have a parish council/meeting (as applicable).

- 4.3 As this CGR relates to issues affecting existing parishes, the legislation for CGRs (the Local Government and Public Involvement in Health Act 2007) requires that the Council must make a final recommendation in respect of each of the issues listed in the terms of reference, even if this is a recommendation not to make a change. The recommendation must be definite i.e. it cannot be a recommendation to do one thing or another. It must also be a recommendation to make one of the permitted statutory changes, *or not to make it*. While, in statutory terms, it is the final recommendation (being the final stage of consultation) it is also 'draft' insofar as it is still subject to genuine consultation and can be changed as a result. However, those taking part in the consultation must have a sense of what the Council is minded to do at this stage of the process. If new evidence is presented to change that view, then the final decision can be different to the final recommendation.
- 4.4 In making such a recommendation, particularly when it is for no change, the Council can, in its consultation materials, advise consultees of other options which exist, so that they can reflect this in their responses.
5. **Decision-making process for this meeting**
- 5.1 The CGR should be councillor-led and, therefore, there are no officer recommendations on specific issues in the review, only on review procedure. However, **Appendix B** attached, provides a summary of guidance for consultees in a CGR, which will be issued for the next stage of consultation. This information may help Councillors in deciding whether a proposal should be included in the CGR in the first place and, if so, what any recommendation on it should be.
- 5.2 **Appendix C** summarises the five valid suggestions for review topics which have been received by the Council, the last two of which are not technically within the scope of a CGR. In terms of the efficient conduct of this meeting, Councillors are asked to consider the first three of these issues as separate items for debate. That debate should be framed around one of two potential motions for each issue, as set out in Appendix C. Namely (in summary):
- (a) that the issue is not included in the terms of reference for this CGR; or
 - (b) that the issue is included, and a recommendation for consultation is specified.
- 5.3 Recommendations (2) to (4) at the start of this paper can then be debated as a single agenda item in the normal manner. These latter recommendations will allow the officers to progress the review in accordance with the Council's wishes on the specific review issues. They also propose a way of dealing with the two issues which are outside of the Council's own powers for a CGR.
- 5.4 For completeness, it is noted that the Council also received a comment from a local resident during the consultation that proposed the removal of existing town councillors in Newmarket. This is not a valid matter that can be considered in a CGR.