

Council



Forest Heath
District Council

Title of Report:	West Row: Reorganisation Order	
Report No:	COU/FH/18/023	
Report to and date/s:	Forest Heath Council	19 December 2018
Portfolio holder:	Councillor James Waters Leader of the Council Tel: 07771 621038 Email: james.waters@forest-heath.gov.uk	
Lead officer:	Leah Mickleborough Service Manager (Democratic Services) Tel: 01284 757162 Email: leah.mickleborough@westsuffolk.gov.uk	
Purpose of report:	This report seeks to bring into effect the decision of Council in July 2017 to create a new Parish for West Row	
Recommendation:	It is recommended that Council: (1) Approve the Forest Heath District Council (Reorganisation of Community Governance) Order 2019 ("The Order"); and (2) Agree that the Service Manager (Democratic Services) should make the Order as soon as practicable after West Suffolk (Electoral Changes) Order 2019 is made.	
Key Decision:	<i>Is this a Key Decision and, if so, under which definition?</i> No, it is not a Key Decision - <input checked="" type="checkbox"/>	

Consultation:		<ul style="list-style-type: none"> The decision to establish the new Parish Council was made by Council following consultation on both the terms of reference for the community governance review, and on the draft recommendations. This specific order has been subject to consultation with representatives of Mildenhall Parish Council and the West Row community and local District and County Councillors representing the affected wards 	
Alternative option(s):		<ul style="list-style-type: none"> The Council has already agreed to establish the new Parish Council. Therefore, the Council must agree the order to create the new Council, or put forward an alternative order to bring that decision into effect. 	
Implications:			
Are there any financial implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <ul style="list-style-type: none"> There are no financial implications for Forest Heath District Council; implications for Mildenhall and West Row are set out in the Order 	
Are there any staffing implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any ICT implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any legal and/or policy implications? <i>If yes, please give details</i>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> This order is required by virtue of the Local Government and Public Involvement in Health Act 2007 and has been reviewed by the legal team 	
Are there any equality implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Risk/opportunity assessment:		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Council fails to agree the Order, which means there are no established election or financial arrangements for West Row	Low	The order has been subject to consultation with Mildenhall and West Row as above. The order is compatible with the legal requirements	Low
Ward(s) affected:		Great Heath, Market, Eriswell and The Rows	

<p>Background papers: (all background papers are to be published on the website and a link included)</p>	<p>Forest Heath Council agenda and minutes for 26 July 2017: http://svr-mgov-01:9070/ieListDocuments.aspx?CIId=172&MId=3648&Ver=4</p>
<p>Documents attached:</p>	<p>Appendix 1 – The Forest Heath District Council (Reorganisation of Community Governance) Order 2019 and associated maps</p>

1. Key issues and reasons for recommendation(s)

- 1.1 During 2016 and 2017, Forest Heath District Council undertook a Community Governance Review. The purpose of the review was to assess how democracy was working at a local level, and make recommendations for changes. The boundary changes that arose are already in effect.
- 1.2 In July 2017, the Council, having considered representations from the local community, decided to establish a new Parish Council for West Row and Isleham Marina. At the time, the Council agreed the new Parish should have the same boundary as the existing West Row ward of Mildenhall Parish Council, should have 9 councillors and not be sub-divided into new Parish wards
- 1.3 In order to establish the new Parish, the Council must approve a reorganisation order.

2. The Reorganisation Order

- 2.1 The reorganisation order itself follows the template laid down by the Ministry for Housing, Communities and Local Government. There is actually relatively little that the order must include; it must establish the new parish boundaries, electoral arrangements, transfer of assets and the new Parish precept, which Forest Heath Council must agree. The order covers the new arrangements for West Row Parish, and the consequential impacts on Mildenhall Parish.
- 2.2 Earlier this year, consultation was undertaken with the Local Government Boundary Commission for England regarding timing of the Order. The LGBCE indicated that it would be helpful for their process if the creation of the Order was held back until their review was concluded, to avoid any potential conflicts between parish wards within Mildenhall. The parish wards within this Order entirely coincide with the LGBCE's own proposed warding pattern for West Suffolk, which will shortly come into law. If agreed, it is proposed this Order will be made the day after the LGBCE's Order.

- 2.3 Mildenhall have requested that in future, they have 15 Councillors, and West Row support the 9 Councillors already proposed by Forest Heath Council. At both parties' request, we have also included provision for the elected West Row Ward Members to continue to sit on Mildenhall Parish Council until the elections in May.
- 2.4 The precept figure included is £51,314. This figure is a little higher than similar size parishes, but allowance has been made to support the establishment of the new Parish Council – such as IT equipment, and training for Councillors and the Clerk. Discussion with community representatives had initially concluded that a figure of £50k would be reasonable, however there was also a desire that residents should pay a similar balance to what they had paid to Mildenhall Parish Council. Accordingly, the £51,314 figure provides an identical Band D Equivalent that residents would have paid to Mildenhall Parish in 2018/19.

3. Property, Rights and Assets

- 3.1 The most challenging part of the process has been the division of property, rights and assets. Legal advice has confirmed that the Order must allow for the transfer of assets physically located in West Row, that clearly relate to West Row – such as the allotments, streetlights and benches. Whilst it would appear that physical assets such as community buildings remain in ownership according to location, there is no guidance available to us on how the separation of reserves (which Mildenhall Parish Council have earmarked for specific use) or usage of assets, such as the cemetery and community buildings, should be determined in future.
- 3.2 The division of an existing Parish Council is an extremely unusual situation and it has not yet proved possible to find any similar precedent that may help determine how these matters should be resolved between Mildenhall and West Row.
- 3.3 However the legislation does allow for both sides to reach a settlement between themselves on any property or rights that are affected by the order; if they are unable to do so, then the matter may ultimately be referred for arbitration. Initial discussions between both the West Row Community Group and Mildenhall Parish Council suggested that any matters both sides agreed on at this stage would be included in the Order, and any other matters would be subject to agreement between themselves.
- 3.4 Face to face discussions commenced at the end of September and when first negotiating positions were exchanged they showed very different approaches and expectations on how assets and finances should be allocated, and therefore we have included in the Order (regulation 3) a specific provision to allow both Parish Councils, after the May election, to reach agreement between themselves.

- 3.5 Both parties have been advised that no binding agreements can now be made until after the May elections and West Row Parish Councillors have been elected. Officers have been clear that Forest Heath Council (and West Suffolk Council subsequently) is prepared to support the negotiation process if both sides wish for Forest Heath to do so, although it cannot provide legal advice for either party, as this will need to be sought and paid for by the individual parties if it is required

4. Establishing the new Parish Council

- 4.1 The new Parish Council elections for West Row will take place in May 2019. The Proper Officer for West Suffolk Council has a responsibility for the parish assets in lieu of a parish council or parish meeting, and as such will oversee affairs between 1 April and May which could include provision of a temporary clerk to act on behalf of the new Council. During that time, should any significant issues arise, consultation will be undertaken with election candidates for West Row. Costs incurred may be recouped from the West Row Parish precept.
- 4.2 Internally, work is underway at Forest Heath to ensure that everything is ready for the new Parish Council, including adjustments made to ARP systems for Council Tax billing purposes, and preparation on planning and elections systems.