

Council Report

Council – 25 July 2018

Title

Community Governance Review - Orgreave Parish Council – Implementation of Final Recommendations

Is this a Key Decision and has it been included on the Forward Plan?

Not applicable

Director Approving Submission of the Report

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Ward(s) Affected

Brinsworth & Catcliffe
Rother Vale

Executive Summary

At its meeting on 27th June 2018 the Council received a report on the implementation of the Community Governance Review. The report sought the approval of Council for the making of the Reorganisation of Community Governance Order required to bring the Final Recommendations into effect. Council resolved to:

Defer consideration of the implementation of the Community Governance Review until this meeting; and

To instruct the Assistant Director for Legal Services to consult the Waverley Residents Association on the budget requirement for the proposed Waverley Community Council and to provide a further report to this meeting

The purpose of this report is to brief members on the consultation with the Waverley Residents' Association and to seek approval for the making of the Reorganisation of Community Governance Order.

Recommendations

1. That Council approve the making of the draft Reorganisation of Community Governance Order including the associated map, which form Appendices 1 and 2 to this report and that the budget requirement for the proposed Waverley Community Council, which forms part of the Order shall be £36,025.
2. That Council do not agree to the waiver of the re-charge of the establishment and consultation costs which has been requested by the Waverley Residents' Association.

Appendices

- Appendix 1 Draft Reorganisation of Community Governance Order
- Appendix 2 Draft Map
- Appendix 3 Report to the Council Meeting on 27 June 2018
- Appendix 4 Calculation of the budget requirement for the proposed parish of Waverley
- Appendix 5 Representations from the Waverley Residents' Association on the budget requirement for the proposed Waverley Community Council.
- Appendix 5A Table provided by Waverley Residents' Association
- Appendix 6 Letter of objection from Catcliffe Parish Council
- Appendix 7 Original consultation response from Catcliffe Parish Council [January 2018]
- Appendix 8 Original consultation response from Orgreave Parish Council [April 2018]

Background Papers

- Report to the meeting of Council on 3rd June, 2015 - "Community Governance Review Orgreave Parish"
- Report to the meeting of Council on 13th December, 2017 – "Community Governance Review - Orgreave Parish Council"
- Report to the Annual Meeting of Council on 23rd May 2018 - Community Governance Review - Orgreave Parish Council – Final Recommendations
- Guidance on Community Governance Reviews [Department for Communities and Local Government and the Local Government Boundary Commission for England, March 2010]
- Model Community Governance Reorganisation Order
- A Guidance Note and Checklist for Newly Established Local (Parish and Town) Councils [National Association of Local Councils]

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

Yes

Exempt from the Press and Public

No

Community Governance Review - Orgreave Parish Council Review of the Constitution

1. Recommendations

- 1.1 That Council approve the making of the draft Reorganisation of Community Governance Order including the associated map, which form Appendices 1 and 2 to this report and that the budget requirement for the proposed Waverley Community Council, which forms part of the Order shall be £36,025.
- 1.2 That Council do not agree to the waiver of the re-charge of the establishment and consultation costs which has been requested by the Waverley Residents' Association.

2. Background

- 1.1 The background to this matter is set out in the report to the meeting of Council on 27 June 2018 which forms Appendix 3 to this report. Shortly before that meeting, and after the publication of the Agenda, Catcliffe Parish Council submitted a letter of objection to the Final Recommendations made by the Council at its Annual Meeting on 23 May 2018 and the letter was circulated to all members of Council. The letter forms Appendix 6 to this report.
- 1.2 At its meeting on 27 June 2018 Council resolved to defer consideration of the implementation of the Community Governance Review until this meeting; and instructed the Assistant Director for Legal Services to consult the Waverley Residents Association on the budget requirement for the proposed Waverley Community Council, which forms part of the Reorganisation of Community Governance Order which would implement the Final Recommendations, and to provide a further report to this meeting. The consultation response from the Waverley Residents' Association forms Appendices 5 and 5A to this report.

3. The Draft Reorganisation of Community Governance Order

- 3.1 The Draft Order at Appendix 1 is a draft of the Order required to implement the Final Recommendations made by Council at its Annual Meeting but amended to include a budget requirement of £36,025 for the proposed Waverley Community Council. As set out in more detail in sections 4 and 5 of this report this figure replaces the figure previously proposed by the Council's officers. The map associated with the Draft Order forms Appendix 2.
- 3.2 Local Town and Parish Councils normally set their own precepts to cover their annual expenditure. This is then collected on their behalf by the Council as part of the annual Council Tax bill. If the Draft Order is approved, Waverley Community Council will have no elected members until after the elections in May 2019 and will therefore be unable to set its own precept for the 2019/20 municipal year. The Draft Order therefore has to include a figure for the budget requirement for the new community council for 2019/20.

4 Key Issues

- 4.1 As above, the draft Reorganisation of Community Governance Order at Appendix 1 and the associated map at Appendix 2 would implement the Final Recommendations made by Council at its Annual Meeting subject to a decision on the budget requirement to be included in the Order. The effect of the recommendation in the report to the meeting of Council on 27 June 2018 was to put forward a budget requirement of £43,950 based upon the calculations which form Appendix 4 to this report.
- 4.2 The Waverley Residents' Association has suggested a lower figure for the budget requirement of £36,025. The previous recommendation was predicted to result in a Band D precept of £66.00 for 2019/20 and the Waverley Residents' Association figure is predicted to result in a Band D precept of £54.09. The current additional Band D liability for the parish of Catcliffe is £105.50, which is being paid by Waverley residents who live in the Waverley North polling district, and the current additional Band D liability for the parish of Orgreave is £38.76, which is being paid by Waverley residents who live in the Waverley South polling district. As set out in paragraph 7.2 below these precepts can only be predictions at this time.
- 4.3 The reasons for the lower budget requirement proposed by the Waverley Residents' Association are set out in detail in their representations at Appendices 5 and 5A. The representations relate in particular to the calculations for:
- The appropriate remuneration for an interim and then final community clerk.
 - Insurance
 - Establishment Costs
 - Website creation
 - Reserves

The Waverley Residents' Association proposal is based on an assumption that the Council should forego the recharges for costs of the statutory consultation and the establishment costs incurred by the Council. The establishment costs are the costs to the Council of making the necessary amendments to the Council's Council Tax systems to enable Council Tax to be collected in the proposed new parish of Waverley. In their response the Waverley Residents' Association also suggest that if the Council is not willing to forego those recharges then the budget requirement should be adjusted by reducing the provision for reserves. The original proposal from the Council's officers for the figure for reserves for the proposed community council's first year was £2,000, the proposal from the Waverley Residents' Association is for that to be increased to £9,000 and if that figure were then to be reduced by the amount of the recharges for consultation and establishment costs it would become £4,100.

- 4.4 The Waverley Residents' Association have had support from the Yorkshire Local Councils Association in preparing their proposals and on that basis it is accepted that their proposals for a lower budget requirement would still result in a viable community council, albeit one with a smaller budget for 2019/20 than that originally proposed by the Council's officers. The Council does not have to recharge these costs but if they are not recharged to Waverley Council Tax payers they would effectively be borne by the whole Borough.
- 4.5 The Consultation costs relate to the consultation exercise carried out between January and April of this year and the Establishment Costs relate to the costs to the Council of making the necessary amendments to the Council's Council Tax systems to enable Council Tax to be collected in the proposed new parish of Waverley. The Council does not have to recharge these costs but if they are not recharged they would effectively fall upon the whole Borough rather than upon the residents of Waverley.
- 4.6 The letter of objection from Catcliffe Parish Council dated 22 June 2018 forms Appendix 6 to this report and asks the Council not to implement the Final Recommendations it made at its Annual Meeting on 23 May 2018 and to leave the boundary of the parish of Catcliffe unchanged. The specific issues raised by the Parish Council can be summarised as:
- The Parish Council feel very strongly that the Catcliffe boundary should remain unchanged; to protect the identity and community of the Parish
 - The Parish Council's consultation response [which forms Appendix 7 to this report and which was dated 17 January 2018] stated that Catcliffe Parish Council would prefer option 1 (No change to the Parishes) or option 2 (To reduce the Parish of Orgreave).
 - The Community Governance Review was initiated by Orgreave Parish Council and the consultation should not have included the Parish of Catcliffe and should have concentrated on the relationship between Orgreave and Waverley South polling district.
 - Throughout the consultation there was never any mention of the chance that Catcliffe could lose a large area of their Parish.
 - The residents of Catcliffe and Waverley have cohesion; both Parishes share schools, local bus services, health provision and places of worship. Although the plans for the Waverley development includes the provision of these services; it should be anticipated that the residents of Catcliffe and Waverley North could continue to share facilities to build a stronger community. Catcliffe Parish Council value the importance of building and supporting a strong community
- 4.7 The four options upon which the formal consultation took place were identified in the modified Terms of Reference agreed by Council at its meeting on 13 December 2017. The options were:[
1. *No change to the existing arrangements.*
 2. *Reducing the existing parish of Orgreave to cover only the settlement of Orgreave, and to create a new parish to cover the southern part of the Waverley settlement. This is as proposed in the petition from residents.*

3. Creating a new parish for the whole of the Waverley settlement. The parish of Orgreave would then cover only the settlement of Orgreave and the parish of Catcliffe would cover only the settlement of Catcliffe.

4. Creating a new area without a parish council to cover the whole of the Waverley settlement. The parish of Orgreave would then cover only the settlement of Orgreave and the parish of Catcliffe would cover only the settlement of Catcliffe.

Catcliffe Parish Council's consultation response supported options 1 and 2, which would not have resulted in any change to the boundary of the parish of Catcliffe.

- 4.8 The reasons for the adoption of the modified Terms of Reference are set out in the report to the meeting of Council on 13 December 2017 but in relation to the choice of options to be consulted upon can be briefly summarised as follows. Since the Petition was considered by Council at its meeting on 3 June 2015 the Waverley settlement has grown significantly, and will continue to do so. A corresponding interest in the issue of whether the Waverley settlement as a whole should have a parish council of its own has developed. Implementation of the proposal set out in the Petition would leave the Waverley settlement split between the area of Catcliffe Parish Council and the area of the proposed new Parish Council for the Waverley South polling district. A decision to implement the proposals set out in the Petition would also have the effect of creating community governance arrangements for residents of the Waverley South polling district who have moved into the Waverley settlement since the previous consultation in 2015 and whose views have never been sought. The current boundary between the parishes of Catcliffe and Orgreave divides the settlement of Waverley without any reference to features on the ground and the effect is arbitrary, with some residents being in one parish and some in the other.
- 4.9 The consultation materials used clearly set out the four options and both Options 3 and 4 involve a reduction in the areas of the parishes of Catcliffe and Orgreave. For completeness, the consultation response from Orgreave Parish Council dated 12 April 2018 forms Appendix 8 to this report. In making the Final Recommendations at its meeting on 27 June 2018 Council was aware that those Recommendations were opposed by Catcliffe Parish Council and had sight of their consultation response and having regard to the consultation responses received, including the response from Orgreave Parish Council and the Waverley Residents Association, decided to proceed to make those recommendations.

5. Options considered and recommended proposal

- 5.1 The first matter for consideration is whether, in the light of the letter of objection from Catcliffe Parish Council, the Council wishes to proceed with the implementation of the Final Recommendations made at the Annual Meeting of Council on 23 May 2018. The second matter, if Council wishes to implement the final recommendations, is what budget requirement should be included in the Re-organisation of Community Governance Order.

Option 1

- 5.2 To not proceed with the implementation of the Final Recommendations. This would leave community governance as it is at present, with the parishes of Catcliffe and Orgreave continuing to exist on their current boundaries and with no separate parish for Waverley. This option is supported by Catcliffe Parish Council.

This is not the recommended option for the reasons set out at paragraphs 4.6 to 4.9 above and in particular because the Final Recommendations made by Council at its Annual Meeting reflected the views of local people as expressed in the statutory consultation.

Option 2

- 5.3 To approve the making of the draft Reorganisation of Community Governance Order required to implement the Final Recommendations with a budget requirement for 2019/20 for the proposed Waverley Community Council of £43,950, the figure originally proposed by the Council's officers.

This is not the recommended option because the Waverley Residents' Association, with support from the Yorkshire Local Councils Association, have suggested a lower figure for the budget requirement.

Option 3

- 5.4 To approve the making of the draft Reorganisation of Community Governance Order required to implement the Final Recommendations with a budget requirement for 2019/20 for the proposed Waverley Community Council of £36,025, the figure proposed by Waverley Residents' Association. This option is the option preferred by the Waverley Residents' Association and would require the Council to forego the recharge of the costs of the consultation and the establishment costs. It would enable the budget requirement to include a significantly higher figure for reserves than that originally proposed by the Council's officers as set out at paragraph 4.3 above.

This is not the recommended option because it would require the Council to forego costs which have been or will be incurred.

Option 4

- 5.5 To approve the making of the draft Reorganisation of Community Governance Order required to implement the Final Recommendations with a budget requirement for 2019/20 for the proposed Waverley Community Council of £36,025, the figure proposed by Waverley Residents' Association, but without the Council foregoing its consultation and establishment costs.

This option is the one put forward, with reluctance, by Waverley Residents' Association if the Council is not prepared to forego the recharges referred to for Option 3 above. It would result in the budget requirement including a lower figure for reserves than proposed by the Waverley Residents' Association but the reserves figure would still be higher than that originally proposed by the Council's officers, as set out at paragraph 4.3 above.

This is the recommended option because provides for a lower budget requirement than originally proposed and the Waverley Residents' Association support a lower budget requirement, and it would provide for greater reserves for the proposed community council than originally proposed but would not require the Council to forego costs which have been or will be incurred. This is not the first choice option of the Waverley Residents' Association.

6 Timetable and Accountability for Implementing this Decision

- 6.1 If approved, the Reorganisation of Community Governance Order will be executed on behalf of the Council. The law requires the decision to make the Order to be published together with the reasons for making the Order and the Council to take such steps as it considers sufficient to secure that persons who may be interested in the review are informed of that decision and those reasons.
- 6.2 A copy of the Order and its map must be placed on deposit at the Council's principal office together with a map which shows the effects of the order in greater detail than the map included in the order and must be made available for inspection at all reasonable times. The Council must publicise that the documents are available for public inspection.
- 6.3 The Council must also inform the following of the making of the Order:
- the Secretary of State;
 - the Local Government Boundary Commission for England;
 - the Office of National Statistics; and
 - the Director General of the Ordnance Survey;

7 Financial and Procurement Implications

- 7.1 Section 4 of this report and Appendices 4, 5 and 5A set out relevant information in relation to the calculation of the budget requirement for the proposed new parish of Waverley by the Council's officers and the counter-proposals from the Waverley Residents' Association.

- 7.2 The Council Tax Base and associated charge for a Band D property for 2019/20 set out in Appendix 5A are predictions based on current information. However the actual Council Tax Base and charge will differ from the predictions because the number of properties, the applicable Council Tax discounts and the effect of the Local Council Tax Support Scheme are not yet known for 2019/20.
- 7.4 The proposed budget requirement for the proposed new parish set out at Appendix 4 was intended as a guide and was based on a review of the budgets of a sample of other parishes within Rotherham, guidance from the National Association of Local Councils (NALC) and the Yorkshire Local Councils Association (YLCA). The proposed budget was intended to allow the new parish to establish itself and to fund its basic functions. The Waverley Residents' Association have taken their own advice from YLCA and as set out above at paragraph 4.4 argue that the budget requirement should be reduced from £43,950 to £36,025. As set out in paragraph 4.3 the proposed reduction is based upon reductions in some of the proposed costs, an increase in reserves and the Council waiving the recharge of some of the costs of establishing the proposed new parish. As set out in paragraph 4.4 above, the Waverley Residents' Association have had support from the Yorkshire Local Councils Association in preparing their proposals and on that basis it is accepted that their proposals for a lower budget requirement would still result in a viable community council, albeit one with a smaller budget for 2019/20 than that originally proposed by the Council's officers.
- 7.5 The establishment costs are the one-off costs of creating the Parish Council Tax base and transferring Council Tax accounts (including discounts, exemptions and the Council Tax Support Scheme) for the new parish. If the establishment costs are not borne by the residents of the proposed new parish they would effectively have to be borne by the residents of the Borough as a whole.

8 Legal Implications

- 8.1 The legal implications arising from this report are set out in the body of the report.
- 8.2 Where an area is being transferred between an existing parish to a new parish, as is proposed in the Final Recommendations, the Reorganisation of Community Governance Order should deal with the distribution of property, rights and liabilities of parish councils affected by the Order. However in this case Catcliffe and Orgreave Parish Councils have confirmed that they do not have property, rights or liabilities in the Waverley North and Waverley South polling districts respectively.

9. Human Resources Implications

- 9.1 There are no human resources implications arising from this report.

10. Implications for Children and Young People

- 10.1 There are no direct implications for children and young people arising from this report.

11. Equalities and Human Rights Implications

- 11.1 There are no equalities and human rights implications arising from this report.

12. Implications for Partners and Other Directorates

- 12.1 There are implications for existing Parish Councils as set out in the body of this report.

13. Risks and Mitigation

- 13.1 The budget requirement for the proposed new parish must be set at an appropriate figure otherwise either the new community council will not have sufficient resources to be effective or local residents in the new parish will be paying more in Council Tax than is required to fund the activities of the community council. This risk is mitigated by the proposals from the Waverley Residents' Association having been worked up with support from the Yorkshire Local Councils Association.
- 13.2 If the draft Order is made there is the risk of legal challenge from anyone aggrieved by the outcome of the community governance review but that risk is mitigated by the thorough consultation exercise which has been undertaken.
- 13.3 There is a further risk that, notwithstanding the support from local people for a new parish for Waverley, that as and when elections are held there may be insufficient people willing to stand for election to the new parish council. The Council's officers will be engaging with relevant local organisations including the parish councils to support the community of Waverley to prepare for the establishment of the new parish council.

14. Accountable Officer(s)

Dermot Pearson, Assistant Director of Legal Services