

Cheltenham Borough Council
Council – 27 March 2017
Community Governance Review

Accountable member	Councillor Steve Jordan, Leader
Accountable officer	Pat Pratley, Head of Paid Service
Ward(s) affected	Pittville, St Pauls, Oakley, Prestbury, Park, Warden Hill
Significant Decision	Yes
Executive summary	<p>A campaign group in Pittville submitted a valid petition to Cheltenham Borough Council in January 2017, calling for the creation of a new parish council for Pittville. This means CBC is required under the Local Government and Public Involvement in Health Act 2007 to carry out a community governance review to decide whether or not a new parish council should be created. The review must take place within 12 months of receipt of the petition.</p> <p>As part of the review, it will also be possible to address two very small areas:</p> <ul style="list-style-type: none"> • An anomaly in Merestones Drive (see paragraph 2.3) • Part of St Nicholas Drive (8 properties), which is the only part of Prestbury ward not to be in Prestbury parish, and would be between Prestbury and Pittville parishes if the new parish council in Pittville is created (see paragraph 2.2). <p>It is proposed that a cross party working group is set up to manage the review. Full Council is responsible for agreeing the terms of reference for publication (please see Appendix 2) and the recommendations from the review.</p>
Recommendations	<ol style="list-style-type: none"> 1. That Council approves the terms of reference for the Community Governance Review (to include Pittville and the properties in St Nicholas Drive and Merestones Drive), to be published as soon as possible after approval. The terms of reference are attached as Appendix 2. 2. That Council sets up a cross party working group to oversee the Community Governance Review (with terms of reference as attached at Appendix 3) and to report back to Council with its recommendations. 3. That Council authorises the Head of Paid Service to take such steps and actions as are necessary to facilitate an effective Community Governance Review.

Financial implications	<p>There is no budget for the review, so the consultation will need to be undertaken by the working group at the lowest possible cost to the Borough Council. The costs of setting up any new parish council (recruitment of a Clerk and election costs, etc.) will need to be met from the Parish Council's first Precept, which must be identified as part of the Reorganisation Order made by the Borough Council. Any such precept, which cannot be set until the Reorganisation Order is made, must be agreed before the Council Tax is set by the Borough Council in February each year.</p> <p>Any Allotments that become part of a new parish council area would have to be transferred to the parish council. The proposed boundary for the new parish council for Pittville includes the Midwinter allotments. The Borough Council would therefore save on the maintenance costs, but also lose the income, arising from these allotments.</p> <p>Contact officer: Martyn Scull, martyn.scull@cheltenham.gov.uk, 01242 264351</p>
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<p>Legal implications</p>	<p>The Local Government and Public Involvement in Health Act 2007 gives district and unitary councils the responsibility for undertaking Community Governance Reviews. A valid petition for the creation of a Parish Council was received by a campaign group in Pittville. As the petition received by the council was signed by the required number of electors and in accordance with section 80 (3), the council now has to undertake this review. The council has 12 months from receipt of the petition within which to conclude the review.</p> <p>Under section 83 (2), the Community Governance Review must have terms of reference which specify the terms of the review (Appendix 2). Moreover the council must publish the terms of reference and any modifications to them as soon as practicable after deciding them as stipulated in section 81 (5).</p> <p>Section 93 sets out the council’s duties when conducting the review which includes the requirement in section 93 (4) to “have regard to the need to secure that community governance within the area under review—</p> <p>(a) reflects the identities and interests of the community in that area, and (b) is effective and convenient.”</p> <p>Having determined the area of the review, under section 93(3) of the Act the council must consult:</p> <p>“(a) the local government electors for the area under review;(b) any other person or body (including a local authority) which appears to the principal council to have an interest in the review.”</p> <p>The council must consider whether a new local (parish) council should be constituted. This will be done through the creation of a cross party working group, set up to manage the review and eventually make recommendations to Council. Throughout the process the council must have regard to the Guidance on Community Governance Reviews issued by the Secretary of State for Communities and Local Government. This Guidance, and also that which has been issued more recently by the National Association of Local Councils, has been considered in drawing up the terms of reference. Both are attached at Appendices 5 and 6.</p> <p>S82 of the Act gives the council the power at any time to undertake a Community Governance Review, without the need for the process to be invoked by a valid petition. With this in mind and in the interest of efficiency, the Council is also using this as an opportunity to address the anomaly at Merestones Drive and to consult with those who live on St Nicholas Drive (see paragraphs 2.2 and 2.3). The procedure, regardless of whether or not it is initiated by petition, is the same for both the creation and alteration of a Parish Council.</p> <p>The final decision on whether to approve the proposals will rest with Council when it considers the recommendations of the Community Governance Working Group. If the proposals are approved (in whole or part) then a Community Governance Reorganisation Order will need to be made.</p> <p>The Act contains no right of appeal. The only way the process can be challenged is through Judicial Review.</p> <p>Contact officer: John Teasdale, email: john.teasdale@tewkesbury.gov.uk, Tel: 01684 272699</p>
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HR implications (including learning and organisational development)	<p>As clearly identified in the report, Cheltenham Borough Council is responsible for carrying out the Community Governance Review so must ensure it has the necessary officer time to dedicate to carrying out the review.</p> <p>Contact officer: HR Business Partner: Carmel Togher</p> <p>Email: Carmel.Togher@cheltenham.gov.uk</p> <p>Tel: 01242 775215</p>
Key risks	<p>Please see risk assessment.</p>
Corporate and community plan Implications	<p>Supporting the creation and growth of parish councils in the borough supports the Corporate Strategy theme '<i>People live in strong, safe and healthy communities</i>', as people are encouraged to get actively involved in their communities.</p>
Environmental and climate change implications	<p>Neutral impact on climate change.</p>
Property/Asset Implications	<p>Allotments that became part of a parish council area would have to be transferred to the parish council. The proposed boundary for a new parish council for Pittville includes the Midwinter allotments.</p> <p>Part of the Midwinter site that was sold for development included allotment land, which required the approval of the Secretary of State. Should the demand for allotments at Midwinter exceed the capacity of the current site then Elmfield Playing Field will be required to meet that demand. If this arose then the Council will need to provide a playing field in the near vicinity.</p> <p>Contact officer: David Roberts, Email: David Roberts@cheltenham.gov.uk Tel: 01242 264151</p>

1. Background

1.1 Why are we carrying out a community governance review?

1.2 A campaign group in Pittville submitted a valid petition to Cheltenham Borough Council in January 2017, calling for the creation of a new parish council for Pittville. This means CBC is required under the Local Government and Public Involvement in Health Act 2007 to carry out a community governance review to decide whether or not a new parish council should be created. The review must take place within 12 months of receipt of the petition.

1.3 The petition from the Pittville Parish Council Campaign Group states:

This petition is addressed to Cheltenham Borough Council under Section 80 of the Local Government and Public Involvement in Health Act 2007 ('The Act'). We the undersigned, each being a local government elector for the area defined in the map produced by Pittville Parish Council Campaign Group, call upon Cheltenham Borough Council to conduct a Community Governance review in accordance with its duties under Section 83 of the Act. Pursuant to Section 80(4) of the Act, we recommend the Council designates the areas defined on the map a parished area. We further recommend that a Parish Council be established for this proposed new parish, to be called Pittville Parish Council.

1.4 The Guidance on Community Governance Reviews (attached as Appendix 4) states:

'For a petition to be valid, it must meet certain conditions. The first of these conditions is that the petition must be signed by the requisite number of local electors. It is recommended that petitioners aim to collect the requisite number of signatures based on the most recently published electoral register. It should be against this register that the petition thresholds (set out below) will be assessed. The three thresholds are:

a) for an area with less than 500 local electors, the petition must be signed by at least 50% of them.

b) for an area with between 500 and 2500 local electors, the petition must be signed by at least 250 of them.

c) for an area with more than 2500 local electors, the petition must be signed by at least 7.5% of them.

The area chosen by the Pittville Parish Council Campaign Group has 3833 electors, meaning 287 signatures were required. The campaign group collected 310 signatures, of which 302 were valid.

2. What will the review consider?

2.1 Pittville

2.1.1 The review will include consideration of whether a new parish council should be created in Pittville. The boundary chosen by the Pittville Parish Council campaign group (see map at Appendix 3) includes all of the Pittville "LA" polling district area plus part of Pittville "LB" polling district and a small part of Oakley "JC" polling district (the south side of Prestbury Road) and a small part of St Pauls "PA" polling district (the south side of Clarence Square). It also includes the Midwinter allotments. The review should be undertaken on the basis of this boundary, but the recommendations of the working group do not have to be the same as those in the petition if there are good reasons for it.

2.2 Prestbury

2.2.1 8 properties in St Nicholas Drive are put forward for the review, to find out whether they would like to become part of Prestbury Parish Council. These are the only addresses in polling district MC and the only part of Prestbury ward not to be included in the Prestbury Parish Council area.

2.3 Anomaly

2.3.1 It has come to the attention of the Elections Team that there are 2 properties in Merestones Drive, which are counted on the electoral register as part of Warden Hill ward and Leckhampton with Warden Hill Parish Council, but the rest of the road is in Park ward and these properties clearly have more of a relationship with Park ward, so will be consulted about amending this.

3. Process

3.1 Cheltenham Borough Council is responsible for carrying out the review and Full Council is responsible for agreeing the terms of reference for the review (appendix 2) and any recommendations from the review. A cross party working group will oversee the review (with terms of reference as at appendix 4) and will bring the consultation document and process for analysing the results of the consultation to Council for approval in June.

3.2 There is no budget identified for the review, so the review will need to be undertaken at the lowest possible cost to the council.

3.3 Any recommendations arising from the review will need to be given approval by Council and if approved, will be given effect through a Reorganisation Order, which will include a detailed map of the boundaries and include any agreed issues, for example the transfer of assets, functions, rights or liabilities.

3.4 The review will include giving consideration to the way in which a council is constituted for the parish (if applicable). This will cover:

- The ordinary year in which elections are held;
- The number of councillors to be elected to the parish council;
- The division (or not) of the parish into wards for the purpose of electing councillors;
- The number and boundaries of any such wards; the name to be given to it and the number of councillors to be elected for it.

3.5 Allotments that became part of a parish council area would have to be transferred to the parish council. Allotments are the only statutory function of a parish council.

3.6 Set up costs for a new parish council would come from collecting the precept before the first parish council election is held. Gloucestershire Association for Parish and Town Councils has confirmed that this is the case. Cheltenham Borough Council would need to identify in the Reorganisation Order whether the interim council will commence in March or April, and within the order, the precept would need to be set, based on a cost comparison analysis which includes the aspirations for the parish and the cost of the first election. The campaign group has calculated indicative costs, based on similar sized councils elsewhere and this can be honed using known costs for the election.

4. Timetable

Action	Who	By when
Terms of reference to be agreed and approval for a working group of officers and councillors to be set up to oversee the review	Full Council	27 March 2017
Terms of reference published		28 March 2017
Planning of consultation phase	Working group	April/May 2017
Consultation document and process for analysing the results to be approved.	Full Council	19 June 2017
Consultation phase: consulting with all electors and interested parties within the defined areas.	Working group	June / July 2017
Prepare recommendations	Working group	September/October 2017
Recommendations presented for approval	Full Council	November 2017
Recommendations published (if approved)		November 2017
Reorganisation Order made (if approved)		December 2017
Precept for new parish council included in council budget		February 2018
Parish Council elections		May 2018

5. Reasons for recommendations

- 5.1 Cheltenham Borough Council is required to carry out a Community Governance Review in relation to Pittville because of the submission of the valid petition.
- 5.2 The review presents a good opportunity to address the part of St Nicholas Drive which would be left unparished between Pittville and Prestbury parish councils, with a view to including it in Prestbury Parish and also the anomaly in Merestones Drive which has come to the attention of the Elections Team.

6. Alternative options considered

- 6.1 Since CBC must carry out a community governance review in 2017, we have taken the opportunity to ask the existing parish councils whether they want to revisit the review of their boundaries which was started in 2012. In 2012, the council started a community governance review, which was going to look at extending the boundaries of Charlton Kings, Leckhampton with Warden Hill and Up Hatherley parish councils. The review was stopped because its scope became bigger than just resolving small anomalies and therefore the budget was insufficient and it was felt that people within the existing parish areas should be consulted as well as those being asked whether they wanted to become part of one, which would have been an even bigger undertaking. A commitment was made to revisit the review ahead of the 2018 parish council elections, by which time it was thought that the future shape of the borough would be better known through the JCS and Cheltenham Plan.
- 6.2 The parish councils were advised that this review would only cover boundaries within the existing Cheltenham borough boundary, as there are no plans to review the borough boundary at this stage. The other limitation given was that we will only consult with electors in the areas that the parish councils would like to add to their areas, rather than those within the existing parish council

boundary, due to the costs involved.

- 6.3 Three of the parish councils (Charlton Kings, Leckhampton with Warden Hill and Up Hatherley) have requested the opportunity to put forward proposals, but these need to be agreed between the parish councils before they are brought forward, so are not included in the terms of reference for this review. They will be brought forward at a future meeting for approval.
- 6.4 In considering the timing for this community governance review, consideration was given as to whether a ward boundary review may be instigated by the Local Government Boundary Commission for England (LGBCE). This would happen if more than 30% of a council's wards/divisions have an electoral imbalance of more than 10% from the average ratio for that authority, and or one or more wards/divisions have an electoral imbalance of more than 30% and the imbalance is unlikely to be corrected by foreseeable changes to the electorate within a reasonable period. Looking at the anticipated population increases from the JCS trajectory, it appears that Swindon Village ward may increase by more than 30% within ten years, but not within five years, so there isn't an imminent expectation of a ward boundary review being set in motion by the LGBCE.
- 6.5 Swindon and Up Hatherley Parish Councils also have proposals which include areas in Tewkesbury borough, to be borne in mind if and when a borough boundary review takes place.

7. Consultation and feedback

- 7.1 Discussions have been held with Pittville Parish Council Campaign Group; the C5 Parish Councils Group, Group Leaders, Executive Board and Informal Cabinet Board.

8. Performance management –monitoring and review

- 8.1 The Community Governance Review must be completed by January 2018, which is 12 months from the date of receipt of the petition from the Pittville Parish Council Campaign Group.
- 8.2 The working group to be set up will oversee the review, which will include consultation with all electors and interested parties within the defined areas. Terms of reference for the working group are attached as Appendix 4. The working group will bring the consultation document and process for analysing the results of the consultation to Council for approval in June. It will then use the feedback from the consultation to prepare recommendations, to be presented to Full Council for approval.

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Appendices	<ol style="list-style-type: none">1. Risk Assessment2. Community Governance Review 2017 – Terms of Reference (to be published following approval)3. Map of the proposed Pittville Parish Council boundary submitted with the petition4. Terms of reference for the Community Governance Review Working Group5. Guidance on Community Governance Reviews (DCLG and LGBCE)6. Community Governance Reviews: Legal Topic Note 73 July 2015 (NALC)
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The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	Reputational risk if Council does not approve recommendations put forward through the community governance review.	Helen Down	27.3.17	2	2	4		Draft consultation document and process for analysing the results to be brought back to Full Council in June for approval.	June 2017	Helen Down	
	Financial risks if it is agreed that the new parish council should be created, but the Reorganisation Order is not made in time to set the precept for the new council in Febraury 2018.	Helen Down	27.3.17	3	2	6		Recommendations to be presented to Full Council by November 2017, to allow time to make the Reorganisation Order.		Helen Down	
<p>Explanatory notes</p> <p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											