

COUNCIL

26 JANUARY 2017

COMMUNITY GOVERNANCE REVIEW – PROPOSED ESTABLISHMENT OF ROCHESTER TOWN COUNCIL

Portfolio holder: Councillor Rupert Turpin, Business Management

Report from: Neil Davies, Chief Executive

Author: Jane Ringham, Head of Members' Services and Elections

Summary

This report sets out matters for consideration regarding the conduct of a Community Governance Review and seeks approval to the terms of reference and other administrative matters associated with the review

1. Budget and policy framework

1.1 The completion of a Community Governance Review and the associated decisions about the formation or otherwise of new Town and Parish Councils is a matter for Council.

2. Background

2.1 The Local Government and Public Involvement in Health Act 2007 (as amended by the Legislative Reform (Community Governance Review) Order 2015, devolved decision making powers relating to certain parish matters from central to local government. These powers include the creation and grouping of parishes and everything pertaining to their electoral arrangements.

2.2 This decision making process is laid out in the Act as a Community Governance Review (CGR). It can be instigated in one of three ways: by a petition from local electors demanding a review; by the Principal Authority agreeing to a request for a review; or by a Principal Authority resolving to conduct a review.

- 2.3 A petition has been submitted from 1623 local government electors requesting that a CGR is conducted to consider the establishment of Rochester Town Council. The petition has been verified as a valid petition within the terms of the Act and as such the Council is obliged to carry out a CGR in accordance with the Act. It should be noted that the terminology "Town Council" is one of the authorised alternative styles for a Parish Council allowed for by the Local Government Act 1972 and is explicitly referred to in the petition as being the preferred style.

3. A Community Governance Review

- 3.1 A principal authority may undertake a CGR unprompted by a request, application or petition. However, a CGR must be undertaken and terms of reference agreed, on receipt of a valid petition unless the council is already undertaking a CGR or has concluded a previous CGR within a two year period ending with the day on which the petition was received.
- 3.2 The petition received has been verified as being signed by more than 7.5% of local government electors in the area for the proposed Town Council and defines the area to which the review relates and specifies recommendations including the area of the new Town Council it proposes to establish. A copy of the wording of the petition is attached as Appendix 1 and a map showing the proposed area is attached as Appendix 2.
- 3.3 It is proposed to conclude the CGR and submit recommendations back to Full Council to the meeting in October 2017.

4. Guidance and criteria to be used for a CGR

- 4.1 In undertaking the Review, the Council must be guided by Part 4 of the Local Government and Public Involvement in Health Act 2007, the relevant parts of the Local Government Act 1972, Guidance on Community Governance Reviews issued in accordance with section 100(4) of the Local Government and Public Involvement in Health Act 2007 by the Department of Communities and Local Government and The Electoral Commission in April 2008. Also the following regulations which guide, in particular, consequential matters arising from the Review: Local Government (Parishes and Parish Councils) (England) Regulations 2008 (SI2008/625); Local Government Finance (New Parishes) Regulations 2008 (SI2008/626).

4.2 The Council is obliged to take account of the necessary criteria when conducting the review, namely:

- The identities and interests of the community in the area
- The effective and convenient governance of the area.

and the Council should take into account influential factors such as the impact of community governance arrangements on community cohesion and the size, population and boundaries of a local community or parish.

4.3 The Council is also obliged to consult the local government electors for the area under review and any other person or body which appears to have an interest in the review and must take into account any representations received in connection with the review. The Guidance issued by the DCLG indicates that this might include local businesses, as well as local public and voluntary organisations.

5. Working Group

5.1 It is proposed that authority is delegated to the Chief Legal Officer (CLO) to conduct the CGR in consultation with an informal cross party Member and officer working group. The CLO and the working group will need to finalise the process, a communications and consultation strategy, consider the representations received and formulate the recommendations for consideration by Council on the outcome of the CGR. It is proposed that the report of the working group would be submitted to the meeting of Full Council in October 2017.

5.2 The group needs to be a size conducive to formulating recommendations. Officers recommend a group of no more than 7 Councillors; based on the normal proportionality rules this would result in a breakdown of membership across the two main political groups of 5:2. The officers would include the CLO, the Head of Elections and Member Services, the Planning Manager (Policy) in Regeneration, Culture, Environment & Transformation Directorate and relevant officers from the Communications, Finance and Legal Services teams.

5.3 To assist with the effective conduct of the working group, it is proposed that the rules for substitution of Councillors, set out in the Constitution, apply to the Councillors on the working group. It is therefore recommended that Rule 18 regarding the Appointment of Substitute members be applied to the working group as follows:

- 1 All members of the Council may serve as substitute members of the working group in the absence of the appointed member.
- 2 The political Groups shall substitute no more than one-half of their members at the working group (all figures to be rounded up to the nearest whole number).

- 3 The substitute member shall:
 - (a) be from the same political group as the member who is unable to attend the meeting;
 - (b) not substitute for more than one member;
 - (c) not be a member of the working group already.
- 4 Subject to any legal limits, a substitute member may attend, speak and vote as a member of the working group at the meeting.
- 5 If the appointed member attends the meeting when he or she has already been substituted, he or she may not attend as a member of the working group.

5.4 One of the first things a principal council is obliged to do is to establish and publish terms of reference for the review.

5.5 Since the approval of the terms of reference cannot be delegated, the proposed terms of reference for the review are attached as Appendix 3 and Members are asked to approve it. Group Leaders were given the opportunity to comment on the draft terms of reference and these have been incorporated into the proposed document attached.

6. Advice and analysis

6.1 Sustainability

The informal working group will need to consider the sustainability implications of the proposals and outcome recommended and seek means to reduce any negative impacts.

6.2 Diversity

A Diversity Impact Assessment (DIA) will need to be completed once the details of the CGR are finalised and the working group will need to consider all the diversity issues such as accessibility arising from the CGR. This will be included in the report to Full Council.

7. Risk management

7.1 Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community. The following table considers any significant risks arising from this report.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Damage to reputation of the Council amongst local population and Government	Failure to undertake CGR in accordance with legislation and DCLG guidance	Establishment of informal working group to co-ordinate implementation of CGR comprising key officers and Members	D1

8. Financial implications

- 8.1 There is no specific budget provision for the conduct of the CGR or the consultation process required. Officers have estimated that up to approximately £52,000 is required to undertake an appropriate consultation process and for the other costs associated with the CGR. It is difficult to estimate the costs without decisions having been made on the style and content of the consultation plan which will be agreed with the working group.
- 8.2 When the Government announced the new measures in the Act, they also established a Community Governance Review New Burdens Fund which is available to support local authorities that are required to undertake a review. It is intended to submit a bid to the New Burdens Fund to cover as many of the identified costs as possible.
- 8.3 If the New Burdens Fund bid is unsuccessful the costs will be met from the existing provision for local elections.

9. Legal implications

- 9.1 The legal implications for this matter are set out in the body of the report.

10. Recommendations

- 10.1 That Council notes the receipt of a valid petition requesting a Community Governance Review in respect of the proposed establishment of Rochester Town Council as set out in Appendix 1 and Appendix 2 to the report;
- 10.2 That Council:
- (a) approves the establishment of an informal cross-party Member and officer working group as set out in paragraph 5 of the report;
 - (b) delegates authority to the Chief Legal Officer to conduct the Community Governance Review in consultation with an informal cross-party Member and officer working group as set out in

paragraphs 5.1 – 5.5 of the report and to report back the outcome of the Review to Council;

(c) agrees that the rules for the appointment of substitute Councillors for the working group be as set out in paragraph 5.3; and

(d) agrees that the appointment of Councillors to serve on the working group should be made by the Chief Executive in accordance with the wishes of the relevant Group Leaders and Group Whips;

10.3 That Council approves the Terms of Reference for the Community Governance Review attached to this report as Appendix 3.

10.4 That Council notes the likely maximum spend for the purpose of the conduct of the Community Governance Review, as set out in paragraph 8.1 above and that officers will seek to recover the costs as possible from the CGR New Burdens Fund.

Lead officer contact

Jane Ringham, Head of Members' Services and Elections

T: 01634 332864

E: jane.ringham@medway.gov.uk

Appendices

Appendix 1 – Petition details

Appendix 2 – Map of proposed area

Appendix 3 – Terms of reference

Background papers

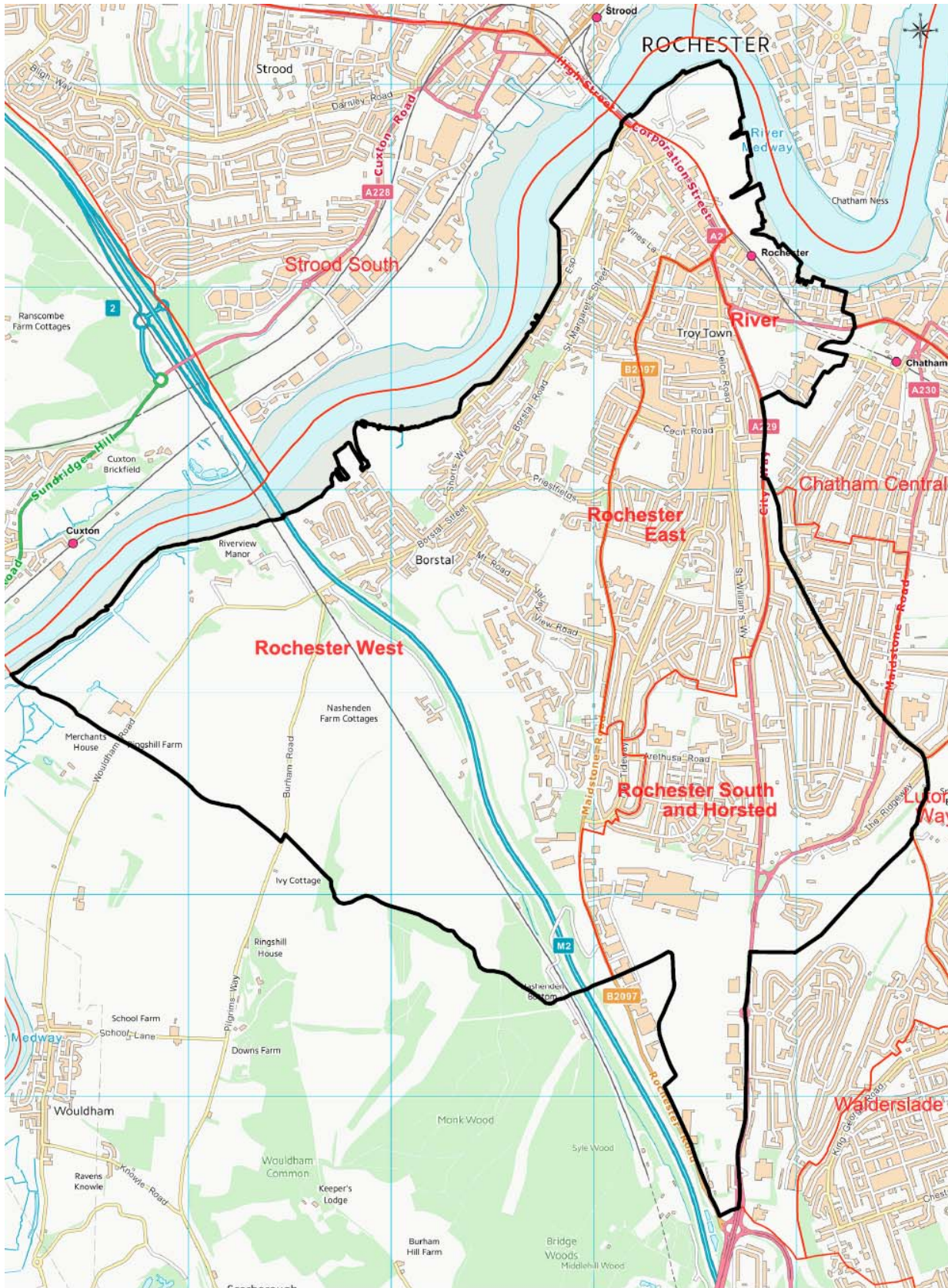
None

This petition is addressed to Medway Council under Section 80 of the Local Government and Public Involvement in Health Act 2007 ("The Act"). We, the undersigned, are electors who live in Rochester and believe that Rochester should have a Town Council. We ask that Medway Council undertake a Community Governance Review in accordance with its duties under Section 83 of The Act. We hope that the outcome of this review leads to the creation of a new local council for Rochester, to be called Rochester Town Council, which would work with Medway Council to represent our community and bring about improvements to our town.

We recommend the Town Council includes:

1. The Rochester East Ward;
2. The Rochester West Ward;
3. The part of the Rochester South & Horsted Ward west of the A229; and
4. The part of the River Ward west of Gundulph Road and Fort Pitt Hill.

APPENDIX 2



Community Governance Review - Rochester Town Council

- Proposed Town Council Boundary
- Medway Council Ward Boundary

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COMMUNITY GOVERNANCE REVIEW – PROPOSED ESTABLISHMENT OF ROCHESTER TOWN COUNCIL

TERMS OF REFERENCE OF REVIEW

That a Community Governance review (CGR) is carried out by Medway Council under the provisions of the Local Government and Public Involvement in Health Act 2007 (“the Act”) as amended by the Legislative Reform (Community Governance Review) Order 2015 in response to a valid petition from 1623 local government electors in the proposed area of the Town Council as set out in the attached map.

The review will comply with the legislative requirement, have regard to the associated statutory guidance and will be conducted in accordance with these terms of reference which were approved by Medway Council on 26 January 2017.

The outcome of the review will be reported back to Council in October 2017.

As per the 2007 Act (as amended), Medway Council will take account of the necessary criteria when conducting the review, namely:

- The identities and interests of the community in the area
- The effective and convenient governance of the area.

and the Council should take into account influential factors such as the impact of community governance arrangements on community cohesion and the size, population and boundaries of a local community or parish.

In undertaking the review, Medway Council will be guided by Part 4 of the Local Government and Public Involvement in Health Act 2007 (“the Act”) as amended by the Legislative Reform (Community Governance Review) Order 2015 and the guidance on CGRs published by the Department of Communities and Local Government and the Local Government Boundary Commission for England in March 2010.

The review shall be of the community governance needs of the area of the proposed Town Council, including the proposals put forward in the petition for the establishment of a Town Council for Rochester. If the review recommends that a new Parish should be constituted, it will also make recommendations as to:

- the name of the new Parish
- whether or not the new parish should have a parish council
- whether or not the Parish should have one of the alternative styles, including being called a Town Council

- what electoral arrangements should apply to the new council, including when ordinary elections should take place, the number of councillors to be elected to the parish council, and whether it should be divided into wards
- whether or not the council should make a reorganisation order including such incidental, consequential, transitional or supplementary provision as may appear to be necessary for giving full effect to the order for the establishment of the parish. This may include provisions with respect to the transfer and management, or custody of property, transfer of functions, property, rights and liabilities.

A Working Group has been established comprising of Councillors and Officers to work on the review; however, it does not have any decision making powers and so formally the authority to conduct the Review has been delegated to the Chief Legal Officer in consultation with the working group. The final decision will be made by the full Council based on the recommendations of the working group.

In coming to its recommendations in the Review, the working group and the Council will need to take account of the views of local people. The Act requires the Council to consult the local government electors for the area under review and any other person or body who appears to have an interest in the Review and to take the representations that are received into account by judging them against the criteria in the Local Government and Public Involvement in Health Act 2007 (as amended).