

REPORT TITLE: GOVERNANCE OPTIONS

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WARD(S): ALL TOWN WARDS

PURPOSE

As the City area is unparished (unlike the rest of the district), and no formal area committee arrangements exist, the Forum holds a unique position in the Council's democratic structure. The City Council and a working group of Winchester Town Forum Members (the Working Group) are currently undertaking a Member and Officer review of the role and remit of Winchester Town Forum and this paper outlines the governance options for further consideration.

RECOMMENDATIONS:

That the Town Forum considers the high level options outlined in this report and recommend any next steps and further work for the City Council and the Working Group to undertake with support from Officers.

IMPLICATIONS:1. COUNCIL PLAN

- 1.1 The Council Plan 2020-2025 was approved at the Cabinet meeting in December 2019 and is due to be presented to Full Council for adoption on 15 January 2020, which is after these papers will have been published. The Plan recognises that Winchester District faces many challenges and sets out the core principles which underpin the Council's work to respond to these challenges.

2. FINANCIAL IMPLICATIONS

- 2.1 There are detailed financial implications around the options presented in this paper. High level financial comment is made, at this stage, in respect of those options.
- 2.2 There could be significant financial work needed depending on the options considered viable for further consideration by the Town Forum.
- 2.3 Comparison with other similar sized Town Councils has shown that additional costs in respect of staff are £150,000 for a standalone Council. This would need to be investigated further and would also depend on the scale of the assets and liabilities that could transfer across to any Town or Parish Council(s).
- 2.4 It is worth noting that the town is currently supported significantly by internal services so there are operational implications for the City Council and any new entity. These are outlined below and quantified where possible;
- Special Maintenance provides works of c£100,000 p.a.
 - Tree works are managed by NER (Natural Environment & Recreation team) potential impact on WCC and the any new entity
 - Sports Pitches are managed by NER
 - Cemeteries are managed internally
 - Community grants are managed by Engagement
 - Estates manage properties such as the pavilions, cemetery lodge, council owned bridges and public conveniences
 - Democratic Services support
 - Strategic Director Town Forum lead and liaison officer
 - Legal and financial support where needed

3. LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 The Town Forum currently has the following terms of reference set out in the Council's Constitution, Part 3 – Responsibilities for Functions, Part 3.3 The Regulatory Committees and other Non-Executive Decision Making Committees. (Currently page 93 of the online version). These were first implemented in April 2007:

Winchester Town Forum

- (a) To act as a consultative and advisory body regarding issues affecting the five Winchester Town District Wards which, on occasions, may also include 'cross-boundary' matters involving adjoining areas (e.g. Badger Farm and Olivers Battery) and the Littleton Parish Ward area of the parish of Littleton and Harestock.
- (b) To forward any recommendations for action principally to Cabinet, but also to one of the regulatory Committees and/or Council when appropriate. However, no discussions shall take place about specific applications which fall within the remit of any of the Council's regulatory committees.
- (c) To promote community engagement within the Town Wards, by undertaking consultation exercises or encouraging the formation of community groups.
- (d) To consider the draft capital and revenue budget for the S35 Town Account each year and to make recommendations to Cabinet and Council.
- (e) Within the Council's policy framework and the framework of the S35 Town Account Revenue Budget:
 - (ii) to incur expenditure;
 - (iii) to set fees and charges;
 - (iv) to make decisions in connection with the operation or management of property or facilities;
 - (v) to make arrangements for special events;
 - (vi) to scrutinise budget and other performance monitoring reports;
 - (vii) to authorise incurring expenditure up to a limit of £250,000 on Town Account capital schemes within the approved capital programme under Financial Procedure Rule 7.4.
 - (viii) to authorise virement of a sum of £250,000 or less in total in any one year between budget heads subject to:
 - (a) The virement being in respect of a budget within the S35 Town Account and that the base budget is not increased; and
 - (b) Where in the opinion of the s151 Officer the provisions of the Council's Financial Procedure Rules (Rules 7.4 (b) to (d) and 7.5) on virement are met.
 - (ix) To consider the programme of schemes within the Town Wards to be funded from the Open Spaces Fund each year, including any other

funds specifically allocated to the programme of schemes within the Town Wards, particularly the Community Infrastructure Levy (CIL), and to make recommendations to Cabinet and the portfolio holder.

PROVIDED THAT these provisions shall not apply to that part of St Barnabas Ward that is within the Parish of Littleton and Harestock (Harestock Parish Ward).

- 3.2 Cabinet considered the Town Forum's request for additional powers, in April 2007; it felt that the Forum should be involved in a similar manner to parish councils when Cabinet was considering key stages of major emerging policies. It was therefore agreed that a second recommendation to Council be added as follows which was adopted by Council on 18 April 2007:

“That the Chairman of the Forum and Corporate Management Team (CMT) also be asked to bring emerging policy matters which particularly affect the Town to the Town Forum, as would be the case with any Parish Council, and could involve the use of suitable public consultation methods.”

- 3.3 There could be significant legal work needed depending on the options considered viable for further consideration by the Town Forum.

4. WORKFORCE IMPLICATIONS

- 4.1 Workplace implications are dependant upon the options considered viable for further consideration by the Town Forum. This will be considered on an ongoing basis.

5. PROPERTY AND ASSET IMPLICATIONS

- 5.1 The General Fund owns land and assets which are run and managed within the town account, such as cemeteries, sports pitches, pavilions, play areas and open spaces.
- 5.2 Property and Asset implications could be complex and dependant upon the options considered viable by the Town Forum.

6. CONSULTATION AND COMMUNICATION

- 6.1 No consultation has yet taken place. Officers have worked with the Town Forum Group on this topic and this paper is now presented to the Town Forum for early thoughts and considerations of the options with direction given for next steps and further work to be undertaken. There are extensive and prescribed consultation requirements within a Community Governance Review which would have to be adhered to. In any event consultation and communication is viewed as a critical element to moving forward with any of the options presented with this paper.

7. ENVIRONMENTAL CONSIDERATIONS

- 7.1 The Council considers the carbon impact of all decisions following the declaration of a climate change emergency.

8. EQUALITY IMPACT ASSESSEMENT

- 8.1 The Council is required when exercising its functions to comply with the duty set out in section 149 of the Equality Act 2010, namely to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity between those who share a protected characteristic and those who do not, and foster good relations between those who share a protected characteristic and those who do not.
- 8.2 Equality Impact considerations will be dependant upon the options determined as viable by the Town Forum. Additional advice maybe required once the option is determined and will be reviewed.

9. DATA PROTECTION IMPACT ASSESSMENT

- 9.1 None at this stage.

10. SUPPORTING INFORMATION:

- 10.1 A working group that considered and reviewed the council's constitution suggested that the Forum may wish to consult with partners and local stakeholders over the future of the Forum and town centre decision making. The report to full council in March 2019 noted that "in reviewing the decision-making structure, the purpose and responsibilities of the Winchester Town Forum were revisited, and whether it was an appropriate time to conduct a community governance review of the area covered by the Forum to see if a parish council or councils would be a more appropriate form of governance for this area. An initial dialogue has commenced with the Town Forum Members on this matter which will be progressed, as appropriate, beyond this review of the Constitution".
- 10.2 An initial discussion with that working group, City Council officers, Town Forum Members and representatives from Hampshire Association of Local Councils was held to explore the implications and thoughts around Parishing and whether this was a potential option to explore in more detail

- 10.3 Since a change in the membership of the Town Forum following the district election in May 2019 a different working group of the Town Forum is now established to drive this work forwards and this report outlines its early work on the options considered including those previously mentioned. The Working Group discussed a number of options as being;
- a. Do Nothing;
 - b. Reformed Town Forum with revised terms of reference and remit;
 - c. The forming of several Parish Councils across the area; and
 - d. The forming of a Town Council covering the whole area.
- 10.4 *Option A: Do Nothing:* is to continue the status quo with advantages that the forum is known and there are no time pressures for changes. The disadvantages were seen to be a continuing democratic deficit particularly in the area of planning and lack of wider representation on issues that are relevant to the Town Forum area. Whilst there is no formal participatory role in development management in place for the Forum;, the existing council delegations do enable ward councillors the ability to call planning applications to planning committee on planning grounds for determination with the ability to voice individual reasons /concerns.
- 10.5 *Option B: Reformed Town Forum with revised terms of reference:* Extending aspects of the Forum's current terms of reference to address actual or perceived omissions, already expressly stated and acknowledged in the area of planning, and could be written to enhance specific area responsibilities. Revised terms of reference may include a Town Forum sub-group with the specific remit to review and comment on planning applications within its area with the ability to require proposals to be referred to planning committee in the same way parish councils currently can do in the rest of the district. This sub-group would need to meet frequently. The sub-group could provide a view from a whole town perspective. The group will need to meet frequently and comments based on planning merit. Consideration of handling and avoiding conflicts of interest will need to be made.
- 10.6 Advantages are;
- The Town Forum continues to assist with issues considered to fall into a democratic deficit which may be widened/ narrowed dependant upon Members views;
 - Avoids set-up and running costs;
 - Operating Budget is known quantity with no impact on the precept with the caveat that a widening of its terms of reference may mean the precept is reviewed and small increase considered;
 - Is very quick to review and to confirm a revised set of terms of reference. Communications are able to start immediately; and

- Explicitly addresses the issues around planning from a collective town perspective.

10.7 Disadvantages are;

- Time needed to revise the constitution, although as there is currently a review being undertaken and any new terms of reference may be included;
- Perception that the Town Forum lacks any control over assets and liabilities;
- Is there sufficient distinction from the City Council?; and
- Will revised terms of reference address a concern over lack of wider representation?
- Conflict of interest in an application falls in a ward and one of the sub-group members takes a different perspective from that of the other town forum members, for example, the application may have overall benefits to the town and disadvantages to the local community.
- Clear terms of reference required and cost to support the planning sub-group.

10.8 *Option C: Parish Council (multiple – covering the area of the Town Forum) and Option D: One Town Council (covering the area of the Town Forum).* These two options would both require the City Council to conduct a Community Governance Review (CGR) and would introduce a further layer of Local Council.

10.9 'Local council' is the universal term for community, neighbourhood, parish and town councils. They are the first tier of local government and are statutory bodies. They serve electorates and are independently elected and raise their own precept. There are 10,000 local councils in England with over 30% of the country parished and 80,000 councillors who serve in these local councils.

10.10 A range of case studies of campaigns to create local councils can be found on the National Association of Local Council's website: <http://www.nalc.gov.uk/our-work/create-a-council>. A wide range of groups within very different areas have sought local councils for a variety of reasons. Similarly, the campaigns and calls have also come in different forms.

10.11 A case study that will be of interest to Winchester will be that of neighbouring Chandler's Ford. The Parish Council there came into being on 1 April 2010. There have been many learning experiences that could help Winchester in its considerations as to whether to conduct a CGR and any decisions that come from that should one be held. For example, much has been learned in respect of developing appropriate protocols, establishing clear and distinct roles between officers and councillors, working through the cost/efficiency benefits of being parished, and moving away from the conflicts of principal

council politics interfering with parish level decisions. Chandler's Ford Parish Council has confirmed it would be happy to share its experiences.

- 10.12 The Local Government & Public Involvement in Health Act 2007 significantly changed the way that CGRs are undertaken. It streamlined the process and delegated powers to principal authorities (districts and unitaries). Winchester City Council would be the principal authority for any CGR into the Town Forum area.
- 10.13 The City Council therefore has responsibility for undertaking such reviews, for deciding on the outcome and for its implementation. Central government no longer has a direct role in the process whilst noting that where the Boundary Commission has undertaken a review within the preceding 5 years their permission must be sought to make an order. Most of the current delegations for a CGR are with the Licensing and Regulation Committee of the City Council with any order, if that stage is reached, having to be made at Full Council.
- 10.14 One important change brought in by the 2007 Act was that local communities can cause a principal authority to undertake a CGR, if they can organise a petition demonstrating sufficient support among the electorate for certain changes. Sufficient support is 50% signing in an area with fewer than 500 electors or 250 signing in an area with between 500 and 2,500 electors or 10% signing in an area with more than 2,500 electors. However, principal authorities are still able to refuse a review if one was held within the last 2 years or they are currently running a full review of their area.
- 10.15 The Act requires principal authorities to take account of certain criteria when conducting a review, namely:
- The identities and interests of the community in an area; and
 - The effective and convenient governance of the area.

They are also advised to consider factors such as:

- What impact proposed community governance arrangements might have on community cohesion; and
- Whether the size (area), population and boundaries proposed for local governance make sense on the ground and contribute to the above criteria.

The guidance refers to people's sense of place and their historic attachment to areas.

Overall, local council arrangements should lead to: improved local democracy; greater community engagement; and better local service delivery.

Therefore, having not been petitioned to date, the City Council generally, and the Town Forum specifically, needs to ask if these can potentially be achieved by creating a local council or councils and what 'added value' a local council could bring. This does vary from area to area – many nearby town areas such as Fareham and Basingstoke could be suggested as examples of operating successfully without a further tier of local government in place and indeed look not only to the district and county councils to stimulate community cohesion but to the voluntary sector, wider community groups and business sector to take respective responsibilities and move areas forward.

10.16 Option C: Parish Council (multiple): the Working Group discussed the following advantages of multiple Parish Councils as a replacement for the current Town Forum:

- Could assist with the democratic deficit issues if effective;
- Multiple Parish Councils would be local to their specific parts of Winchester;
- Greater control over the local parish precept;
- Control over assets and liabilities;
- One clerk balancing the priorities of Parish (note: or would 1 clerk be able to work for and cover the priorities of all the City Parishes?).
- Planning development involvement would be the same for each Parish Council as is the case for all Parish Councils.

10.17 Disadvantages of Option C as discussed are;

- Additional precept cost anticipated at additional 10-15% at least which would need to include set-up costs of a new organisation;
- Lack of economies of scale may require further support;
- A CGR is time consuming and a slower option. Governance reviews require at least two public consultations per parish and all those affected with legal, governance and accounting support. The earliest start date would be May 2021 and the review process may result in no additional layer of a Government in a Parish Council being supported;
- A CGR could result in a new Parish being publicly supported in some but not all areas.
- Locality would not speak for "Winchester";
- Assets and liabilities are hard to define down to individual parish areas (other than open space). This could result in more being devolved back to the City Council. There are cost and resource implications in this regard that would need to be considered carefully and may not be acceptable or affordable to the City Council.

- Linked to the economies of scale point above the liabilities could be costly with multiple parishes as there is less scope to consolidate the liabilities and off-set these against a wider pool of assets.
- All elected members currently have the ability to engage in the town planning process and call-in a matter to the council planning committee, and placing their reasons before the committee members, therefore are there any real advantages?.

10.18 Option D: Town Council: the Working Group discussed establishing a Town Council (which could also be called a Community Council) for the entire area as a replacement for the current Town Forum. Actually defining what that area would be would need considerable work and public consultation and engagement. The advantages were viewed as:

- May assist to fill the democratic deficit;
- Locality means it would speak for Winchester;
- Greater decision making over the Parish precept;
- Control of assets though it is considered that there is a highly complex division of assets and liabilities.
- Planning development involvement would be similar to that of a Parish Council whereby a sub-group may be established so that comments on planning applications and may trigger a call-in to council planning committee.

10.19 Disadvantages of Option D as discussed are;

- Additional cost anticipated at additional 10-15% at least;
- Set-up costs of a new organisation which represents in effect a new community will need to be calculated, although not as complex as multiple parish councils;
- Lack of economies of scale;
- A CGR is time consuming and a slower option. Governance reviews require at least two public consultations per parish and all those affected with legal, governance and accounting support. The earliest start date would be May 2021 and the review process may result in no additional layer of a Government being supported;
- The earliest start date would be May 2021; and
- Assets in the City Centre do come with liabilities that require constant expensive maintenance. These liabilities are considered costly.
- All elected members currently have the ability to engage in the town planning process and call-in a matter to the council planning committee, and placing their reasons before the committee members, therefore are there any real advantages?.

10.20 In both options C and D a new body managing a portfolio of assets and liabilities may need to access services the City Council currently provides, such as biodiversity, countryside, land and tree management, encroachments/ dispute resolution, deed interpretation, recording property ownership, possession proceedings etc. The City Council could offer to act as service provider where the local council does not possess the resources to undertake the work itself, with costs charged back to the new council or councils.

10.21 CONCLUSION

The Working Party invites the Town Forum to consider these options.

11. OTHER OPTIONS CONSIDERED AND REJECTED

In addition to the options considered above including “Do Nothing” which has been discounted as Members seem to be looking at change with wider democratic input.

BACKGROUND DOCUMENTS:-

Previous Committee Reports: - None

Other Background Documents:-

APPENDICES:

None.