

Council Report

Ward(s) affected: Clandon & Horsley and Effingham

Report of Director of Finance

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## **Community Governance Review: Parishes of East Horsley and Effingham**

### **Executive Summary**

On 23 July 2019, Council approved a request from East Horsley Parish Council to conduct a community governance review (CGR) in accordance with provisions of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) regarding the following proposals:

#### Proposal 1

Subject to Proposal 2 below, to alter the existing boundary between the parishes of East Horsley and Effingham in the area close to Effingham Common, as set out in the Map (Annex 2) of the community governance terms of reference (**Appendix 1**).

#### Proposal 2

To recommend to the Local Government Boundary Commission for England (“LGBCE”) that it approves the change of the existing boundary between the Clandon and Horsley ward and the Effingham ward of the Borough Council so that it is coterminous with the change to the parish boundary referred to in Proposal 1 above.

#### Proposal 3

To increase the maximum number of councillors to be elected to East Horsley Parish Council from nine councillors to twelve councillors.

This report sets out details of the representations received during the consultation period and explains the options open to the Council in making its formal response to the CGR.

### **Recommendation to Council:**

(1) To determine whether, taking account of the statutory considerations:

(a) the existing boundary between the parishes of East Horsley and Effingham in the area close to Effingham Common should be altered and, if so, which

route the altered boundary should take.

- (b) subject to (a) above, to recommend to the Local Government Boundary Commission for England (“LGBCE”) that it approves, as a consequential change, an alteration of the existing boundary between the Clandon and Horsley ward and the Effingham ward of the Borough Council so that it is coterminous with the change to the parish boundary referred to in (a) above;
  - (c) the number of parish councillors to be elected to East Horsley Parish Council should be increased from nine to twelve with effect from the next scheduled parish council elections in May 2023; and
  - (d) any other changes should be made to the electoral arrangements for East Horsley Parish Council and Effingham Parish Council
- (2) To agree that the Democratic Services Manager be authorised to make a community governance reorganisation order under Sections 86 and 88 of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) to give effect to any of the approved proposals referred to in paragraph (1) above, together with all necessary incidental, consequential, transitional or supplementary provisions as may be required to give full effect to the order.

Reason for Recommendation:

To ensure that community governance within the area under review is:

- reflective of the identities and interests of the community in that area; and
- is effective and convenient

**Is the report (or part of it) exempt from publication? No**

**1. Purpose of Report**

- 1.1 The purpose of this report is to inform Council of the way in which a consultation with local people was undertaken and the outcomes of that consultation.
- 1.2 To set out the options open to the Council in making its formal response to the Community Governance Review (CGR).

**2. Strategic Priorities**

- 2.1 To undertake the review will be consistent with our desire to be open and accountable to our residents, to deliver improvements and enable change across the borough.

**3. Background**

- 3.1 Principal councils have the power to carry out community governance reviews and put in place or make changes to local community (parish) governance arrangements. A review can consider a number of issues, including:

- whether to create a new parish
  - whether to alter the boundary of an existing parish
  - whether to group a number of parishes together in a grouped parish council
  - whether to change the electoral arrangements for parishes (including the number of councillors to be elected to the council, and parish warding),
- 3.2 The legal framework within which principal councils must undertake these reviews is set out in the Local Government and Public Involvement in Health Act 2007 (as amended).
- 3.3 The Council has power under section 82 of the 2007 Act to undertake CGRs at any time.
- 3.4 On 16 April 2019, East Horsley Parish Council submitted a written request for the Council to conduct a CGR, with the suggested terms of reference including the following proposals:

#### Proposal 1

Subject to Proposal 2 below, to alter the existing boundary between the parishes of East Horsley and Effingham in the area close to Effingham Common (a plan showing this proposed alteration is set out in Annex 2 to the Terms of Reference for the CGR – see **Appendix 1** to this report).

#### Proposal 2

To recommend to the Local Government Boundary Commission for England (“LGBCE”) that it approves the change of the existing boundary between the Clandon and Horsley ward and the Effingham ward of the Borough Council so that it is coterminous with the change to the parish boundary referred to in Proposal 1 above.

#### Proposal 3

To increase the maximum number of councillors to be elected to the parish council of East Horsley from nine councillors to twelve councillors.

- 3.5 On 31 July 2019, the proposals were considered by full Council and approval was given to proceed with the review, based on the terms of reference attached as **Appendix 1** to this report. The agreed terms of reference for the review were published on 2 September 2019, which launched a six-week period of consultation with local people and interested parties.

#### Parish Council Electoral Arrangements

- 3.6 The Local Government Act 1972 specifies that each parish council must have at least five councillors, but there is no upper limit. Government guidance on conducting CGRs<sup>1</sup> quotes research by the Aston Business School Parish and Town Councils in England, which found that the typical parish council representing less than 500 electors had between five and eight councillors; those between 501 and 2,500 electors had six to 12 councillors; and those between 2,501 and 10,000 had nine to 16 councillors. Most parish councils with a population of between 10,001 and 20,000 had between 13 and 27 councillors, while almost all councils representing a

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<sup>1</sup> [“Guidance on Community Governance Reviews” – DCLG and Local Government Boundary Commission for England \(March 2010\)](#)

population of over 20,000 had between 13 and 31 councillors. Making provision for the usual fluctuations in the electorate size, at the time of receipt of the request for a CGR, the local government electorate in East Horsley parish was 3,437.

- 3.7 The Borough Council holds records of parish elections held in East Horsley and Effingham dating back to, and including, 1995. Records reveal that since then there has only been one contested parish election in respect of East Horsley Parish Council – in 1999.

### Parish Warding

- 3.8 Parish warding must be considered as part of a CGR. Parish warding is the division of a parish into wards for the purpose of electing councillors. This includes the number and boundaries of any wards, the number of councillors to be elected for any ward and the names of wards. In considering whether a parish should be divided into wards, the 2007 Act requires that consideration be given to:
- (a) whether the number, or distribution of the local government electors for the parish would make a single election of councillors impracticable or inconvenient; and
  - (b) whether it is desirable that any area or areas of the parish should be separately represented.
- 3.9 The parish of East Horsley is dissected horizontally by the A246 Epsom Road. This dissection, however does not particularly split the parish electorate which is largely focused around the village centre to the north. There would appear to be no advantage to the community in setting any parish ward boundaries. In addition, the parish council have requested there should be no imposition of any parish ward boundaries as a part of this review.
- 3.10 Effingham parish has two wards – Effingham (North) and Effingham (South). ‘The main village settlement area has two parts, separated by the A246. The north-western part contains most of the older houses, Conservation Area, and listed buildings, as well as more recent development, and the southern section has a significant proportion of post 1945 housing. Approximately 58 Effingham homes lie within the East Horsley settlement boundary on the edge of Effingham Common, and approximately 160 homes lie outside any settlement boundary in small hamlets at Dog Kennel Green and Ranmore Manor in the south, and Effingham Common and Lower Farm Road in the north.’<sup>2</sup> Effingham Parish Council have also requested there should be no change to any parish ward boundaries as a part of this review.

## **4. Consultations**

- 4.1 The 2007 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 it. In carrying out the consultation with local electors and those with an interest in the respective parishes, officers have:
- (a) Written to residents directly affected by the proposed change in the parish boundary

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<sup>2</sup> Effingham Neighbourhood Plan 2016-2030, page 9

- (b) Created a bespoke page on the Borough Council's website, which set out the terms of reference for the review and included the facility to respond to the consultation proposals by completing an online form<sup>3</sup>.
  - (c) Used social media to alert residents and partner agencies and those following the Council of the consultation.
  - (c) Issued a press release to local media.
  - (d) Engaged with East Horsley and Effingham parish councils, including a feature on their websites setting out the terms of reference for the review.
  - (e) With the assistance of both parish councils, advertised the consultation on the parish councils' noticeboards
  - (f) Written to Surrey County Council, Surrey County Councillor Julie Iles and to the local MP.
  - (g) Canvassed the views of the local Borough Councillors.
- 4.2 In arriving at its recommendations in a CGR, the Council must take into account any representations received.

#### 4.3 Representations from local residents

Although the overall response to the consultation has been disappointingly low, almost all representations received have been in favour of the boundary change as set out in the terms of reference and for an increase in the number of parish councillors. No support has been received for changes to any other electoral arrangements for either parish council. A summary of the response to each of the questions asked is as follows:

	Do you agree with the proposal to alter the existing boundary between the parishes of East Horsley and Effingham in the area close to Effingham Common?	Do you want the number of parish councillors on East Horsley Parish Council to increase from nine to twelve?	Do you agree that no other changes should be made in respect of the electoral arrangements of the Parish Council?
Yes	23	21	23
No	4	5	3
No comment/ Blank	0	1	1

- 4.4 Respondents were also invited to comment on the proposals and the detail of these is set out in **Appendix 2**.

#### 4.5 Effingham Parish Council

In its response to the consultation, Effingham Parish Council (EPC) has raised concern that the route of the proposed altered parish boundary included in the terms of reference in respect of this CGR was not the route of the boundary first proposed and discussed with East Horsley Parish Council (EHPC) at a meeting held earlier in the year. EPC is concerned that the proposed altered parish boundary now includes historic properties closely associated with Effingham Common, one of which is one of

<sup>3</sup> <https://www.guildford.gov.uk/comgovrev>

only four properties with “commoner’s rights”. Effingham Parish Council has proposed an alternative boundary, which is shown on their submission at **Appendix 3**.

4.6 Following receipt of EPC’s submission, a meeting with representatives of both parish councils was held on 23 October 2019, to which the local borough ward councillors for Clandon & Horsley and Effingham were also invited. The meeting discussed the EPC submission and the rationale behind its suggestion that the parish boundary should follow an alternative route to that proposed in the approved terms of reference. This is explained more fully in Councillor Hogger’s submission below. EHPC indicated that they would have no objection to the altered parish boundary following the route suggested by EPC.

4.7 **Comments from the local councillors**

<b>Councillor</b>	<b>Comments</b>
Cllr Tim Anderson (Clandon & Horsley ward)	“The route of the proposed new parish boundary has now been agreed by Effingham PC and East Horsley PC, and given the advice that no further consultation would be required and that there is no issue over commoners’ rights, I am very pleased that we seem to have reached a very satisfactory outcome, which I am very happy to support.”
Cllr Christopher Barrass (Clandon & Horsley Ward)	<p>“It is excellent that we have managed to arrive at a solution for both Parishes and the Borough without having to undergo extended negotiations or consultations through the combination of common sense and goodwill.</p> <p>Let us hope more decisions can be made as quickly and amicably in the future!”</p>
Cllr Catherine Young (Clandon & Horsley Ward)	<p>I support the proposed change of boundary, recognising that the majority of residents who are affected by this change are clearly in favour of this move.</p> <p>Following the recent meeting held to further clarify the proposed boundary as suggested by Effingham Parish Council, and to which East Horsley Parish Council has no objection, I believe that this alternative route better reflects the needs of the local community.</p> <p>In addition, as it has been established that the commoner’s rights will not be affected by any change in the boundary I do not believe therefore that further consultation is required.</p> <p>It seems sensible that the boundary follows the inset boundary as identified in the GBC Local Plan, which will be important for consistency with any</p>

Councillor	Comments
	<p>future planning applications. The impact on both Parish's Neighbourhood Plans will need to be addressed.</p> <p>I also fully support Councillor Hogger's statement concerning Huckamoor and Brickfield Cottage. These two properties and their surrounding land remain in the Green Belt, so I feel it is important that they remain in the Parish of Effingham, rather than becoming inset, and potential targets for development, especially to preserve their historical significance."</p>
<p>Cllr Liz Hogger (Effingham Ward)</p>	<p>"I support the principle of changing the boundary here, providing the residents affected are broadly in favour. However, I agree with the position expressed in the letter from Effingham Parish Council, which supports the 'original proposal' discussed with East Horsley Parish Council at the beginning of this process. This has the boundary coinciding with the inset boundary for East Horsley as on the policies map for the Local Plan, with the exception of a small blip to include two properties at the end of Orchard Close.</p> <p>My problem with the 'review boundary' is that two properties and areas of land of historical importance to Effingham Common would be removed from Effingham Parish.</p> <p>'Huckamoor' is the house approached by a track from the end of Orchard Close. It is one of just four properties which have registered Commoners' rights on Effingham Common (Slaters Oak, Lee Brook, The Willows and Huckamoor). Effingham Parish Council fought a hard and ultimately successful court action in the 1960s and 1970s to establish that these four properties had these rights, and to formally register Effingham Common on the Commons Register, in the face of opposition from the then lord of the manor Calburn who had ideas about developing the Common for housing. Since then, Effingham Parish Council has worked with the four rights holders, including the owners of Huckamoor, to ensure that the commoners' rights are exercised every year or two, by grazing animals on the common, and gathering kindling, and keeping a record of this just in case these rights are ever challenged again. Since GBC bought most of the Common in 2000, this has been done as part of the Commoners' Days now held every two years.</p>

Councillor	Comments
	<p>The 'Brick Field' area was originally used for brick-making – there has been brick-making on the Common since the 16<sup>th</sup> century, and many local buildings were constructed using locally produced bricks. 'Brickfield Cottage' is a relatively modern house which replaced two small brick-makers' cottages formerly on that land. The stretches of water on that property are in pits originally dug out for the clay used in the brick-making.</p> <p>It would be a shame if these two historical Effingham properties were now to be absorbed into East Horsley because of the spread of 20<sup>th</sup> century development.</p> <p>From a planning perspective, it would seem logical to follow the inset boundary set out in the Local Plan, to ensure clarity about the planning policies which apply to properties, particularly the two Neighbourhood Plans. I assume that if the boundary change goes ahead, it will be necessary to revise both Effingham and East Horsley Neighbourhood Plan areas. Since Huckamoor and Brickfield Cottage are in the green belt at the edge of Effingham Common, they have more in common in planning terms with properties such as Lee Brook on the other side of the Common than with the residential roads in the East Horsley inset area. It would therefore be preferable for them to remain within the parish of Effingham.</p> <p>Incidentally, I think the proposal to use a ditch as a boundary is not satisfactory. The inset boundary is very clearly mapped in the Local Plan and would provide a very clear defined boundary for planning purposes”.</p>
Cllr Julie Iles, SCC Horsleys Division	“The parish councils have discussed and seem content with proposed changes”

#### 4.8 **Comments from Surrey County Council**

The Senior Countryside Access Officer responded by agreeing with a comment made by two residents of Heath View during the consultation in which they suggested that the alteration to the parish boundary proposed in the terms of reference should follow property boundaries and a ditch rather than bridleway no. 131.

#### 4.9 **Comments from the local Member of Parliament**

No comments were received from the MP for Mole Valley during the consultation.



## **5. Equality and Diversity Implications**

- 5.1 Public authorities are required to have due regard to the aims of the Public Sector Equality Duty (Equality Act 2010) when making decisions and setting policies.
- 5.2 The process followed in conducting the CGR has been set out in the 2007 Act and the associated Government guidance. Every attempt has been made to engage with electors and interested parties through the consultation process that has been led by officers.
- 5.3 There are no equality and diversity implications arising from this report.

## **6. Financial Implications**

- 6.1 There are no significant financial implications arising from this report.

## **7. Legal Implications**

- 7.1 The Council has conducted the CGR in accordance with the requirements set out in Chapter 3 of Part 4 of the Local Government and Public Involvement in Health Act 2007 (as amended) and guidance issued by the Secretary of State under Section 100(4) of the 2007 Act.
- 7.2 In particular, the Council is required when undertaking a CGR to have regard to the need to secure that community governance within the area under review:
  - (a) reflects the identities and interests of the community in that area, and
  - (b) is effective and convenient
- 7.3 There are two issues arising from the consultation on this CGR, and in particular the submissions from EPC and Councillor Hogger, upon which legal advice was sought. The first issue relates to whether it would be necessary to re-consult if the Council was minded to determine that the altered parish boundary should follow a route different from that shown in the terms of reference approved by the Council. The advice is that if the Council is satisfied that the alternative route for the parish boundary suggested by EPC (to which EHPC have no objection) better reflects the identities and interests of the community in the area and is effective and convenient, then it could legitimately adopt that alternative route for the purposes of making a community governance reorganisation order, without the need to re-consult.
- 7.4 The second issue relates to the question as to whether commoners' rights are affected by any alteration in a parish boundary. The advice is that rights of common are third party rights which attach to and run with the land. The commoners' rights will not therefore be affected by any change in the parish boundary.
- 7.5 The Council is asked to note that the existing boundary between the parishes of East Horsley and Effingham is also the boundary between the Clandon & Horsley and Effingham wards of the Borough Council. As it would be anomalous to not consider altering the borough ward boundary to make it coterminous with any

alteration to the parish boundary, the Council is asked, if it is minded to approve an alteration to the parish boundary, to consider whether to request the Local Government Boundary Commission for England (LGBCE) to make a consequential change to the borough ward boundary so that the respective boundaries are coterminous.

- 7.6 The Government guidance states that it will be for the LGBCE to decide, following receipt of proposals, if a related alteration to the ward boundary should be made and when it should be implemented. Only the LGBCE can make an order implementing any alteration to the borough ward boundary. No order will be made by the LGBCE to implement related alterations until the community governance reorganisation order changing the parish boundary has been made by the Council.
- 7.7 In June 2019, the LGBCE wrote to the Council informing us that the Commission intends to carry out electoral reviews of all English local authorities that have not been reviewed in twelve or more years<sup>4</sup>. This process will therefore include Guildford. The purpose of an electoral review is to consider the total number of councillors elected to the council, the names, number and boundaries of the wards, and the number of councillors to be elected to each ward. It is possible that this electoral review could commence in 2020, although the timetable has not yet been confirmed.
- 7.8 If the Council formally requests the LGBCE to make a consequential change to the boundary between the borough wards of Clandon & Horsley and Effingham, the Commission may decide to defer making a decision on this with a view to dealing with it as part of a formal borough-wide electoral review.

## **8. Human Resource Implications**

- 8.1 There are no significant human resource implications arising from this report.

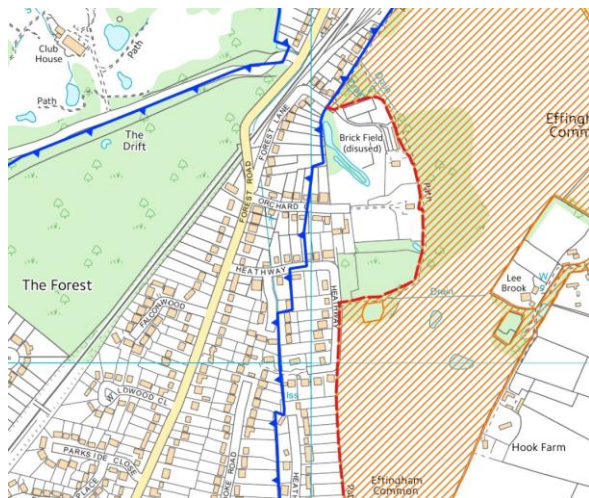
## **9. Summary of Options**

- 9.1 There has been a low response to the consultation and Council may consider that there is little appetite locally for a change and opt to retain the existing parish boundary. Alternatively, those who have responded to the consultation have almost overwhelmingly embraced the proposal to alter the boundary for reasons that are effective and convenient.
- 9.2 If the Council accepts the rationale for the existing boundary between the parishes of East Horsley and Effingham to be altered in the area close to Effingham Common, there are two sub-options to consider:

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<sup>4</sup> Guildford was last reviewed in 1998

- (a) To adopt the proposed change to the boundary referred to in the terms of reference for the review (see below); or



- (b) To adopt the proposed change to the boundary referred to in EPC's submission (see below)



- 9.3 If the Council wishes to adopt the route suggested by EPC, it will not be necessary to re-consult, as the only residents affected will remain within Effingham parish.
- 9.4 The Council may consider that no change should be made to the existing number of parish councillors elected to EHPC, given that the seats have rarely been contested. However, most of those who did respond to the consultation also supported the proposal to increase the number of parish councillors. The parish council has stated in its submission that it would prefer to see an increase in order to reduce the workload for existing councillors and to increase diversity on the parish council.

## 10. Conclusion

- 10.1 The shops, facilities and the natural 'hub' of the community for those residents living in the vicinity of the Effingham Common border is East Horsley village

rather than Effingham village which lies two miles to the south. To alter the parish boundary would appear to be in the interests and identity of local people.

- 10.2 Although for the most part, elections to EHPC have been uncontested during the past 20 years, an increase in the number of seats to twelve would still be well within the range for a parish council representing an electorate of this size recommended in the Government guidance.

**11. Background Papers**

[East Horsley and Effingham Community Governance Review, report to Guildford Borough Council, 31 July 2019](#)

**12. Appendices**

Appendix 1: East Horsley and Effingham Community Governance Review Terms of Reference as agreed by Guildford Borough Council on 31 July 2019.

Appendix 2: Comments submitted by residents in response to the consultation

Appendix 3: Response from Effingham Parish Council