

Report to: Cabinet



Date of Meeting 3 November 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Honiton Community Governance Review Petition

Report summary:

Following a petition request for a community governance review, Counsel's advice has confirmed that it would not be appropriate to progress a review on the basis of the recommendations sought, and in any event the petition organisers are now advocating that the petition be withdrawn. Members are asked to consider this but also whether a review may nonetheless be appropriate due to some boundary anomalies and recent developments to the east end of Honiton.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

1. Cabinet recommend that the Honiton Forward petition request for a community governance review does not progress for the reasons given.
2. Cabinet consider whether it wishes to recommend that there should be a community governance review to look at existing boundaries to the east end of Honiton and with Gittisham Parish Council for the reasons given in the report. Officer advice is not to progress a review at this time.

Reason for recommendation:

In accordance with the provisions of Part 4 of the Local Government and Public Involvement in Health Act 2007; the principal legal framework within which councils must undertake these reviews. It is for Members to determine the appropriate approach in relation to a Honiton Community Governance Review.

Officer: Henry Gordon Lennox, Strategic Lead (Governance & Licensing)

Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities

Tourism, Sports, Leisure and Culture

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk;

Links to background information [Local Government and Public Involvement in Health Act 2007 Communities and Local Communities - Guidance on community governance reviews March 2010](#)

Link to [Statement of Intent](#)

Priorities (check which apply)

- Better Homes and Communities for all
 - Greener East Devon
 - A resilient Economy
 - Services that matter
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1. Introduction to Community Governance Reviews

- 1.1 A Community Governance Review is a review of the whole or part of a district to consider one or more of the following:
- creating, merging, altering or abolishing parishes;
 - the naming of parishes and the style (i.e. whether to call it a town council or village council etc) of new parishes;
 - the electoral arrangements for parishes – the ordinary year of election, the size of the council, the number of councillors to be elected and parish warding;
 - grouping parishes under a common parish council, or de-grouping parishes.
- 1.2 Under the legislation the Council must aim to ensure that community governance in the area under review:-
- reflects the identities and interests of the community in that area
 - is effective and convenient
 - takes into account any other arrangements for the purpose of community representation or community engagement.
- 1.3 When considering this, the Council should take into account a number of factors, including:
- the impact of community governance arrangements on community cohesion; and
 - the size, population and boundaries of any new local community or parish.

A review involves the following stages:

- (1) Setting terms of reference of the review;
- (2) Publicising the terms of reference (for the purposes of the Act, the review formally commences when the terms of reference are published);

- (3) Undertaking consultations with the local government electors for the area and any other person or body (including relevant Parish Councils) who appear to have an interest in the review;
 - (4) Considering representations;
 - (5) Preparing and publishing draft proposals;
 - (6) Undertaking consultation on the draft proposals;
 - (7) Considering representations;
 - (8) Publishing recommendations;
 - (9) Making an order to bring into effect any decisions arising from the review;
 - (10) A review must be concluded within 12 months of the publication of the terms of reference.
- 1.4 When undertaking a Community Governance Review a principal council must have regard to guidance issued by the Secretary of State and the Electoral Commission. However, subject to this, it is for the Council to decide how to undertake the review.
- 1.5 A review can be triggered through either a petition being submitted or application made for a community governance review (the latter can only be done by a body or organization designated as a neighbourhood forum) or where a principal council considers that one should be carried out.

2. Honiton Forward Petition for a Community Governance Review

- 2.1 In December 2020, Honiton Forward submitted a petition to East Devon District Council requesting a review of the community governance arrangements at Honiton Town Council. The petition was submitted in person to officers at Blackdown House and the organisers subsequently addressed Members at the Full Council meeting of 9th December 2020.
- 2.2 The petition was supported by 791 electors within the administrative area of the parish, which is above the 688 (7.5%) required by S.80 of the Local Government and Public Health Involvement Act 2007. It also conformed with the other statutory requirements, namely that it identified that it relates to the whole of the Town Council area and specified one or more recommendations which the petitioners wish the review to consider making. It was therefore a valid petition which was confirmed to Honiton Forward on 21st December 2020.
- 2.3 The petition specifically requested the following actions by East Devon District Council;
- “We the undersigned members of the Honiton community call upon East Devon District Council to undertake a Community Governance Review for the Honiton Town Council area with the purpose of ensuring improved community engagement, better local democracy and more effective and convenient delivery of local services We believe that the current Council, which has not been subject to democratic scrutiny at the last election or since, has failed to deliver a sense of civic values, responsibility and pride within the Town, or to create a place with a positive feeling for people and local distinctiveness which is reflective of the identities and interests of the Honiton community. This is evident in the large number of issues that have occurred in recent years and particularly the abnormal level of councillor turnover and the amount and seriousness of staff sickness. We call on East Devon District Council to take action under the provisions of the Local Government and*

Public Involvement in Health Act 2007 to undertake a community governance review and to:-

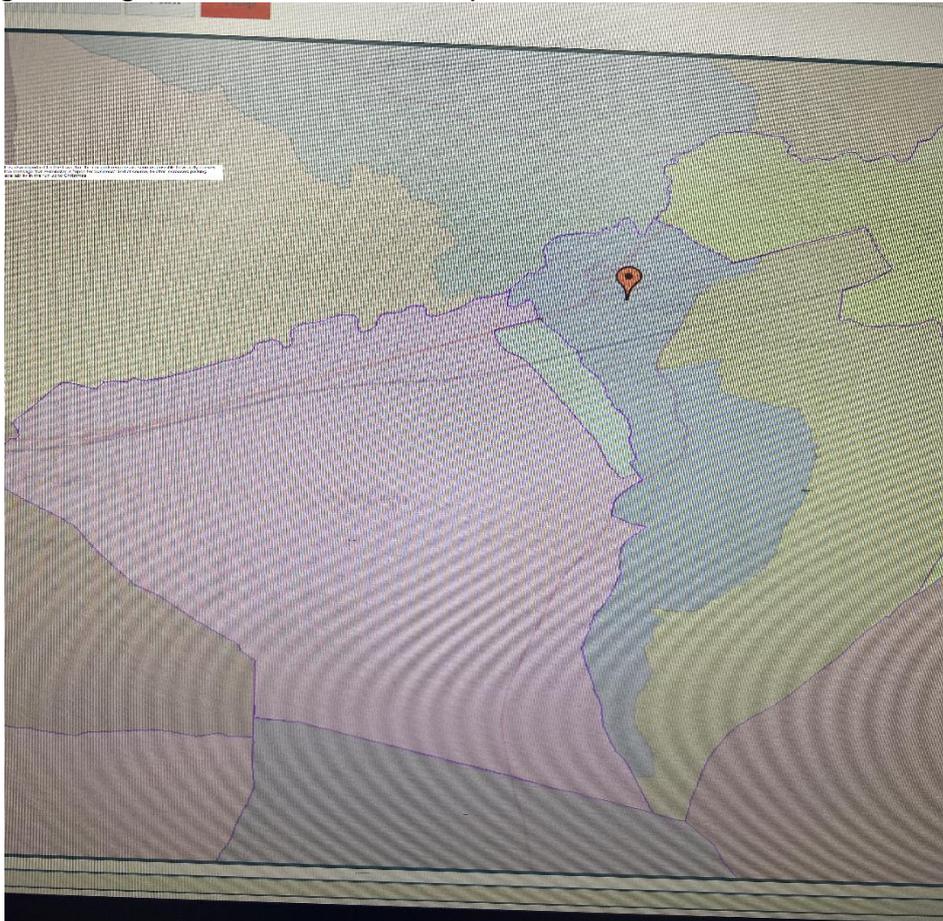
- **Dissolve** the council and take over its operation for the period before new elections
- **Repair** the council by resolving staff issues and settling all outstanding legal disputes.
- **Restore** the Council by holding new elections in May 2021 and encouraging all those with a positive vision for serving and improving the Town to stand for office.”

- 2.4 The recommendations raised concerns given that it was requesting a Town Council to be dissolved. In light of what was asked, Counsel’s opinion was sought on whether or not a community governance review could be carried out along the lines sought.
- 2.5 In May 2021, Honiton Town Council had a by-election which resulted in a large number of new councillors being elected to the Council. Honiton Forward, the petition organisers, had indicated that depending on what happened at the election, they might consider withdrawing the petition.
- 2.6 While Counsel’s advice was requested on a number of points, on the primary issue the advice was;
- “26. In my view the 2007 Act does not permit EDDC to make an order or orders abolishing HTC and immediately re-creating it for the purpose of removing its current membership.”*
- 2.7 Honiton Forward have been advised of this and the difficulty it presents and in September 2021, they wrote an open letter to the signatories of the petition and to the Town Council in which they state that Honiton Forward *“is however minded to withdraw the petition at this point because if it were eventually implemented it would potentially undermine the work of the new Councillors”* and further *“[i]n summary it is the view of the Honiton Forward committee that the interests of the community are currently best served by allowing the new councillors to address and attempt to resolve, together with the community, the many issues that the Council faces.”*
- 2.8 The view of officers therefore is that the Council should determine that it is not appropriate to progress a community governance review on the basis that the petition request, while technically valid, advocates recommendations that are beyond the power of the Council to deliver.

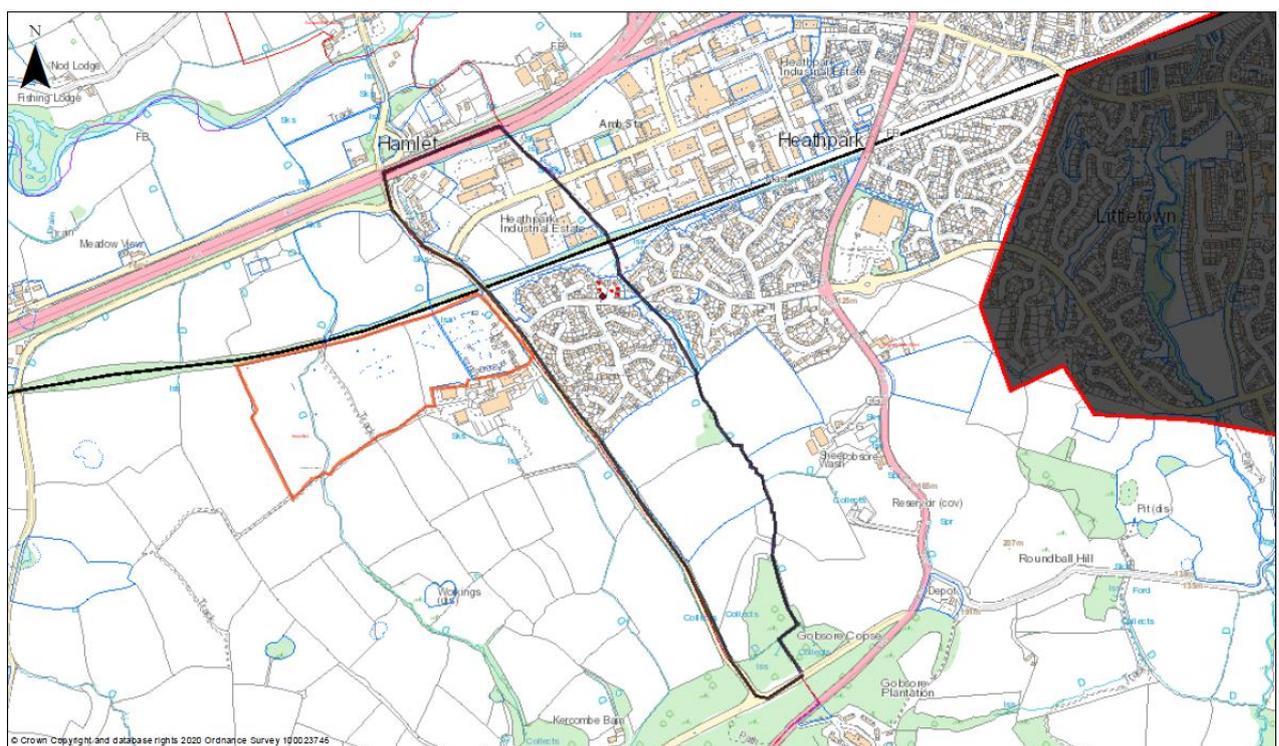
3. Consideration as to whether there should be a community governance review for Honiton

- 3.1 The above said, there are some issues which affect the east end of the administrative area of Honiton Town Council that might benefit from a community governance review. In this regard Gittisham Parish Council have also informally approached officers raising the issue of the appropriate boundary between the two bodies.
- 3.2 These issues relate (i) to an anomaly between the Gittisham Vale parish and St Michael’s district ward boundary, (ii) the new Baker Estates (Hayne Lane) development and (iii) the employment land allocations in the Local Plan which are yet to come forward for development and sites being proposed for development as part of the New Local Plan.

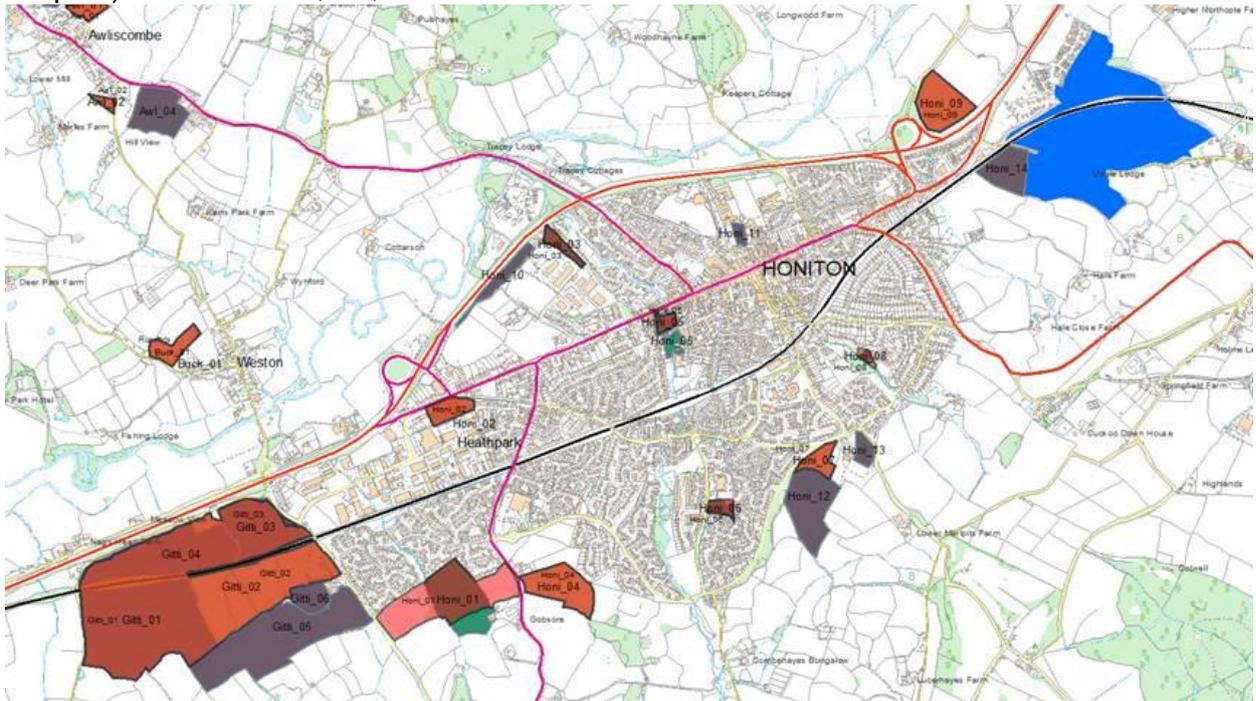
3.3 This first map shows the extent of Gittisham Vale (green) and Gittisham Village (purple) areas which comprise Gittisham Parish. Honiton St Michaels town boundary is the neighbouring blue area with the red pin in it.



3.4 This map shows the Gittisham Vale boundary (black) and the Baker Estates (Hayne Lane) development boundary (red). The Baker Estate's site sits in Gittisham Village area.



- 3.7 Finally, this plans shows site that have been promoted for development as part of the 'call for sites' as part of the New Local Plan. Relevant sites (south west corner of the plan) are GITTI 01, 03, 04 and 05 and HONI 01. GITTI 02 is the Baker Estates site.



- 3.8 As mentioned above, there is a historic anomaly that requires consideration. As can be seen from the maps, the western most edge of the developed part of Heathpark Industrial Estate and the residential estate to the south are within Gittisham Vale parish area but Honiton St Michaels District Ward area. Logic would suggest that these probably ought to sit within Honiton St Michaels town area and not Gittisham Vale given that they would be viewed as being part of Honiton.
- 3.9 If those areas were to be made part of Honiton St Michaels town area the question then is what happens to the remainder of Gittisham Vale, bearing in mind that this is also within Honiton St Michael's district ward area. There seems little point leaving this small area of land as Gittisham Vale and it might make sense that it too is incorporated into Honiton St Michaels town area. If HON 1 were to be allocated for development this is likely to increase the case for such a move. Alternatively it could be considered to be incorporated into Gittisham Village area, but this will cause the anomaly to remain in terms of the parish / ward boundaries.
- 3.10 The Baker Estates development is within the Gittisham Village parish area but, as with those areas discussed above, is likely to be seen as part of Honiton. However the Baker Estates area is also outside of the district ward boundary. In this case, there is a question of whether it is appropriate to approach the Boundary Commission to deal with the district ward boundary first (extending the Honiton St Michaels ward area) before then dealing with the parish areas afterwards. This issue is also compounded by the allocated employment site (042) in current Local Plan and the number of sites also being put forward for development as part of the Local Plan process in this area. If the district ward areas were to be looked at, this could also consider the southern part of Gittisham Vale as referenced above.
- 3.11 Officer advice is to await the outcome of the Local Plan review process so that there is clarity over site allocations in and around this area before considering whether or not to approach the Boundary Commission and / or carry out a community governance review. The publication draft of the Local Plan, which will detail the Council's intended

allocations, is currently expected to be in the Autumn of 2022 with final adoption of a Local Plan currently expected to be in February 2024.

- 3.12 If members wish to commence a review, it is advised that the appended terms of reference (Appendix 1) should be recommended. There is no budget for carrying out a community governance review and so should Members wish to progress a review it is estimated that these would be around £5000 and so a request to Council would need to be made for a budget.

Financial implications:

No direct financial implication.

Legal implications:

Section 81 of the Local Government and Public Involvement in Health Act 2007 provides that it is for the Council to decide the terms of reference of any community governance review. The legal requirements for recommendations arising out of the community governance review are set out in Part 4 Chapter 3 of the 2007 Act. This includes recommendations as to what new parish or parishes (if any) should be constituted in the area under review, and its electoral arrangements. There must be recommendations as to the name of any new parish, and as to whether or not the new parish should have a parish council, and if so, its style [parish / town / community / village / neighbourhood]. The Council must have regard to guidance issued by the Secretary of State under s100 of the 2007 Act about carrying out community governance reviews and giving effect to any recommendations arising out of the review. The Council must also have regard to guidance from the Electoral Commission on electoral recommendations arising out of the review.