

10 December 2014		ITEM: 5
General Services Committee		
Frost Estate Community Governance Review		
Wards and communities affected: Corringham and Fobbing; Stanford East and Corringham Town	Key Decision: Not applicable	
Report of: Graham Farrant, Chief Executive		
Accountable Head of Service: Fiona Taylor, Head of Legal & Democratic Services		
Accountable Director: Graham Farrant, Chief Executive		
This report is public		

Executive Summary

On 10 September 2014, the Council agreed to undertake a Community Governance Review in response to a petition signed by residents of the Frost Estate, which requested that a specified area be designated as a parished area and that a parish council be established, to be known as the Frost Estate Neighbourhood Council.

The timetable and terms of reference for the Review were approved at this meeting (Minute No.42 refers) and the Council agreed that the Review should be progressed through the General Services Committee, with recommendations being brought back to the Council for a final decision to be made in respect of the creation of a parish council.

This report considers the responses to the first stage of the public consultation carried out as part of Review, having regard to the law and the guidance on Community Governance Reviews issued by the Department for Communities and Local Government.

1. Recommendation(s)

The General Services Committee is recommended to:

- 1.1 Note the results of the consultation with residents of the Frost Estate.**
- 1.2 Agree to publish the results of the consultation on the Council's website.**
- 1.3 Consider the results of the consultation, together with the information and advice presented in this report, and formulate a recommendation as**

to the future governance arrangements for the Frost Estate, and in particular, consider whether a parish council should be established.

- 1.4 Agree to proceed to a second stage consultation on the draft recommendation(s) of the Committee in respect of the future governance arrangements for the Frost Estate.**
- 1.5 Note that a report will be brought to Council in March 2015 in order that a final decision may be made in respect of the Review and the future governance arrangements for the Frost Estate.**

2. Introduction and Background

- 2.1 On 10 September 2014, the Council agreed both the terms of reference and timetable for the Community Governance Review to cover the Frost Estate and also agreed that the Review should be progressed through the General Services Committee, with recommendations being brought back to the Council for a final decision to be made in respect of the creation of a parish council.
- 2.2 The first stage of the Review involved consultation with local government electors within the area identified in the petition that triggered the Review. A questionnaire was designed to capture the following:
 - The current community governance arrangements for the area;
 - Whether a parish council should be created;
 - What services any parish council should deliver;
 - The benefits and disadvantages the creation of a parish council would bring to the community; and
 - Any other comments respondents wish the Council to consider.
- 2.3 A copy of the questionnaire is attached at **Appendix 1** to this report for Members' information.
- 2.4 Questionnaires were personally addressed to each elector in the area defined by the petition and hand delivered to each of the 715 registered electors over the weekend of 13 and 14 September 2014. This information was sourced from the electoral register published on 1 September 2014.
- 2.5 An option was also available for residents to complete the questionnaire online via the council's website, with this being available from 15 September 2014.
- 2.6 The deadline for receipt of all completed questionnaires was midnight on Sunday 9 November 2014 and paper copies could either be returned by post or placed into sealed ballot boxes at Corringham Library.
- 2.7 In the course of considering the views of respondents to the questionnaire and formulating recommendations for the future governance arrangements of the

area, the Committee should be aware of the duties with regard to the council and the review under sections 93 and 100 of the Local Government and Public Involvement in Health Act 2007.

3. Issues, Options and Analysis of Options

- 3.1 Under section 93 of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”), the Council must comply with various duties when undertaking a community governance review, as set out below:
- (a) It must have regard to the need to secure that community governance within the area under review reflects the identities and interests of the community in that area, and is effective and convenient.
 - (b) In deciding what recommendations to make, the council must take into account any other arrangements, apart from those relating to parishes and their institutions, that have already been made, or that could be made for the purposes of community representation or community engagement in respect of the area under review.
 - (c) The council must take in to account any representations received in connection with the review.
- 3.2 Under Section 100 of the Act, the Council must have regard to guidance issued by the Secretary of State. The guidance refers to a desire to help people create cohesive and economically vibrant local communities and states that an important aspect of this is allowing local people a say in the way their neighbourhoods are managed.
- 3.3 The guidance does stress that parish councils are an established and valued form of neighbourhood democracy and management in rural areas that increasingly have a role to play in urban areas and generally have an important role to play in the development of their communities. The need for community cohesion is also stressed along with the Government’s aim for communities to be capable of fulfilling their own potential and overcoming their own difficulties. The value which is placed upon these councils is also highlighted in the fact that the guidance states that the Government expects to see the creation of parishes and that the abolition of parishes should not be undertaken unless clearly justified and with clear and sustained local support for such action.
- 3.4 The guidance also states that the Council must have regard to the need to secure community governance within the area under review reflects the identities of the community in the area and is effective and convenient.

Analysis of responses

- 3.5 Of the 715 questionnaires delivered to registered electors, 357 responses were received which equates to 49.93% of the total electorate.
- 3.6 With regard to the question of a preferred form of community governance for the Frost Estate, a total of 299 respondents indicated a preference for a new parish council for the area to be created. This equates to 83.75% of all respondents who completed the questionnaire and 41.81% of the registered electors in the area surveyed.
- 3.7 Of the remaining responses to the question of a preferred form of community governance for the area, 50 respondents (14.01%) indicated a preference for no change to the current arrangements, 6 respondents (1.68%) indicated a preference for alternative arrangements, and, 2 respondents (0.56%) failed to answer the question.
- 3.8 The “alternative arrangements” identified by the 6 respondents are set out below, although the Committee should bear in mind that these cannot really be considered as a form of community governance but rather, suggestions whereby roads on the Frost Estate could be repaired and maintained:
- *“Responsibility for the roads being taken on by a third party with residents paying a share of the costs in a fair and equitable manner.”*
 - *“Use funds already supplied to Thurrock BC from Frost Estate ratepayers etc.”*
 - *“Road repairs undertaken by Thurrock Council at no cost to residents.” (3 respondents highlighted this)*
 - *“Men and women of the frost estate purchase roads from the crown - set up a charitable trust and grant the roads into the trust for the benefit of the men and women of the frost estate. Community fundraising and sponsored events to raise monies for road repairs. Thurrock Council assist with grants and funds to voluntary/charitable minority groups. Residents Association to apply for a lottery grant.”*
- 3.9 The questionnaire listed a range of services that could be provided by a parish council and residents were asked to give each a score from 1 to 10, where 1 meant the service should not be delivered and 10 meant that it definitely should.
- 3.10 329 respondents provided a view as to which of the services listed they would wish to see a new parish council deliver, although not every respondent provided a score for each of the services listed.

- 3.11 The table below shows both the total and average scores given and enables each of the services listed in the questionnaire to be ranked in order of the importance that has been placed on them by the local electors who provided a response.

Rank	Service	Total Score given	Average Score given
1	Maintenance and repair of roads	3132	9.67
2	Crime prevention measures	2383	7.89
3	Repair and maintain public footpaths and bridleways	2244	7.48
4	Light roads and public places	2134	7.16
5	Provide traffic signs and other notices	1807	6.02
6	Plant trees and maintain roadside verges	1581	5.55
7	Provide litter bins	1270	4.41
8	Environmental projects	1189	4.09
9	Grants to voluntary groups	959	3.35
10	Provide parking places for vehicles	884	3.18
11	Parks and open spaces	845	2.94
12	Community halls	751	2.62
13	Play areas	746	2.61
14	Provide roadside seats and shelters	719	2.54
15	Allotments	675	2.36
16	Leisure facilities	608	2.15
17	Public toilets	597	2.09
18	Provide bus shelters	578	2.07

- 3.12 A detailed analysis of the responses provided to the questions in respect of the preferred form of community governance for the Frost Estate and the services any parish council could deliver is set out at **Appendix 2** to this report.
- 3.13 The questionnaire also asked residents to identify what benefits and disadvantages the creation of a parish council would bring to the community. The detailed responses received are set out in **Appendix 3** and **Appendix 4** respectively for Members' consideration. The Committee should note that the issue of the repair and maintenance of roads on the Frost Estate somewhat dominates the comments that have been submitted. Respondents have also cited other benefits, including residents having more control over their estate, whilst raising the issue of increased costs to local residents as a disadvantage.
- 3.14 **Appendix 5** to the report sets out the additional comments that have been submitted which respondents wish the Council to consider. Again, the issue of

the repair and maintenance of roads on the Frost Estate somewhat dominates the comments that have been submitted.

- 3.15 It is clear from the responses to the questionnaire that a major factor in both the request for a parish council to be established and the responses to the questionnaire that have been submitted is the repair and maintenance of the roads on the Frost Estate.
- 3.16 The area identified to be covered by the proposed parish council comprises the following roads:
- Arundel Drive;
 - Balmoral Avenue;
 - Central Avenue;
 - Carisbrooke Drive;
 - Chamberlain Avenue;
 - Giffords Cross Avenue (nos. 2-44 and nos.1-45 only);
 - Lampits Hill Avenue;
 - Montfort Avenue;
 - Pembroke Avenue;
 - Windsor Avenue; and
 - York Avenue.
- 3.17 Of the above roads, only Lampits Hill Avenue has been adopted by Thurrock Council, with the remainder of the roads being unadopted and therefore private.
- 3.18 The report considered by the Council on 10 September set out the legal position at some length and included a précis of the legal advice received from the National Association of Local Councils (NALC), which is independent of the council and was therefore considered to provide a useful background to some of the legal issues. As the issue of the repair and maintenance of the roads on the Frost Estate somewhat dominates the responses provided to the first consultation, the Committee should note the following extract from the NALC advice reported on 10 September:

“I am concerned if the community group wants to set up a new parish council for the sole reason that the council could take on responsibility for the repair of private roads, which in any event is subject to ownership of the roads being transferred to the new council and the extant legal obligations of certain homeowners to contribute to expenditure for repairing the roads. A parish council is expected to undertake a range of services for residents and area that it represents. There is risk that responsibility for the repair of the private roads could dominate the budget and activities of a new parish council when arguably such activity benefits only those with (i) a legal obligation to contribute to the cost of the repair of the roads (ii) those that use it.”

“It is my view that it is preferable for the repairs of the private roads to be undertaken by a management company that owns the roads (comprising of members who have legal obligations to contribute to such expenditure) or by the highway authority under the terms of an agreement made under s. 38(3) (a) of the 1980 Act.”

- 3.19 As this is something of a complex matter, the Council has sought additional legal advice and an initial view has been provided by James Findlay QC. Firstly, he has advised that it is difficult to accept that the parish council has any highway powers at all (save anything specifically given to them) but it may be that in some extreme circumstances it could arrange for some work. However, to create a scheme to take over private obligations with no recourse to those obliged to pay is very likely to be unlawful.
- 3.20 Secondly, he has advised that in deciding whether to create a new council the single issue nature of its aims and the concern as to those aims are likely to be material considerations.
- 3.21 The Committee should consider whether it is appropriate to recommend the creation of a parish council on this basis, particularly in light of the legal issues that have been highlighted in this regard in both the report to the Council on 10 September and in paragraphs 3.18 to 3.21 of this report.

Issues for the Committee to consider if minded to recommend the creation of a parish council

The number of parish councillors

- 3.22 Section 16(1) of the Local Government Act 1972 establishes five councillors as the legal minimum size of a parish council but it does not make any link between the number of electors and the size of the council. NALC, the body which represents parish councils, has indicated that it believes that seven should be minimum size and has suggested that the number of members be allocated depending upon the size of population being represented.
- 3.23 In practice, there is a wide variation of council size between parish councils. That variation appears to be influenced by population. Research has found that the typical parish council representing between 501 and 2,500 had six to 12 councillors.

3.24 The table below shows the ratio of councillors to electors, ranging from the legal minimum number of councillors to the larger of the typical parish council sizes identified in the research. From the petition submitted to trigger this Review, the Frost Estate Residents Association has 10 Members.

Number of Parish Councillors	Electorate	Ratio of councillors to electors
5	715	1 : 143
6	715	1 : 119
7	715	1 : 102
8	715	1 : 89
9	715	1 : 79
10	715	1 : 71
11	715	1 : 65
12	715	1 : 60

The services any new council would provide

3.25 Parish councils vary widely both in terms of the populations they represent and the functions they perform. Some have a very limited, local role whilst others are more active, carrying out activities similar to that of a smaller borough council. Parish councils are considered to be an essential part of the structure of local democracy and do have a role in acting on behalf of the communities they represent. They can:

- give views, on behalf of the community, on planning applications and other proposals that affect the parish;
- undertake projects and schemes that benefit local residents;
- work in partnership with other bodies to achieve benefits for the parish;
- alert relevant authorities to problems that arise or work that needs to be undertaken; and
- help the other tiers of local government keep in touch with their local communities.

3.26 Research suggests that typical parish responsibilities include village halls, war memorials, open spaces, cemeteries, allotments, leisure facilities, playgrounds, maintenance of public footpaths and cultural projects. However, it has been noted earlier in this report that a major factor in both the request for a parish council to be established and the responses to the questionnaire that have been submitted is the repair and maintenance of the roads on the Frost Estate.

3.27 This would not be a function that is normally undertaken by a parish council, with the extant legal obligations on frontagers to contribute to the cost of the repair of the roads, and, the significant costs involved with such an activity being relevant considerations.

- 3.28 The Committee must therefore satisfy itself whether the creation of a parish council, being a statutory local authority set up under the Local Government Act 1972, is the most suitable vehicle to deliver what many local residents would like, particularly in the context of the legal position in respect of the repair and maintenance of the roads.

Financial implications for local residents

- 3.29 In order to fund their activities, parish councils can instruct their billing authority (who in this case would be Thurrock Council) to collect extra money on their behalf that is added onto the council tax bill. This is known as a “local precept” and is to be paid by all households living in the area covered by the parish council. The main activity the petitioners and a large number of respondents to the questionnaire appear to wish for the proposed parish council to engage in, the repair and maintenance of the roads, is very expensive and some of the concerns expressed by respondents to the questionnaire have been in respect of the potential additional cost to them.
- 3.30 Once established, a parish council can also apply for funding, by way of applications for grants, and it can also seek to borrow. Borrowing by parish councils is governed by schedule 1 to the Local Government Act 2003 and parish councils in England have to apply and receive approval from the Secretary of State for Communities and Local Government before taking up any borrowing, although certain temporary borrowings do not require borrowing approval. Councils can borrow for capital expenditure as defined in section 16 of the Local Government Act 2003.
- 3.31 There is no national limit on the total annual amount of borrowing available to local councils in England. However, the amount that an individual council will be allowed to borrow is normally limited to £500,000 in any one financial year. As with all borrowing, this needs to be repaid over the term of the loan and also attracts a level of interest that will be added to the repayments.

Other arrangements that have already been made, or that could be made for the purposes of community representation or community engagement

- 3.32 Residents of the Frost Estate have established the Frost Estate Residents Association. Indeed, the Steering Group of the Association, which comprises 10 members, co-ordinated and submitted the petition that triggered this Review.
- 3.33 The Residents Association already communicate with residents of the estate by way of a newsletter and the newsletter includes the strap line “*Keeping residents of the Frost Estate fully informed of matters affecting them and the Estate and gathering the opinions of our community as a whole*”.

3.34 A residents association can be a very effective body and such groups can:

- Represent the collective views of residents'
- Have a voice in planning for the local area
- Help improve the quality of life for all members of the community
- Represent the views of local people to the Council
- Be recognised as a democratically elected group and have more influence.

3.35 In addition to the above, some groups are set up to achieve a specific aim such as:

- Helping to tackle antisocial behaviour or crime
- Protesting against planned developments in their area
- Raising funds to improve local facilities, such as community gardens or play areas.

3.36 From looking at the results of the survey, it should be noted that respondents ranked crime prevention measures as the second most important function of a parish council to them. However, such a function could be undertaken by the existing Residents Association and this could be enhanced by making further links with the Council, the Community Safety Partnership (and Essex Police) and the Community Forums that cover both Corringham & Fobbing and Stanford-Le-Hope.

3.37 Other functions of a parish council that respondents to the survey ranked highly were as follows:

- Repair and maintain public footpaths and bridleways

Public footpaths and bridleways in Thurrock are shown on the Rights of Way map, which can be viewed on the Council's website. A small length of public footpath (FP 165) runs from Lampits Hill to Carisbrook Drive. This would border the area of the proposed parish council but is currently maintained by Thurrock Council and would come within the Council's Public Rights of Way Improvement Plan.

There are no further public footpaths or bridleways that fall within the boundaries of the proposed parish council, as shown on the Rights of Way map for Thurrock, and so the extent of the functions that could be undertaken by any parish council in this regard, should such a body be created, is questionable.

- Plant trees and maintain roadside verges

As an alternative to a parish council, such an activity could be organised and undertaken by the existing Residents Association.

- Provide traffic signs and other notices

Highway Authorities are responsible for ensuring correct standards of signing on their roads; only they can erect traffic signs or permit their erection and this includes a private street with public access. The Police also have certain responsibilities.

However in England and Wales (excluding Scotland), it is the local authority, which may not necessarily be the highway authority, that is responsible for erecting and maintaining waiting restriction and speed limit signs and for establishing pedestrian crossings in their area.

Authorities may only use signs, including carriageway markings, of a size, colour and type prescribed or specially authorised by the Secretary of State. The prescribed signs are included in The Traffic Signs Regulations and General Directions 2002.

A parish council would therefore need powers to provide traffic signs to delegated to them by Thurrock Council, as the Highway Authority for the area.

- Light roads and public places

If the road has not been adopted, there is no duty on the highway authority to provide lighting and the responsibility lies with the owners of those properties that have frontage rights on to the road. It is possible, that a local authority (or district, parish or community council) may decide to provide lighting for an unadopted road if it is used by the public as a footpath.

A note of caution should be raised regarding the costs involved when a parish council takes responsibility for providing and operating street lights. The following example is from Chesham Bois Parish Council in Buckinghamshire, whose website includes the following information:

“As already explained the Parish Council provides and operates all the street lighting in the Parish, except for the lighting on the A416, which is the responsibility of BCC [Buckinghamshire County Council]. A significant part of the “rates” (Community Charge) paid by residents to the Parish Council is spent on street lighting. In round terms electricity and maintenance of the lights each cost approximately £2,000 every year.

..... The Parish Council have therefore been pushing manufacturers hard to develop suitable LED lamps, which, if successful, will reduce electricity consumption by around 75%.”

Conclusion

- 3.38 In order to recommend the creation of a parish council for the Frost Estate, the Committee should be satisfied that such a body would reflect the identities and interests of the community in that area, and would be effective and convenient.
- 3.39 From the issues set out within the petition that triggered the Review, and from priorities that have been identified by respondents to the survey, there is doubt that a parish council could deliver what has been requested and therefore be effective, particularly given the advice that to create a scheme to take over private obligations with no recourse to those obliged to pay is very likely to be unlawful.
- 3.40 In addition, of the other potential services identified by respondents to the survey, it could be argued that a parish council may not be the most effective solution and that, in the form of the Frost Estate Residents Association, other arrangements either have already been made, or could be made for the purposes of community representation or community engagement.

4. Reasons for Recommendation

- 4.1 The General Services Committee have been asked to progress the Community Governance Review and make a recommendation in respect of the creation or otherwise of a new parish council for the Frost Estate. This recommendation will be the subject of further consultation with local electors and other groups before a final decision is made by the Council.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 A meeting with representatives of the Residents Association and ward councillors has been scheduled to take place on the evening of 2 December to discuss the Review.
- 5.2 Consultation is an integral part of the Community Governance Review. The report advises the committee of the results of the consultation that has been undertaken to date. Any recommendations made by the General Services Committee will be the subject of further consultation with local residents, together with other interested parties.

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 The maintenance of good governance is essential to the council in discharging its functions in a timely, open and transparent manner for the benefit of the residents of the borough. The request to create a new parish council is being undertaken in line with the requirements of relevant legislation and the principles of good governance.

7. Implications

7.1 Financial

Implications verified by: **Sean Clark**
Head of Corporate Finance

There will be a financial cost in conducting the next stage of the Community Governance Review, particularly in respect of the consultation process.

A dedicated budget code has been created and costs to date for the Review have been £461 for the printing and delivery of the questionnaire to residents, with this being accommodated within existing budgets. Further costs are likely to be incurred as a result of the Council seeking detailed legal advice.

The cost of a further consultation process on the recommendations of the General Services Committee is likely to be in the region of £500, as the next stage of the consultation process will again involve local residents in the area defined by the petition, as well as other interested parties outside of this. As part of this, it is proposed to hold a meeting with local residents and, whilst additional costs may arise as a result, it is anticipated that these can be kept within existing budgets.

7.2 Legal

Implications verified by: **David Lawson**
Deputy Head of Legal & Democratic Services

The legal implications are set out and explained within the body of the report.

7.3 Diversity and Equality

Implications verified by: **Natalie Warren**
Community Development and Equalities Manager

There are no diversity and equality implications to report at this stage.

7.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None.

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Local Government and Public Involvement in Health Act 2007 (available online at <http://www.legislation.gov.uk/ukpga/2007/28/contents>)
- Guidance on community governance reviews (available online at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8312/1527635.pdf)
- Public Rights of Way in Thurrock (available online at <https://www.thurrock.gov.uk/public-rights-of-way/public-rights-of-way-maps>)

9. Appendices to the report

- **Appendix 1** – questionnaire distributed to registered electors living in the area designated by the petition.
- **Appendix 2** – analysis of the responses received to the consultation
- **Appendix 3** – the benefits respondents think a parish council would bring for the community
- **Appendix 4** – the disadvantages respondents think a parish council would bring for the community
- **Appendix 5** – other comments and observations respondents would like the Council to consider

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