

26 August 2015		ITEM: 6
Council		
Frost Estate Community Governance Review		
Wards and communities affected: Corringham and Fobbing; Stanford East and Corringham Town		Key Decision: Not applicable
Report of: David Bull, Interim Chief Executive		
Accountable Head of Service: Fiona Taylor, Head of Legal & Democratic Services		
Accountable Director: David Bull, Interim 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 Council subsequently embarked upon a community governance review and, as this has progressed, has conducted two stages of consultation with the residents of the Frost Estate and other interested bodies.

The Review has been progressed through the General Services Committee, who met on 10 December 2014 and made a series of recommendations, after considering a report that set out the results of the first consultation with residents of the Frost Estate and other issues to be considered (Minute No.8 refers).

The recommendations of the General Services Committee were then subject to a further round of public consultation and the results of this are set out within this report.

The results of the governance review were brought to Council on 25 March 2015 where Members considered the report. At this meeting a number of questions were tabled to the Leader from members of the public which demonstrated that there were still issues not fully understood by significant numbers of residents on the Estate. Council agreed to defer the decision until a number of meetings had been held to field any queries or questions residents still had regarding the financial, legal and political ramifications of a parish council. The detail of these meetings are set out in points 3.9 to 3.11

The Council is therefore asked to consider this additional information and decide whether it wishes to change the governance arrangements for the area and create a new parish council, or, whether it considers that there should be no changes to the governance arrangements for the area.

1. Recommendation(s)

1.1 The Council is requested to consider whether, in light of the additional information presented and the recommendations of the General Service Committee, the interests of effective and convenient local government and community identities for the Frost Estate would be:

(a) best served by the creation of a new Parish Council; or

(b) best served by remaining unchanged

1.2 That, subject to the decision made at recommendation 1.1, the new Parish Council be called The Frost Estate Neighbourhood Council

1.3 That subject to the decision made at recommendation 1.1 approve the boundary for the Frost Estate Neighbourhood Council as shown in Appendix 5.

1.4 That, subject to the decision made at recommendation 1.1, the number of parish councillors to serve on the new Frost Estate Neighbourhood Council should be 9.

1.5 That, subject to the decision made at recommendation 1.1 that the parish shall be divided into 2 wards which shall be named Frost Estate East ward and Frost Estate West ward. Each parish ward shall compromise the area designated on the map in the appendices by reference to the name of the ward and demarcated by blue lines.

1.6 The number of councillors to be elected for the Frost Estate East Ward shall be 7 and the number of councillors to be elected for the Frost Estate West ward shall be 2.

1.7 That, subject to the decision made at recommendation 1.1, authorise the Head of Legal and Democratic Services to make the necessary reorganisation order to give effect to the above arrangements.

1.8 That, subject to the decision made at recommendation 1.1, authorise the Head of Legal and Democratic Services to establish an appropriate parish council steering committee as detailed in paragraph 3.6 of the report

2. Introduction and Background

- 2.1 On 10 September 2014, following receipt of a valid petition, the Council agreed the terms of reference and timetable for a 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 (Minute No.8 refers).
- 2.2 A Community Governance Review can consider a range of topics about the community governance of the area under review. These can include the following:
- creation, merging, altering or abolishing of parish areas;
 - the naming of parishes;
 - the electoral arrangements for parishes (creating a council; the number of councillors to be elected to the council; parish warding); and
 - consequential matters such as the 'knock-on' effect on the principal council divisions or wards or the setting of the commencement dates for any new arrangements.
- 2.3 In this review, we have been concerned only with the request to establish a new parish council for the Frost Estate.
- 2.4 The area identified to be covered by the proposed parish council is shown in the map included within **Appendix 5** and 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.
- 2.5 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.
- 2.6 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.
- 2.7 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.
- 2.8 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.
- 2.9 When considering the points above, the Council must have regard to two key principles:
- the impact of community governance arrangements on community cohesion; and
 - the size, population and boundaries of any new local community or parish.
- 2.10 The General Services Committee met on 10 December 2014 and, pursuant to Section 93 of the Local Government and Public Involvement in Health Act 2007, and, the Department for Communities and Local Government Guidance for the Conduct of Community Governance Reviews, took the following into account:
- (a) the petition;
- (b) the results of the consultation with the electors (see **Appendix 4**);
- (c) legal advice contained within the report and circulated at the meeting (see **Appendix 3 and 4**); and

- (d) the information on existing community governance arrangements in the area concerned and the alternative forms of community governance which might have been appropriate for the areas in question;
- (e) the financial implications for local residents;
- (f) the services any new council would provide; and
- (g) the number of parish councillors any new parish council should have.

- 2.11 After considering the aforementioned information, the General Services Committee recommended that the interests of effective and convenient local government and community identities in this area would be best served by the creation of a new Parish Council.
- 2.12 Furthermore, the Committee recommended that the number of parish councillors to serve on the new body should be nine, and, that the new parish council be called "The Frost Estate Neighbourhood Council".
- 2.13 The recommendations of the General Services Committee were then subject to public consultation with residents of the Frost Estate, together with other community groups covering both the Corringham & Fobbing and Stanford East & Corringham Town Wards. The Consultation commenced on 17/18 January and closed on 28 February 2015.
- 2.14 Following the Full Council meeting on 25 March 2015, Members agreed to postpone the decision to allow for residents to attend a public meeting with officers from Highways, Legal Services, Electoral Services, Democratic Services and Financial Services to field any outstanding queries. This meeting took place on 15 June 2015 at the East Thurrock Football Association Club. The notes from this meeting are attached at Appendix 7.
- 2.15 Finally the government advises that a relevant consideration in the warding of parishes is the layout of the principal council electoral areas because when the LGBCE is making changes to principal council electoral arrangements, no unwarded parish should be divided by a district ward boundary, and no parish ward should be split by such a boundary (DCLG/LGBCE Guidance, Para 163). Therefore it is proposed that should Council establish the parish it should be divided into 2 wards in order to reflect the boundary of the principal council electoral areas so that residents will continue to vote at their existing local polling place whether at standalone and / or combined elections.

3. Issues, Options and Analysis of Options

- 3.1 The Council is requested to consider whether, in the light of the information presented, the interests of effective and convenient local government and community identities for the Frost Estate would be:
- (a) best served by the creation of a new Parish Council; or
 - (b) best served by remaining unchanged

- 3.2 All information previously considered by the Council and the General Services Committee have been included as appendices to this report. In addition, the notes from the public meeting on 15 June 2015 have been included.
- 3.3 The second consultation asked whether respondents agreed or disagreed with the recommendations made by the General Services Committee on 10 December 2014 and the results of this are set in **Appendix 1** and can be summarised as follows:
- (a) In response to the question “**Do you agree that a new parish council should be set up for the Frost Estate?**”
- 380 out of 536 responses** (or **70.90%**) agreed
- 156 out of 536 responses** (or **29.10%**) disagreed
- (b) In response to the question “**Do you agree that the new Parish Council should be called “The Frost Estate Neighbourhood Council”?**”
- 379 out of 531 responses** (or **71.37%**) agreed
- 152 out of 531 responses** (or **28.63%**) disagreed
- (c) In response to the question “**Do you agree that the Frost Estate Neighbourhood Council should have 9 parish councillors?**”
- 369 out of 528** (or **69.89%**) agreed
- 159 out of 528** (or **30.11%**) disagreed
- 3.4 In accordance with the terms of the reference for the review, the Council will publish final proposals following its meeting on 26 August 2015, having taken into account:
- (a) the recommendations of the General Services Committee, who considered the representations received following the first stage of consultation;
- (b) the results of the second stage of consultation; and
- (c) the information presented in this report.
- 3.5 To be able to implement the changes and set up a new parish council the Council must then produce and publish a reorganisation order. Copies of such a reorganisation order together with relevant plans will have to be made available for public inspection at the Civic Offices and on the Council Website. There is also a legislative requirement to inform interested parties, including the Electoral Commission and the Secretary of State of the outcome of the community governance review together with the reasons for any decision. – the decision by the Borough Council may be challenged by judicial review - which usually has to be brought within 3 months – see **Appendix 6**.

- 3.6 The first and earliest possible election to the new parish council would fall to be held in May 2016 – see **Appendix 6**. In order to aid the setting up of a new parish council consideration should be given to establishing a shadow body / parish council for a temporary period to progress essential matters in relation to its formation as well as usefully addressing the absence, during this period, of any power to precept by the new parish council. – see **Appendix 6**. This would take the form of a non-statutory committee of Council that would aid in the transitional period and once the new parish council is elected the shadow parish council body / committee would cease to exist. The Committee would usually include any relevant ward Members of the Borough Council and others.
- 3.7 Any decision made by the committee would need to be ratified by the relevant committee of the Borough Council, typically Cabinet or General Services Committee. They would be consulted on any decisions that need to be made relating to parish councils prior to their election.
- 3.8 During this period there will need to be work done on the proposed constitution, code of conduct, standing orders, budget and / or grant for the new parish council as well as sourcing an appropriately qualified and trained clerk – otherwise the new parish council will not be able to use the general power of competence. Additionally in the context of roads preparatory work would also appear necessary on securing ownership of the private roads from the official receiver, obtaining information on possible contractors, specifications of works appropriate insurance cover and of course the frontagers’ attitude towards payment - bearing in mind James Findlay QC advice at **Appendix 3** “However, such a putative parish council would at least have to consider recouping its costs from frontagers. Indeed, in my view, it would need at least to consider asking for money in advance of undertaking works”

Community Engagement Following 25 March 2015 Council Meeting

- 3.9 At Full Council’s request, a public meeting was organised at the East Thurrock United Football Club on 15 June 2015. This meeting was attended by over two hundred residents who were allowed an opportunity to ask questions and debate issues. The notes from this meeting can be found at **Appendix 7**.
- 3.10 Following the public meeting, the Chief Executive received correspondence from residents expressing further opinions based on the discussions of 15 June. This correspondence has been included at **Appendix 8**.
- 3.11 On 12 August 2015 FERA and a newly formed group against the parish council, APCC, met with the Chief Executive and ward members to discuss further details on road repairs. The two groups discussed many issues and identified areas where they agreed but also their differences of opinion, as well as hearing about the option of the Council creating a Community

Environmental Development Fund which could potentially act as a fund which the community could apply for repairing unadopted roads. Both groups agreed to meet a further time in private to discuss practical options in repairing the roads that they could agree on and report back to Council on 26 August. The notes from the 12 August meeting are attached at **Appendix 9**.

- 3.12 At the meeting on 12 August, the APCC submitted a petition against the formation of a parish council, the details of which are attached at **Appendix 10**.

4. Reasons for Recommendation

- 4.1 The Council must determine whether, in the light of the information presented, the interests of effective and convenient local government and community identities for the Frost Estate would be:

- (a) best served by the creation of a new Parish Council; or
- (b) best served by remaining unchanged

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

- 5.1 Consultation with local residents and organisations has been an integral part of the Community Governance Review. The report advises the Council of the results of the second stage of consultation on the recommendations made by the General Services Committee and also includes the results of the first stage of consultation as an appendix. In addition and following Full Council on 25 March 2015 the Council offered a public meeting to field any queries residents might have on any aspect of a parish council.

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

- 6.1 The Community Governance Review has been undertaken in line with the requirements of relevant legislation and the principles of good governance. 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.
- 6.2 The council must have regard to the need to secure that the community governance arrangements for the area reflects the identities and interests of the community in the area and are effective and convenient.

7. Implications

7.1 Financial

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

There will be some administrative costs falling on the Council to support the development of a parish council, as set out in this report, and these can be met from existing budgets. Where expenditure needs to be incurred on behalf of a new parish council, or advanced in their first year of operation, the Council can raise this funding as a precept that would be set in consultation with the Steering Committee. The report raises the possibility of a Community Environmental Development Fund but this would require a further report setting out the basis of the fund and for an amount to be allocated.

7.2 Legal

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

The Local Government and Public Involvement in Health Act 2007 (**'the 2007 Act'**) devolves the power to take decisions about the creation of parishes and their electoral arrangements to local authorities. It also sets out the legal parameters for the instigation and undertaking of a Community Governance Review.

The 2007 Act allows principal councils to determine the terms of reference under which a community governance review is to be undertaken, provided that principal councils comply with the duties in that Act. Principal councils will need to consult local people and take account of any representations received in connection with the review.

Section 93 of the 2007 Act requires principal councils to ensure that community governance within the area under review will be:

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

This means that community governance arrangements should reflect, and be sufficiently representative of, people living across the whole community and not just a discrete cross-section or small part of it. 'Effective and convenient' governance is closely linked to the proposed size, population, and boundaries of a parish council, and in a particular whether it is viable as an administrative unit of local government.

If Thurrock Council recommends on 25 March 2015 that the Frost Estate Neighbourhood Council is to be created then a reorganisation of community governance order will need to be drawn up to give effect to such a resolution – see **Implementation section** below.

Section 97 of the 2007 Act provides for regulations to make incidental, consequential, transitional or supplementary provision for the purposes of, or in consequence of, reorganisation orders. Two sets of regulations have been made under the 2007 Act, which apply to reorganisation orders – both of which came into force on 8 April 2008. The first of these, the Local Government (Parishes and Parish Councils) (England) Regulations 2008 No.625 make provisions in relation to matters such as the distribution of property and the rights and liabilities of parish councils affected by a reorganisation order. The second set, the Local Government Finance (New Parishes) Regulations 2008 No.626 deal with the setting of precepts for new parishes.

The Local Government Act 1972 and a series of subsequent Acts have established a wide range of rights and powers for Parish Councils. These have been described in earlier reports attached in the appendices to this report.

Implementation

If the council recommends at Full Council on 25 March 2015 that the Frost Estate Neighbourhood Council is to be created in Thurrock then as indicated it will be necessary to draw up a reorganisation of community governance order.

Copies of this order, a map showing the affected area and the final recommendations which set out the council's reason for the decision would have to be deposited at council offices, on the website and at local contact points. It also has to include budget information.

Thurrock Council would have to publicise how it has given effect to the review. The Council must also inform the following organisations:

- a) the Secretary of State for Communities and Local Government;
- b) the Local Government Boundary Commission for England;
- c) the Office of National Statistics;
- d) the Director General of the Ordnance Survey;
- e) other organisations.

If agreed, electoral arrangements for the new Parish Council would come into force at the first elections to the parish council following the reorganisation order. Orders making new parish councils come into effect on 1 April and

need to be made in the previous October in order to provide for these election arrangements and budget discussions with the principal council

A new parish council is unable to precept for the first financial year (1 April – 31 March) of its formation (as the parish council does not come into being until 1 April).

However the Local Government Finance Act 1992 and the Local Government Finance (New Parishes) (England) Regulations 2008 No 626 enables the principal council to anticipate the financial needs of the new parish council and to collect the cost as if it were a precept.

The Borough Council is likely to want to discuss the new parish council's needs with any 'shadow parish council' or perspective members of the parish council. A shadow or temporary parish council is usually established via a committee which can address important prerequisites such as its constitution, standing orders, code of conduct, recruiting and training a clerk so the general power of competence can be used, budget / precept discussions with the principal council. And in this particular case seeking to purchase the roads from the official receiver, establishing a legally compliant scheme for seeking contributions from frontagers of the private roads concerned with appropriate consideration of when the parish council may step in to do longstop remedial actions funded by any relevant precept / loan – as well as the likely contractors, specifications and sources of insurance cover.

A parish is a separate authority from the principal council – it has a separate legal identity and will require its own legal advice – it generally cannot be terminated except a further reorganisation community governance order and upon termination its assets and liabilities would transfer back to the principal council. This is a potential risk to the principal council but one it just has to accept and should not be a consideration in whether to create or not create a parish council – although it shows the importance of setting up good governance systems and training for the new authority.

7.3 **Diversity and Equality**

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

As set out at 2.9, Council must have regard for the implications on community cohesion arising from any proposals that impact on the community governance of the area. A significant proportion of residents have responded against a Parish Council and have expressed their reluctance to be subjected to these arrangements. Council will need to be mindful of the impact on cohesion when considering whether to create a Parish Council or not.

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

Not applicable.

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)

9. **Appendices to the report**

- **Appendix 1** – results of the second consultation on the recommendations of the General Services Committee
- **Appendix 1a** - results of the second consultation on the recommendations of the General Services Committee – comments.
- **Appendix 2** – Stage 2 consultation and additional information for residents
- **Appendix 3** – legal advice circulated to the General Services Committee on 10 September
- **Appendix 4** – report considered by the General Services Committee on 10 December 2014
- **Appendix 5** – report considered by the Council on 10 September 2014
- **Appendix 6** – Legal advice from Bevan Brittan
- **Appendix 7** – Notes from the public meeting held on 15 June 2015
- **Appendix 8** – Correspondence from residents sent to the Interim Chief Executive after 15 June 2015 expressing views
- **Appendix 9** – Notes from FERA and APCC meeting held on 12 August 2015
- **Appendix 10** – Details of the petition received from the APCC against the formation of a parish council

Report Author:

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