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| 23 July 2014 | | ITEM: 12 |
| Council | | |
| The 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 and Democratic Services | | |
| Accountable Director: Graham Farrant, Chief Executive | | |
| This report is public | | |

Executive Summary

This report relates to an area known as the “Frost Estate”, a very small private road estate which is seeking to become a Parish Council. A petition has been received which calls upon the Council to undertake a Community Governance Review, with the aim of designating a specified area as a parished area and establishing a Parish Council, to be known as the Frost Estate Neighbourhood Council.

The report sets out the steps involved in undertaking a Community Governance Review and highlights an issue to be resolved before the review can commence.

1. Recommendation(s)

1.1 That the Council note the contents of the report and the progress to date.

2. Introduction and Background

2.1 At a meeting on 21 February, the Chief Executive received a petition signed by residents requesting the creation of a Parish Council, which cuts across the boundaries of the Corringham and Fobbing and Stanford East and Corringham Town Wards. The area that is to be covered by the proposed Parish Council is shown on the Plan attached at **Appendix 1** to this report.

2.2 In accordance with the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”), the Council is required to conduct a Community Governance Review following the receipt of a valid petition. This involves a review of the whole or part of the Council’s area for the purpose of making

recommendations with regard to creating parishes, the naming of parishes, and, the electoral arrangements.

- 2.3 Under the 2007 Act, it is for Thurrock Council to determine the terms of reference for the Community Governance Review.
- 2.4 Each page of the petition contains a statement of expectations, as set out below:

“It is expected that the formation of this parish council will bring benefits in that the residents of The Frost Estate will have greater influence and control over making the area a desirable place to live and making improvements whilst maintaining its original characteristics and ensuring that all households contribute equally to the cost. In particular it is intended to:

- *Organise and oversee appropriate road refurbishment and on-going maintenance.*
- *Promote a traffic & pedestrian safety awareness scheme and introduce speed limits and hazard signs.*
- *Monitor HGV traffic with culpability for road damage incurred.*
- *Ensure all households contribute an agreed small monthly amount towards the cost.*
- *Represent the views of estate residents to Thurrock Council and other bodies.”*

- 2.5 The Council is currently seeking external legal advice in respect of a question that has arisen over the responsibility for highways functions and whether these can be undertaken by a Parish Council.

3. Issues, Options and Analysis of Options

- 3.1 The petition received has been validated by Electoral Services, through checking the signatories against the Electoral Register.
- 3.2 The 2007 Act provides for the Council to conduct a Community Governance Review at any time. There are two options for the Council to consider in undertaking a review:
- (a) To respond solely to the petitioners’ request and consult on and investigate the establishment of a Parish Council in the area specified in the petition.
 - (b) To take the opportunity to undertake a wider review of the arrangements for community representation, reviewing the arrangements for Parish Councils in other areas of the Borough.
- 3.3 Due to other commitments at this time, with the introduction of Individual Elector Registration (IER) and the preparation required for the forthcoming Parliamentary and Local elections in May 2015, resources are not available

within the Electoral Services Team to conduct a Community Governance Review for the whole area. It is therefore suggested that the review should be restricted to the petition area.

- 3.4 The specifics of how the Council undertakes the review are not mandated but must take account of the views of local residents and consider the current arrangements for community representation, i.e., community forums and residents' associations.
- 3.5 Under the 2007 Act, the Council is required to consult both those local government electors in the area under review and others which appear to the Council to have an interest in the review. Other bodies might include local businesses and local public and voluntary organisations, such as schools or health bodies. The Council must take into account any representations it receives as part of a Community Governance Review.
- 3.6 Once the results of the consultation exercise are received, the Council will be required to make recommendations as to:
 - (a) Whether a new parish should be constituted and
 - (b) What the electoral arrangements for the new Parish Council should be.
- 3.7 In deciding what recommendations to make, the Council must have regard to the need to secure that community governance reflects the identities and interests of the community in that area and is both effective and convenient. In making its recommendations, the review should consider the information it has received, representations made by local people and other interested persons, and, can also use its own knowledge of the area. The 2007 Act provides that it must also take into account any other arrangements that have already been made, or that could be made, for the purposes of community representation or community engagement.
- 3.8 Any recommendations made by the Council must take account of any representations received, they should be supported by evidence and demonstrate that the recommended community governance arrangements would meet the criteria set out in the 2007 Act. In addition, the Council can make a recommendation that is different than what the petitioners wished the review to make.
- 3.9 Under the 2007 Act, the Council must publish its recommendations and ensure that those who may have an interest are informed of them. In taking a decision as to whether or not to give effect to a recommendation, the Council must have regard to the statutory criteria. After taking a decision to give effect to the recommendations of a review, the Council must publish its decision and take sufficient steps to ensure that persons who may be interested in the review are informed of the decision and the reasons for it.
- 3.10 Whilst a Community Governance review has been requested and the petition validated in terms of the number of qualifying signatories, external legal

advice has been sought in respect of the statement of expectation that forms a part of the petition, as set out at paragraph 2.4. This relates to the responsibility for highways functions and whether these can be undertaken by a Parish Council.

- 3.11 The Council is seeking to ascertain whether the expectations of those who have signed the petition can be fulfilled by a Parish Council, or whether the legal responsibility for highways must remain with the Council. This will be clarified shortly and a further report will be brought to the next meeting of the Council.

4. Reasons for Recommendation

- 4.1 The Council is requested to note that a Community Governance Review has been requested and that until the legal issue identified can be clarified, it is recommended that the Review proceeds thereafter.

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

- 5.1 There has been no consultation undertaken in respect of the recommendation in this report. However, consultation with local residents, businesses and local public and voluntary organisations will be an integral part of a Community Governance Review.

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 should be undertaken in line with the principles of good governance.

7. Implications

7.1 Financial

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

The cost of external legal advice can be contained within current budgets and there are no other financial implications to report at this stage.

7.2 Legal

Implications verified by: **Alison Stuart**
Principal Solicitor

External legal advice has been sought to ascertain whether the expectations of those who have signed the petition can be fulfilled by a Parish Council, or whether the legal responsibility for highways must remain with the Council.

Legal advice is being considered as to whether a Parish Council can utilise provisions of the Localism Act to implement and be responsible for highway maintenance

This point must be clarified before the Council commences a Community Governance Review, as this could potentially give rise to challenge and a costly judicial review.

7.3 Diversity and Equality

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

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>)

9. Appendices to the report

- Appendix 1 - area to be covered by the proposed Parish Council.

Report Author:

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Legal and Democratic Services