

10 September 2014	ITEM:
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 & Democratic Services	
Accountable Director: Graham Farrant, Chief Executive	
This report is public	

Executive Summary

This report follows the one presented to the council on 23 July 2014, which explained that a petition had been received calling upon the council to undertake a Community Governance Review. The petition refers to the “Frost Estate”, a small private road estate, and requests 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.

This report sets out the steps involved in undertaking such a Community review and requests approval to both the proposed terms of reference and the timetable for it.

In addition, the report includes an explanation of the legal issues referred to in the previous report and seeks to explain the relevance and implications of these upon the request for a parish council to be established to undertake the functions specified in the petition.

1. Recommendation(s)

- 1.1 That the terms of reference for the Community Governance Review, including the proposed timetable for the review, be approved.**
- 1.2 That the Community Governance Review 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. Introduction and Background

- 2.1 On 23 July 2014, the council was informed that the Chief Executive had received a petition on 21 February to request that a Community Governance Review be undertaken (Minute No.23 refers).
- 2.2 The petition, signed by 383 residents of the Frost Estate, states the desired outcome would be the designation of the neighbourhood known as the Frost Estate as a parish council, to be called the Frost Estate Neighbourhood Council.
- 2.3 The area identified to be covered by the proposed parish council is shown on the plan attached at **Appendix 1** to this report and comprises the following roads:
- Arundel Drive;
 - Balmoral Avenue;
 - Central Avenue;
 - Carisbrooke Drive;
 - Chamberlain Avenue;
 - Giffords Cross Avenue;
 - Lampits Hill Avenue;
 - Montfort Avenue;
 - Pembroke Avenue;
 - Windsor Avenue; and
 - York Avenue.
- 2.4 The number of registered electors within the area is 767 and the number of signatories to the petition represents 49.93% of the electorate in the defined area.
- 2.5 The area shown on the plan cuts across the boundaries of the Corringham and Fobbing and the Stanford East and Corringham Town wards, whose total electorate, as at 1 September 2014, are:
- Corringham and Fobbing – 4,404 electors
 - Stanford East and Corringham Town – 6,474 electors
- 2.6 The breakdown of electors in the proposed parish between each of the aforementioned wards is:
- Corringham and Fobbing - 624 electors (in 313 properties over 10 streets)
 - Stanford East and Corringham Town - 143 electors (in 74 properties over 3 streets)

2.7 The petition contains information regarding the intentions of the proposed parish council, and this is reproduced below:

“It is expected that the formation of this parish council would 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 as well as ensuring that all households contribute equally to the cost.

In particular it is intended that the Community Council would:

- *Organise and oversee appropriate road and drainage 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.*
- *Pursue any avenues for obtaining grants or other forms of funding to benefit The Frost Estate*
- *Represent the views of estate residents to Thurrock Council and other bodies.*
- *Produce and manage a long term strategy plan for the estate”*

2.8 It should be noted that the wording of the above statement differs slightly to the wording that appears on each signed page of the petition, where the word “drainage” is omitted from the first bullet point, and, the intention to “*Produce and manage a long term strategy plan for the estate*” is omitted altogether. The wording used on each signed page of the petition to describe the “statement of expectations” of the petitioners has therefore been used.

2.9 It was noted in the report to the council on 23 July that a legal issue has been highlighted regarding the intentions of the proposed parish council and the implications of this are fully explained in paragraphs 3.22 to 3.42 of this report.

2.10 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, which 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.

2.11 As was reported to the council on 23 July, resources are not available within the Electoral Services team to conduct a Community Governance Review for the whole area due to other commitments at this time, namely the introduction of Individual Elector Registration (IER) and the preparation required for the forthcoming Parliamentary and local elections in May 2015. The review will therefore be restricted to the petition area.

2.12 Under the 2007 Act, it is for Thurrock Council to determine the terms of reference for the Community Governance Review, with these being set out in **Appendix 2** to the report.

3. Issues, Options and Analysis of Options

3.1 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.

3.2 In this review we are concerned only with the request to establish a new parish council for the Frost Estate.

3.3 It is recommended that the review be progressed through the General Services Committee, which has the power to exercise the functions of the council in relation to elections, parish and town councils, vacancies and local bills.

The law, duties and guidance

3.4 Under section 93 of the 2007 Act, a "Principal 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.

3.5 Under Section 100 of the Act, the council must have regard to guidance issued by the Secretary of State. In March 2010 the Department for Communities and Local Government and the Local Government Boundary

Commission for England published guidance on community governance reviews.

- 3.6 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. 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.
- 3.7 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 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.
- 3.8 The duties with regard to the council and the review are set out below:

If the parish has 1,000 or more local government electors	The review must recommend that the parish should have a council
If the parish has between 150 and 1000 electors	It is for the principal council to decide whether or not the parish should have a council.
The parish has 150 or fewer local government electors and does not currently have a council	The review must recommend that the parish should not have a council.

Consultation

- 3.9 Consultation will be undertaken in two stages with local government electors within the area identified in the petition, residents outside the area identified, businesses and local public and voluntary organisations. It is proposed that this will include:

Stage 1:

- Consultation meeting with Lead Petitioner
- Consultation with local government electors within the area identified in the petition

Stage 2 (following publication of draft proposals, in light of consultation with local government electors):

- Consultation meeting with Lead Petitioner
- Full consultation exercise by way of a paper and online questionnaire that will be open to the following:
 - local government electors within the area identified in the petition
 - residents outside the area identified
 - businesses
 - local public and voluntary organisations

3.10 It is estimated that the cost to the council to undertake stage 1 of the consultation will be in the region of:

Printing and preparing letters for distribution	£68.00
Survey development and publication on the portal	£816.00
Delivery of survey	£108.00
Public meeting and promotion (If needed)	£267.00
Total	£1259.00

Size of the proposed parish council

- 3.11 An issue to be borne in mind during the consultation period and prior to a decision on any recommendations from the General Services Committee concerns the size of the proposed parish council and the number of members it will have.
- 3.12 Section 16 (1) of the Local Government Act 1972 establishes five councillors as the minimum but does not make any link between the number of electors and the size of the council. The National Association of Local Councils (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.
- 3.13 The guidance on Community Governance Reviews states the following in respect of size of councils:

“In practice, there is a wide variation of council size between parish councils. That variation appears to be influenced by population. Research by the Aston Business School Parish and Town Councils in England (HMSO, 1992), found that the typical parish council representing less than 500 people had between

five and eight councillors; those between 501 and 2,500 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 population of over 20,000 had between 13 and 31 councillors.

The LGBCE has no reason to believe that this pattern of council size to population has altered significantly since the research was conducted. Although not an exact match, it broadly reflects the council size range set out in the National Association of Local Councils Circular 1126; the Circular suggested that the minimum number of councillors for any parish should be seven and the maximum 25.

In considering the issue of council size, the LGBCE is of the view that each area should be considered on its own merits, having regard to its population, geography and the pattern of communities. Nevertheless, having regard to the current powers of parish councils, it should consider the broad pattern of existing council sizes. This pattern appears to have stood the test of time and, in the absence of evidence to the contrary, to have provided for effective and convenient local government.

Principal councils should also bear in mind that the conduct of parish council business does not usually require a large body of councillors. In addition, historically many parish councils, particularly smaller ones, have found difficulty in attracting sufficient candidates to stand for election. This has led to uncontested elections and/or a need to co-opt members in order to fill vacancies. However, a parish council's budget and planned or actual level of service provision may also be important factors in reaching conclusions on council size."

- 3.14 In the case of the proposed Frost Estate Neighbourhood Council, the number of members of any parish council would lead to the following ratio of councillors to the electorate:

Number of Parish Councillors	Electorate	Councillor : elector ratio
5	767	1 : 153
6	767	1 : 128
7	767	1 : 110
8	767	1 : 96
9	767	1 : 85
10	767	1 : 77

The role and responsibilities of a parish council

- 3.15 Parish councils have been given a wide range of powers under different acts of Parliament and most of these powers are discretionary, which means that a parish council *may* do something, rather than *must* do something.

3.16 A parish council created as a result of a review would need to consider which of the above services it would like to be involved in delivering.

3.17 Details of the powers available to parish councils are set out in the table below:

Service or Facility	What can a town or parish council do?
Allotments	Provide allotments
Burial grounds, cemeteries and crematoria	<ul style="list-style-type: none"> • Acquire, maintain and provide burial grounds, cemeteries and crematoria. • Maintain monuments and memorials and contribute towards the expenses of cemeteries.
Bylaws	<p>Make bylaws for:</p> <ul style="list-style-type: none"> • pleasure grounds; • cycle parks; • baths and washhouses; • open spaces; • burial grounds; • mortuaries and post-mortem rooms.
Commons and common pastures	Enclose, regulate and manage commons and provide common pasture
Community Centres	Provide and equip buildings for use by athletic, social or educational clubs
Crime Prevention	Spend money on various crime prevention measures
Entertainment and the arts	Provide entertainment and support for the arts
Highways	<ul style="list-style-type: none"> • Repair and maintain public footpaths and bridleways. • Light roads and public places. • Plant trees and maintain roadside verges. • Provide: <ul style="list-style-type: none"> • litter bins,

Service or Facility	What can a town or parish council do?
	<ul style="list-style-type: none"> • parking places for vehicles, bicycles and motor-cycles, • roadside seats and shelters, • bus shelters, • traffic signs and other notices.
Litter	Provide litter bins
Mortuaries and post mortem rooms	Provide mortuaries and post mortem rooms
Open Spaces	Acquire and maintain land used for open spaces
Public conveniences	Provide public conveniences
Recreation	<ul style="list-style-type: none"> • Acquire land for and provide recreation grounds, public walks, pleasure grounds and manage and control them. • Provide gymnasiums, playing fields, holiday camps and boating pools.
Town and country planning	Be notified of planning applications and submit comments on them to the local planning authority
Tourism	Contribute to organisations encouraging tourism
Traffic calming	Contribute financially to traffic calming schemes
Transport	Spend money on community transport schemes
War memorials	Maintain, repair, protect and adapt war memorials

Electoral arrangements for a new parish council

3.18 An important part of the review will give consideration to the way in which a council is constituted for the parish and will cover the following aspects:

- The ordinary year in which elections are held;
- The number of councillors to be elected to the council;

- The division (or not) of the parish into wards for the purpose of electing councillors;
- The number and boundaries of any such wards;
- The number of councillors to be elected for any such ward;
- The name of any such ward.

- 3.19 The Local Government Act 1972 states that ordinary election of parish councils shall take place in 1976, 1979 and every fourth year thereafter (i.e. 2011, 2015, 2019 etc). However, the government has indicated that it would want the parish electoral cycle to coincide with the cycle for the district council, so that the costs of elections can be shared.
- 3.20 If the outcome of the review determines that it is appropriate to create a new parish council and posts for parish councillors, the intention is for these to come in to effect at the earliest opportunity, with the next ordinary day of election being on Thursday 7 May 2015.
- 3.21 Elections to the parish council will be administered by Thurrock Council and legislation permits the council to recover from a parish council the cost of holding that parish council's elections. This applies even to the preliminary stages whether or not the election proceeds to a ballot. For accounting purposes, where a parish council election takes place at the same time as the election to another authority, the legislation requires the costs to be attributed 50-50 between the two authorities.

Legal issues identified with the request to establish a new parish council

- 3.22 Officers have been progressing the essential detailed preparatory work, such as, assembling data on precepts, electorate ratios, projected electoral developments, maps, relevant assets, drawing up terms of reference, identifying consultees, clearing potential legal issues as part of a due diligence duty and to facilitate the progression to the next stage of the review with a level of assurance that the council has the appropriate and relevant information for all the stakeholders.
- 3.23 In this context the council has been kindly copied a legal advice received from the National Association of Local Councils (NALC) to the local County Association which confirms:
- “that the central to the community group’s motives for setting up a new parish council is the possibility that a new parish council could maintain and repair private roads in the area”*
- 3.24 This stated aim is of course echoed in the express wording of the petition received by the council.
- 3.25 As part of its due diligence duty to all stakeholders the council has already been examining this innovative idea to use a new parish council as a possible

vehicle to achieve road maintenance of either private or highway adopted roads.

- 3.26 The NALC legal advice in the main addresses itself only to the issue of a parish council using its powers to maintain and repair private roads remaining as private roads although it mentions in passing the further option Highways Authority adoption. Such highway adoption or otherwise is considered, in this parish council context, in more detail by the council below.

NALC Advice

- 3.27 Reproduced below is a précis of the legal advice received from the National Association of Local Councils, which is independent of the council and perhaps provides a useful background to some of the legal issues.
- *“I am instructed that the central to the community group’s motives for setting up a new parish council is the possibility that a new parish council could maintain and repair private roads in the area, subject to there being no legal barriers. I think there are legal barriers.*
 - *You sent me a section of a copy of a conveyance and some plans. Although these may be useful documents, I cannot make use of them unless I see them in full.*
 - *I also do not know if the owners of the properties of any homes which benefit from access over the private roads (i) have a legal obligation to contribute to the cost of their repair or (ii) are entitled in law to enforce an obligation on the owner of the roads to keep the roads in repair*
 - *I have assumed the existence of both (i) and (ii) as these are common arrangements in housing developments.*
 - *I understand the roads serve several houses. The roads were formerly in the ownership of a company known as Eastcourt Properties Limited. The company was dissolved in 1997.*
 - *On dissolution of the company all property and rights vested in the company, immediately before dissolution are deemed to be bona vacantia (ownerless goods) and vest in the Crown. It is only the assets of a company that pass to the Crown when it is dissolved. Its liabilities are extinguished and the Treasury Solicitor’s guidance confirms that the Crown accepts no liability for the property under the company’s title or otherwise.*
 - *The Crown is not obliged to deal with property vested in it as bona vacantia in any particular way. It has power to disclaim it and, in respect of onerous property, will usually do so.*

- *I can see that in January 2011 that solicitors acting for the Crown Estate gave the following information.*
 - (i) the private roads had been disclaimed by the Crown Estate;*
 - (ii) the Crown Estate will not undertake any activity such as the carrying out of repairs on the roads, which could be interpreted or deemed to constitute acts of ownership, possession or management;*
 - (iii) the roads are subject to escheat, which in practical terms means that the Crown Estate may sell the land to a party with a legitimate interest in the future of the roads such as a management company comprising of the residents who benefit from the private roads or a local authority and*
 - (iv) The Crown Estate was willing to transfer the roads for a minimum of £2000 plus a contribution to the legal fees incurred by the Crown Estate in the legal transfer.*
- *I have no instructions on the current position but I assume that that the Crown Estate has not sold the freehold interest in the private roads. I have assumed that even if the owners of homes who use the private roads have an obligation to contribute to the cost of their upkeep or are entitled to enforce an obligation on the existing owner of the roads to carry out repairs, no one is presently responsible for the repair of the roads. Unless ownership of the roads is transferred to the highway authority or a new management company comprising of the residents who are required to contribute to the repair of the roads, I cannot identify anyone else who would want to take ownership of the private roads and assume responsibility for their maintenance or repair.*
- *It is possible for the private roads to be adopted as highways maintainable at public expense, subject to agreement with the highway authority (s.38 (3) (a) Highways Act 1980.). The owner of the roads must have the legal power to dedicate the roads as highway and be willing dedicate them. However under such agreement for the roads to be maintainable at public expense, the highway authority may include terms which concern bringing the roads up to standard before adoption and / or payment to the highway authority for expenditure incurred by the highway authority in bringing the roads up to standard. I believe the standard of repair of the roads will be an issue for the highway authority because presumably there has been no maintenance or repairs since Eastcourt Properties Limited dissolved in 1997.*
- *If the private roads are not owned by any new parish council, it will not have the power to maintain them or keep them in repair or make contributions to the same unless it is eligible to exercise the power of general competence (ss.1 – 8 Localism Act 2011). Any such power will be subject to any extant legal obligations of certain homeowners to contribute*

to any expenditure for repairing the roads and the legal rights of any future owner of the private roads.

- 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 .*

The Council's Legal Analysis

- 3.28 As indicated the council is appreciative of having been copied into this legal advice from NALC which provides useful background information and examines some of the strands of the possible legal issues arising from a new parish council seeking to maintain and repair private roads.
- 3.29 The NALC advice largely echoes the initial due diligence exercise carried out by the council as to the risks and options, however, the council has examined the further option of highway adoption and delegation to the new parish council in more detail.
- 3.30 The council agrees that this is certainly an innovative idea. Simply from the existence of this proposal, it is clear that there is a level of concern that the private streets are un-made, have deficient drains and street lighting, and that whilst some of the residents may want the private roads made up and adopted, and are prepared to pay for this, other residents may not be prepared to contribute voluntarily.
- 3.31 In such a situation the council has the powers under Part XI of the Highways Act 1980 to produce a schedule of costs for the works and to require all frontagers to contribute to making up to adoption standard, as well as some element of maintenance dowry, which is normally the case on Section 38 adoptions.
- 3.32 The council has confirmed that the General Power of Competence would not cover this proposal, because it is dealing with the unique statutory powers of the highways authority to do things which no private individual can do, namely

to require street frontagers to pay for improvements to the highways to adoption standard, normally plus a maintenance dowry, and then to take over statutory responsibility for the future maintenance of the highway. The General Power of Competence only allows a local authority to do that which a private individual generally can do.

- 3.33 However, as indicated the council has powers under Part XI of the Highways Act 1980 to apply the Advance Payments Code, improve the streets to adoption standard, and to adopt and maintain them, and the council could arrange under Section 101 of the Local Government Act 1972 for the discharge of that function by a parish council, and could agree with the parish council that the parish council meets all of the cost of this work, which the parish council could, at least theoretically, fund out of its general power under Section 137 Local Government Act 1972 to do anything which in their opinion is in the interests of and will bring direct benefit to their area or any part of it or all or some of the inhabitants.
- 3.34 It is unlikely that a new parish council would have the necessary skill base or experience to undertake the complex processes required by Part XI of the Highways Act 1980. From Thurrock Council's point of view it would be much better for the council to agree to do this ourselves, perhaps as private street works authority agreeing to meet all or part of the costs under Section 236 of the Highways Act 1980, but on the basis of the new parish council agreeing to pay the Thurrock Council for the costs of doing so, under Section 137(2), Local Government Act 1972. That way, Thurrock Council would remain in control, bring its experience to bear and might be able to avoid some of the risks, such as the new parish council not addressing the concerns of a group of objectors sufficiently.
- 3.35 The second and more serious concern (which also echoes the concerns in the NALC advice) would be that the effect of this proposal would be to circumvent the statutory basis of charging for private street works as set out in Section 207 of the Highways Act 1980. So that, instead of apportioning these costs according to length of frontage these costs would fall to all domestic properties within the new parish, according to council tax band. This means that the apportionment is based on seriously out-of-date values, and higher value properties all pay the same, irrespective of size.
- 3.36 If the Council simply agreed to do this under the Private Street Works Code in Part XI of the Highways Act 1980, without parish council subsidy, then any objections to the provisional specification, estimate of costs and provisional apportionment of costs is heard by the Magistrates Court, so the costs are relatively low, and the council is merely saying that this is what they propose and why, and the Magistrates can really only redistribute those costs among the frontagers.
- 3.37 However, if the new parish council decided to meet a substantial part of or the whole cost of the process through the precept charged on all domestic dwellings, the council would have to be concerned that there was a risk of a

judicial review of the decision of the parish council, on the basis that it was unreasonable to circumvent the statutory apportionment process to the frontagers.

- 3.38 Such a judicial review would be heard in the High Court, and the new parish council would be most unlikely to have the resources to contest such a challenge. So, in practical terms, it seems that it would be better for the council to agree to undertake the whole process in accordance with Part XI of the Highways Act 1980, and the new parish council, if it comes into existence, to maybe underwrite the irrecoverable staff costs of the process, but allow the works costs to fall on the frontagers. There is an additional possibility of appeal to the Secretary of State under Section 233, but that is the same either way.
- 3.39 It is entirely up to the council whether it wishes to do any of this. If the council said that even if a new parish council was formed, they would not delegate any private streets functions to it, and would not agree to do private street works even if funded by the parish council, that is an end to it. There would therefore be very little point in trying to form a new parish council, the only apparent purpose of which is to resolve this private street works issue.

Summary

- 3.40 It has been seen from the legal advice from NALC that:

"I think there are legal barriers... 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 "

- 3.41 It is the council's concern that should Part XI adoption powers be exercised, with the new parish council deciding to meet a substantial part of or the whole cost of the process this would in effect be a circumvention of the statutory basis of charging for private street works as set out in Section 207 of the Highways Act 1980.

3.42 So that, instead of apportioning these costs according to length of the frontages these costs would fall to all domestic properties within the new parish, according to council tax band. This means that the apportionment is based on seriously out-of-date values, and higher value properties all pay the same, irrespective of size and may be subject to an expensive High Court challenge.

4. Reasons for Recommendation

4.1 The council is required to undertake a Community Governance Review following receipt of a valid petition. It is recommended that the review be progressed through the General Services Committee, who have within their terms of reference, the power to exercise the functions of the council in relation to elections, parish and town councils, vacancies and local bills.

4.2 The decision in respect of the creation of a parish council is reserved to the council, who will be asked to consider the recommendations of the General Services Committee.

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

5.1 The Lead Petitioner has been consulted in respect of the recommendations in this report.

5.2 Consultation will be an integral part of a Community Governance Review. The report identifies the types of consultation that will be undertaken at each stage of the 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 requirements of relevant legislation and the principles of good governance.

7. Implications

7.1 Financial

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

The costs identified in paragraph 3.10 have not been specifically budgeted for, although they can be found from within existing budgets.

Further costs are likely to be incurred as the Review progresses and these also will not have been specifically budgeted for. Any additional costs will be

identified and reported to the General Services Committee and the council as may be appropriate.

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: **Rebecca Price**
Community Development Officer

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.
- Appendix 2 – proposed terms of reference and timetable for the review.

Report Author:

Steve Jones
Democratic Services Manager
Legal & Democratic Services



Proposed Boundary for Frost Estate Neighbourhood Council area (ref Ordnance Survey).

Proposed terms of reference for the Review

Background:

In February 2014, the Council received a petition bearing 383 signatures, requesting that the Council undertake a Community Governance Review with a view to establishing a Parish Council for the Frost Estate, with this to be called the "Frost Estate Neighbourhood Council".

The wording on each page of the petition was:

"We the undersigned, each being a local government elector for the area defined below, call upon Thurrock Council to conduct a Community Governance Review with the purpose of forming the Frost Estate Neighbourhood Council. We recommend that the council designates the neighbourhood of the Frost Estate, part of the ward(s) of Corringham & Fobbing and Stanford East & Corringham Town, and comprising Arundel Drive, Balmoral Avenue, Central Avenue, Carisbrooke Drive, Chamberlain Avenue, Giffords Cross Avenue, Lampits Hill Avenue, Montfort Avenue, Pembroke Avenue, Windsor Avenue and York Avenue, a parished area and that a parish council is established for this defined area (see map enclosed).

Statement of Expectations

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."*

The area is shown on the attached plan.

In accordance with the Local Government and Public Involvement in Health Act 2007 the Council is now required to conduct a Community Governance review for this area. The scope of the review and timetable are detailed below.

The Council will undertake the review in line with Part 4 of the Local Government and Public Involvement in Health Act 2007. The review will comply with the

legislative requirements of the Act, have regard for the associated statutory guidance and will be conducted in accordance with these terms of reference.

Scope of the Review:

In response to the Petition, the review will consider whether the existing Governance arrangements in place for the Frost Estate:

- Reflect the identities and interests of the communities in that area; and
- Are effective and convenient to local people.

When carrying out the community governance review the Council must also take into account other existing or potential community governance arrangements (such as local residents' associations, neighbourhood forums or other forums) in determining what parish arrangements to recommend.

The review will also take account of the statement of expectations included in the petition, together with the legal advice that has been received in respect of this.

The review will be conducted in two stages, to ensure as many residents and other bodies as possible have an opportunity to contribute to the process.

Stage One:

As this review is in response to the specific request for the establishment of a parish council, the first stage of the review will consist of consultation with local government electors in the area identified by the petition. Residents will receive information from the Council setting out the implications for establishing a new parish area. The results of the consultation exercise and draft proposals will then be considered by the General Services Committee.

Stage Two:

At this stage of the review, the draft proposals will be consulted on, and residents and other bodies will have an opportunity to comment before any decision is made. During this stage, residents from outside of the area will also have the opportunity to comment generally through a general consultation exercise that will be available online via the Council's website.

Following the consultation exercise, the results of the consultation and recommendations will be considered by the Full Council before making a decision about the creation of a new parish council.

Proposed timetable for the Review

The proposed timetable for the Review is set out below:

Stage	Description	Date(s)
1.	Council Meeting	10 September 2014
	Consultation meeting with Petitioners	
	Consultation with Local Government Electors	
	Deadline for consultation	
	Result of consultation compiled	
2.	General Services Committee	December 2014
	Publication of draft proposals, in light of consultation with local government electors	
	Consultation meeting with Petitioners	
	Consultation exercise	
	End of consultation	
3.	Council Meeting to agree final proposals	25 March 2015
	If the proposal is to create a Parish the following stages will need to take place	
	Prepare Order for Creation of Parish Council	26-31 March 2015
	Creation of Parish Council	1 April 2015
	Election to Parish Council	7 May 2015