

## Bath & North East Somerset Council

MEETING/ DECISION MAKER:	<b>Cllr Tim Ball, Cabinet Member for Planning and Licensing</b>	
TITLE:	<b>Freshford Memorial Hall Community Right to Build Order</b>	
WARD:	<b>Freshford</b>	E3291
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b>		
Appendix 1: Draft Freshford Community Right to Build Order – available at: <a href="https://beta.bathnes.gov.uk/sites/default/files/2021-03/freshford_crbo_referendum_version.pdf">https://beta.bathnes.gov.uk/sites/default/files/2021-03/freshford_crbo_referendum_version.pdf</a>		

### 1 THE ISSUE

- 1.1 Following the successful examination and referendum, this report seeks to make and bring into force the Freshford Memorial Hall Community Right to Build Order (Appendix 1), granting planning permission to enhance, modernise and extend the existing Freshford Village Memorial Hall. The proposed development would incorporate purpose-built doctor's surgery and Pre-school extensions to the existing refurbished main hall and meeting room accommodation. The facility will provide a welcoming and attractive multipurpose focus for local community activity complementing its outstanding rural setting.

### 2 RECOMMENDATION

**The Cabinet Member for Planning and Licensing agrees to:**

- 2.1 Make and bring into force the Freshford Memorial Hall Community Right to Build Order, as set out in Appendix 1 (see link above), granting planning permission for Freshford Village Memorial Hall Redevelopment Project, in accordance with Section 61E (4) of the Town and Country Planning Act 1990 (as amended).**

### 3 THE REPORT

- 3.1 The designated area for the Order comprises Freshford (B&NES) and Limpley Stoke (Wiltshire) parish boundaries. On 30 October 2013, the Council formally approved that the Freshford and Limpley Stoke Neighbourhood Area be designated for the purposes of a Community Right to Build Order, in accordance with the Neighbourhood Planning (General) Regulations 2012.
- 3.2 Freshford Village Memorial Hall Charitable Incorporated Organisation, (CIO) is the designated 'qualifying body' and constitutes a community organisation for the

purposes of undertaking a Community Right to Build Order. The CIO submitted the draft Order, along with supporting documents, to Bath and North East Somerset Council in August 2019 for consultation, independent examination and the remaining stages of the draft Order's preparation in accordance with the Neighbourhood Planning (General) Regulations 2012

- 3.3 Following submission of the draft Order, the Council publicised the Order and supporting documents and invited representations during the consultation period, 3 September 2019 to 15 October 2019, in line with Part 6 Regulation 23 in The Regulations.
- 3.4 The Trustees decided to make further amendments to the Order, which required a repeat of this Consultation. B&NES publicised the revised submission Order for comment during the publicity period between 6 November 2019 and 18 December 2019 in line with Part 6 Regulation 23 in The Regulations.
- 3.5 In September 2019, B&NES Council appointed an independent examiner, Janet L Cheesley BA (Hons) DipTP MRTPI to review the Plan and consider whether it should proceed to referendum.
- 3.6 Following the receipt of the examiner's report, in March 2021 the Council published a Decision Statement to confirm that the Council was satisfied that the draft order complied with the legal requirements and could proceed to referendum. The Council also agreed with the examiner that the Freshford and Limpley Stoke Neighbourhood Area was the appropriate area within which to hold a referendum.

### **Freshford Memorial Hall Community Right to Build Order Referendum**

- 3.7 The referendum took place on the 6<sup>th</sup> May 2021. In accordance with the regulations, the question posed in the referendum was:

*'Do you want the development in the Community Right to Build Order for Freshford and Limpley Stoke to have planning permission?'*

- 3.8 There was a 57.57% turnout of the overall Neighbourhood Area electorate. A majority (91%) were in favour of Community Right to Build Order having planning permission.

### **Compatibility with EU Legal Obligations & Human Rights**

- 3.9 Section 61E (8) of the Town and Country Planning Act 1990 (as amended) states that a Local Planning Authority is not subject to the duty to make the Order if it considers that the making of the Order would breach, or otherwise be incompatible with, any retained EU legal obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).
- 3.10 The Independent Examiner considered this issue and concluded that, subject to the recommended modifications (all of which have been incorporated into the final draft of the Order), the Order would not breach or be incompatible with any EU laws or the European Convention on Human Rights. The Council's Legal Services have reviewed the Order and concur with the examiner's view. As such, it is considered that the legal duty under Section 61E(4) of the Town and Country Planning Act 1990 applies in this case.

## **Making the Community Right to Build Order and bringing it into force**

3.11 Section 61E (4) of the Town and Country Planning Act 1990 (as amended) states that:

(4) A local planning authority to whom a proposal for the making of a neighbourhood development order has been made—

(a) must make a neighbourhood development order to which the proposal relates if in each applicable referendum under that Schedule more than half of those voting have voted in favour of the order, and

(b) if paragraph (a) applies, must make the order as soon as reasonably practicable after the referendum is held and, in any event, by such date as may be prescribed.

3.12 In this case the application was made to B&NES Council and the proposed development is wholly within B&NES. It is therefore considered that it falls to B&NES Council to make the order.

3.13 It is recommended that the Cabinet Member makes the Order and brings it into force.

3.14 The Council must also publicise (on the web site or in any other manner to bring it to the attention of those who live, work or carry on business in the Neighbourhood Area) their decision on the Order and the reasons for that decision in a 'Decision Document' (Regulation 26 of the Neighbourhood Planning (General) Regulations 2012 (as amended)). Under delegated authority the Head of Planning will issue a Decision Document. The Council must also publish where and when the Decision Document can be inspected and send a copy to Freshford Parish Council. The Decision Document will be published on the B&NES website and will be made available for inspection in the following locations:

- Bath One Stop Shop's Reception
- Bath Central Library
- Freshford Memorial Hall, Freshford

## **4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL**

4.1 The Localism Act 2011 has reformed the planning system to give local people new rights to shape the development of the communities in which they live.

4.2 The Council has a duty to assist communities in the preparation of Neighbourhood Development Plans and Orders and take them through a process of examination and referendum and to bring them into force.

## **5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

5.1 The main costs of producing the Freshford Memorial Hall Community Right to Build Order related to in-kind technical support provided, plus the costs of the external examination, referendum and associated printing costs. These costs will be funded through a £20,000 Government Neighbourhood Planning Grant, which will be received by the Council by the end of this financial year (Neighbourhood Planning Grants are paid quarterly).

5.2 Significant community resources have been invested into the Freshford Memorial Hall Community Right to Build Order preparation, including substantial volunteer time.

## **6 RISK MANAGEMENT**

6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision-making risk management guidance.

## **7 EQUALITIES**

7.1 The proposed development was the subject of extensive community engagement and a formal examination. No adverse equalities impacts have been identified.

## **8 CLIMATE CHANGE**

8.1 A key objective of the Order is to provide a sustainable premises (e.g. a more energy efficient building, with local materials, on-site renewable energy generation).

8.2 The CIO developed the following strategy to arrive at a sustainable, low-impact design:

- (1) Reduction of energy-use through an efficient building form and construction method able to achieve high levels of energy efficiency.
- (2) Use of renewable energy sources present on or near the building.
- (3) Use of locally produced construction materials and materials from sustainable sources.
- (4) Reduction of waste during construction and providing recycling facilities within the buildings
- (5) Protection and enhancement of biodiversity.
- (6) Reduction of water use in the building and reduced storm-water run-off from the site

## **9 OTHER OPTIONS CONSIDERED**

9.1 No other options were considered given that the Council has a duty to make the Order and bring it into force.

## **10 CONSULTATION**

10.1 The Monitoring officer, Section 151 officer and Head of Planning have been given the opportunity to review this report and have cleared it for publication.

10.2 Considerable consultation has been undertaken alongside the preparation of the Plan:

- Representations were invited with regard to the designation of the neighbourhood area covering Freshford and Limpley Stoke for a 6-week period and the area was designated on 30 October 2013.
- Representations were also invited with regard to the Draft Community Right to Build Order for a 6-week period from September 2019 and 15 October 2019 and 6 November 2019 and 18 December 2019

- On 6th May 2021 the Community Right to Build Order was subject of a community Referendum. Everyone who was registered to vote within the Parishes was given the opportunity to vote on whether the Order should be 'made' by the Council.

<b>Contact person</b>	<i>George Blanchard - 01225 477684 or Richard Daone 01225 477546</i>
<b>Background papers</b>	<p><i>My Neighbourhood: A Neighbourhood Planning Protocol for Bath &amp; North East Somerset</i></p> <p><a href="http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Planning-and-Building-Control/Planning-Policy/NPP/npp_my_neighbourhood_adopted_2014.pdf">http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Planning-and-Building-Control/Planning-Policy/NPP/npp_my_neighbourhood_adopted_2014.pdf</a></p> <p><i>Freshford Memorial Hall Community Right to Build Order:</i></p> <p><a href="https://beta.bathnes.gov.uk/policy-and-documents-library/freshford-village-hall">https://beta.bathnes.gov.uk/policy-and-documents-library/freshford-village-hall</a></p>
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