

DECISION-MAKER:	FULL COUNCIL
SUBJECT:	LOCAL ADVISORY REFERENDUM
DATE OF DECISION:	12 TH SEPTEMBER 2012
REPORT OF:	LEADER OF THE COUNCIL
STATEMENT OF CONFIDENTIALITY	
N/A	

BRIEF SUMMARY

The purpose of this report is to enable the Council to make a formal decision to enable a local advisory referendum to be undertaken in Freemantle and Millbrook wards in relation to the proposals by Helius Energy for a 100 megawatt biomass power plant on the Western Docks.

RECOMMENDATIONS:

- (i) That a local advisory referendum under Section 116 Local Government Act 2003 should be conducted to ascertain residents' views on the proposals by Helius Energy for a 100 megawatt biomass power plant on the Western Docks on the 15th November 2012;
- (ii) That the question that should be asked is as follows:
“Do you support the current proposals by Helius Energy for a 100 megawatt biomass power plant on the Western Docks?”
- (iii) That the Council's Director of Corporate Services and Returning Officer be appointed as the Counting Officer for this local advisory referendum;
- (iv) That the Council make such resources, including staff resources, as necessary to the Counting Officer to enable the referendum to be conducted;
- (v) To delegate to the Director of Corporate Services in his capacity as Counting Officer for the local advisory referendum authority to take any further action necessary in relation to this matter;
- (vi) That the Director of Corporate Services in his capacity as Counting Officer will, in consultation with the Leader of the Council, do all in his power to minimise the costs of the referendum; and
- (vii) That Council approve additional funding of up to £70,000 to meet the costs associated with the referendum over and above those currently provided for within the 2012/13 budget. This funding will be allocated from the remaining contingency within the 2012/13 budget which stands at £344,300.

REASONS FOR REPORT RECOMMENDATIONS

1. It is necessary for the Council to formally determine whether it wishes to conduct a local advisory referendum and, if so, to decide various issues, including the franchise, question to be asked and arrangements for the referendum.

DETAIL (Including consultation carried out)

2. Members have indicated a desire to enable residents affected by the proposal by Helius Energy for a 100 megawatt biomass power plant on the Western Docks should have an opportunity to express their views through a local advisory referendum conducted under Section 116 Local Government Act 2003.
3. Section 116 provides a specific power for local authorities such as Southampton to hold local advisory referenda.
4. The Act does not provide for local electors to be able to demand a referendum, nor is the result binding on the authority.
5. The extent of the power is broadly drawn, allowing the local authority to hold a referendum on any matter relating to services for which it is responsible, including where those are delivered by a third party or the finance that it commits to those services or any other matter under the Local Government Act 2000 relating to the promotion of the well-being of its area.
6. The Section provides express freedom to a local authority in determining who to poll and how the referendum is to be conducted.
7. Therefore, the first question the authority will have to determine is does it wish to hold such a local advisory referendum?
8. Assuming it does, it is then necessary for the authority to determine:
 - i. the franchise;
 - ii. the question; and
 - iii. how the referendum is to be conducted.

Franchise

9. The Electoral Register for the Millbrook and Freemantle wards published on the 16th October 2012 for the Police and Crime Commission Elections will be used to define the franchise.

Question

10. The Electoral Commission has produced guidance for central Government for assessing referendum questions, and it is useful to reflect that in Council's consideration of the question to be used on the ballot paper for the local advisory referendum.
11. A referendum question should present the options clearly, simply and neutrally, so it should be easy to understand and to the point.
12. It should be unambiguous, it should avoid encouraging voters to consider one response more favourably than another and it should avoid misleading voters.
13. In that context, the question should be written in plain language, that is language that uses short sentences (around 15-20 words), is simple, direct and concise and uses familiar words and avoids jargon or technical terms that would not be easily understood by most people.
14. The question should be written in neutral language, avoiding words that suggest a judgement or opinion either explicitly or implicitly. The information

contained in the question should be factual, describe the question, the options clearly and accurately and the question should avoid assuming anything about voters' views.

15. Taking all these factors into account, it is proposed that the following is the question:
“Do you support the current proposals by Helius Energy for a 100 megawatt biomass power plant on the Western Docks?”
16. It should be noted that it is proposed that the ballot paper will enable voters to respond with either a “yes”, “no” or “unsure” response.

The referendum

17. Council will be aware that on the 15th November 2012, the first elections for the Police and Crime Commissioners will be held. These elections are being conducted in accordance with the Police and Crime Commissioner Elections Order 2012 which facilitates combined elections, but only those types of elections prescribed within the regulations. The list of elections capable of being combined with the PCC elections includes matters such as Parliamentary elections, European Parliamentary elections, local government elections and, indeed, certain categories of local referenda, such as a referendum in relation to local authority governance arrangements, ie the adoption of an elected mayor or a council tax increase referendum, but not a referendum to be conducted under Section 116 Local Government Act 2003.
18. The rationale for this is that:
 - i. It would be very difficult to provide any combination provisions due to the fact that there are no statutory rules under which local advisory referenda are conducted; and
 - ii. The absence of any statutory rules means that practice is probably inconsistent which would make it impossible to draft any combination provisions, as combined referenda run under their own separate combination rules.
19. Whilst there is nothing to prevent a local advisory referendum from being run on the same day, as a stand-alone referendum therefore would need:
 - i. separate polling stations;
 - ii. separate presiding officers, poll clerks and supervising officers;
 - iii. separate notices of election and notice of referendum;
 - iv. separate issuing of poll cards and postal ballot packs; and
 - v. separate postal opening and count

Polling Stations

20. Whilst there is no legislative power that enables the Police & Crime Commissioner elections and referendum to be combined, it would be possible to have polling stations for both in the same polling venue, eg a village hall.
21. However, a preliminary review of the polling stations and their availability in Freemantle and Millbrook suggests that it may well be necessary in at least one polling station for an alternative venue to be identified for the local

referendum. Further work will be undertaken as local referendum arrangements are prepared, assuming Full Council wishes to proceed, but it should not be assumed that every polling venue is capable of being used for both. In those circumstances, there is no power for the Council / Counting Officer (unlike for local, Parliamentary and European elections) to require provision of larger spaces within public venues, such as schools, where a school is being used.

22. Therefore, it is possible that in one or more polling districts, separate polling stations in separate locations will have to be provided.

The Conduct of the Referendum

23. The method of voting it is proposed will be the single, non-transferable vote. This is the method of voting utilised in local government elections.
24. It is proposed to run the local advisory referendum broadly consistently with the electoral rules used for local authority elections and in that context, it is proposed:
 - a. that the polling station hours will be the same as for a normal local authority election (and also the Police & Crime Commissioner elections), namely from 7:00 am until 10:00 pm;
 - b. electors will be issued with ballot papers in the usual manner, ballot papers will bear an appropriate official mark, once the voter has voted, they will place their ballot paper in a ballot box and they will be marked off the electoral register in the usual manner;
 - c. the law permits the council, and hence the counting officer to make use of the electoral register and particularly voting information relating to absent voters. In other words, those who are registered for a postal vote for the Police & Crime Commissioner elections will also, for Millbrook and Freemantle wards, receive a postal vote in relation to the local advisory referendum;
 - d. as part of the verification stage of the Count for the Police & Crime Commissioner elections, in relation to the Freemantle and Millbrook polling stations, verification will have to ensure that any local advisory referendum ballot papers are removed from the Police & Crime Commissioner ballot box (and vice versa). Following that, on Friday, 16th November when the Count for the Police & Crime Commissioner elections will take place, the ballot boxes for the local advisory referendum will be sealed until the local advisory referendum is counted, which will take place on Monday, 19th November; and
 - e. all potential voters will receive poll cards for the local referendum.

Publicity

25. The Council cannot bind any individual or political party, but it is appropriate that the Council does not issue any publicity indicating a preference one way or another in relation to the outcome of the local advisory referendum. It is, however, appropriate for the Council to issue publicity in relation to public awareness, to encourage participation, and this will be managed by the Senior Manager: Communications on behalf of the Council.

26. There is nothing to prevent individual members, either individually or through their political parties (or indeed any of the political parties) from issuing publicity expressing a preference one way or the other in relation to the local advisory referendum.

RESOURCE IMPLICATIONS

Capital/Revenue

27. The report seeks Council's authority to make such resources available, including staff, as is necessary. The Counting Officer, as is the case with acting as Returning Officer at any election, would expect their reasonable costs for the conduct of the local advisory referendum to be met and, therefore, what is set out below is based on a combination of assumptions and/or as yet not entirely clear information (for reasons that are laid out).

28. The estimated costs are as follows:

Staff (polling station staff)	£6,325
Premises (polling stations)	£1,200
Equipment and transport (for polling stations)	£8,217
Absent votes (postal votes, IT, postal vote identifiers & postage and printing)	£4,851
Poll cards	£11,575
Count (staffing and stationery)	£5,320
Administration, staffing costs & printing costs	£18,117
Priority IT support contract with Capita	£1,700
TOTAL	£57,305

29. It should be stressed that these assumptions are based on:

- a. A percentage of the last elections costs (but these were for the alternative vote referendum and, therefore, some of economies of scale will be lost);
- b. In terms of polling stations, there may be a need for additional polling booths and portacabins if any polling stations cannot accommodate an additional polling station;
- c. In relation to absent voting, the existing IT equipment will be fully utilised undertaking postal vote identifier checking for the Police & Crime Commissioner elections and, therefore, there is a need to purchase additional equipment;
- d. We may have to hire a location to conduct the count, given availability of premises.

30. If the above assumptions prove to be optimistic then costs may increase by a further £14,400. In view of this then an upper estimate of £75,000 which would also allow for a 5% contingency is prudent.

31. A budget of £5,000 is currently available and therefore in order to meet the possible costs Council is asked to approve additional funding of up to £70,000 to meet the costs associated with the referendum. This funding will be allocated from the remaining contingency within the 2012/13 budget which stands at £344,300.

Property/Other

32. None.

LEGAL IMPLICATIONS

Statutory Power to undertake the proposals in the report:

33. Section 116 Local Government Act 2003.

Other Legal Implications:

34. None.

POLICY FRAMEWORK IMPLICATIONS

35. None.

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SUPPORTING DOCUMENTATION

Appendices

1.	None.
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Documents In Members' Rooms

1.	None.
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Integrated Impact Assessment

Do the implications/subject/recommendations in the report require an Integrated Impact Assessment to be carried out?	Yes /No
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Other Background Documents

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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1.	None.	
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Integrated Impact Assessment and Other Background documents available for inspection at:

WARDS/COMMUNITIES AFFECTED:	Freemantle and Millbrook
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