



Contents

<i>Introduction</i>	3
<i>What is the role of a town council?</i>	4
<i>What are the governance requirements of a town council?</i>	7
<i>What are the financial implications of a town council?</i>	8
<i>Proposed Sutton Town Council and the wider Community Governance Review</i>	10
<i>Appendix 1</i>	12
The powers and duties of parish councils	
<i>Appendix 2</i>	17
Further background information	

Introduction

This paper is one of a series being published to consult people on our Community Governance Review. The Review is considering the question of whether Sutton Coldfield should have a Town Council, but it is doing so as part of a much wider review of governance in the city. Please refer to Paper 1 for a full introduction to the Review and the issues we are discussing for Birmingham as a whole.

Residents in Sutton Coldfield have presented a valid petition to Birmingham City Council requesting the establishment of a new Sutton Coldfield Town Council within the existing Sutton Coldfield District and Parliamentary constituency boundaries. On 19 September 2014 Birmingham City Council resolved to carry out a Community Governance Review (CGR), including, but not restricted to, the proposals for a Sutton Coldfield Town Council.

This paper provides a summary of our initial analysis of the implications of the proposal. A more detailed report considering the key issues is available on the City Council website.

What is the role of a town council

Town and parish councils are at the heart of many communities in England. They provide neighbourhoods, villages and towns with a voice and a structure for taking local action – real people power at grassroots level. They are able to tackle specific local issues of concern and residents can work closely with their parish/town councillors to improve their locality.

Town councils work towards supporting responsiveness to community needs and interests. Their activities fall into three main categories: representing the local community; delivering services to meet local needs; striving to improve quality of life and community wellbeing.

Town councils are not tasked with statutory responsibilities relating to the provision of housing, social care, education and waste collection etc. They are a statutory cons) ~~REDCREST CO~~

Services outside town council statutory areas

A town council is not a replacement for a principal council and will not deliver complete independence and autonomy. To our knowledge there are no parish or town councils that deliver services outside the remit shown in the appendix.

While it is possible for a town council to deliver services outside these areas, there are such legal constraints, challenges and risks involved that make this unlikely on a significant scale. Furthermore, within the parameters of the roles of different types of local authorities, town councils are the most local level of government. They provide communities with a democratic voice and a structure for taking community action. Their role is not to operate as a council that would hold the budget for and deliver virtually all services provided in the locality – that is the role of the principal council.

The establishment of a town council may therefore not: involve the transfer of significant funds, services, land or other assets; give significant power over the current services provided in the areas of refuse collection and highways; give power to bypass the Planning Authority or the Birmingham's Development Plan "Birmingham Plan 2031" or create a major role, input or power in the delivery of medical, police, education or fire services.

All of the providers of these services support local delivery and welcome influence from all local residents and groups. However it would be misleading to indicate that a town council would enable an area to disengage itself from the strategic deliverers of services in its area.

The Localism Act 2011 enables relevant bodies such as voluntary and community bodies and social enterprises, employees of the authority and parish or town councils to express an interest in running a local authority service. This is called the **community interest challenge** (CIC)

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Neighbourhood Planning

The Localism Act 2011 also created a new process for Neighbourhood Planning, which enables parish councils as well as neighbourhood forums to work with the principal council (Planning Authority) to create a plan for their area. The plan sets out policies and priorities for the physical development of the area and must be in accordance with the Development Plan approved by the Planning Authority and the Secretary of State. Details of the process are available on the [neighbourhood planning](#) page.

What are the governance requirements of a town council?

A town council requires:

- The appointment of town councillors, from which a Chair and Vice Chair are elected (these positions can be termed Town Mayor and Deputy Town Mayor). Based on the numbers elected elsewhere, it is likely that Sutton Coldfield Town Council would require in the region of 24-32 Town Councillors, although there is no upper limit. Town Councillors may be volunteers or may be paid an allowance determined by the Town Council. These councillors would be in addition to the 12 city councillors already elected in the four wards that currently make up Sutton Coldfield District.
- A responsible finance officer.

Although not required by law, a town clerk is essential to oversee the administration of a town council and would need to be appointed.

In addition to this there are other responsibilities such as the required meetings of the council (four per year), the elections of Councillors (every four years) central administration functions (and associated posts), compliance with standing orders and financial regulations (for the supply of goods and services) and financial auditing requirements.

What are the financial implications of a town council

Town councils are funded principally through an annual precept – an additional Council Tax levied on local tax payers. The money raised locally through the precept belongs to the town council not the principal council and the town council takes decisions on how it is spent, within its legal remit.

This has always been the primary funding mechanism of town councils, as a means to deliver governance and administration related to the council and to provide additional services to enhance at a local level those already provided by the principal council.

Estimated total precept per household

At the national average of a £50 precept (for a band D property), the estimated total precept raised for Sutton Town Council would be in the region of £1.8m.

As in the case of Council Tax the precept payable by residents will vary according to the tax band of the property they live in. If a precept of £50 is set for a given year, a household in a Band D property would pay £50 whereas a household living in a Band H property, who would pay double the amount i.e. £100. On the other hand, a household in a Band B property would pay £39 (78% of £50).

Running costs

All councils have costs related to the actual functions of running a council. In the case of a town council it is considered that such costs would include democratic, management, civic and central administrative charges.

Benchmarking was undertaken against Shrewsbury Town Council, Weston-super-Mare Town Council and Lichfield City Council as a means of establishing what the level of these costs may be and what percentage of the gross expenditure this would amount to.

The costs vary considerably from £145,000 (Lichfield), £159,000 (Weston-

COMMUNITY GOVERNANCE IN BIRM

Proposed Sutton Coldfield and the Wider Community Governance Review

In considering the options available to Sutton Coldfield, residents will need to weigh up the benefits proposed by the models within the wider Community Governance Review and the benefits of having a town council either alongside or instead of the wider community governance review.

COMMUNITY GOVERNANCE IN BIRMINGHAM: THE NEXT DECADE

COMMUNIT

Function	Powers and duties
Public clocks	Power to provide public clocks
Diocesan church repairs	Powers as to maintenance
Commons and common pastures	<p>Powers in relation to enclosure, as to regulation and management, and as to providing common pasture</p> <p>Power to protect unclaimed common land from unlawful interference</p>
Community interest to challenge	Power to submit an expression of interest in running a service provided by a principal council
Conference facilities	Power to provide and encourage the use of facilities
Community centres and village halls	Power to provide and equip buildings for use of clubs having athletic, social or educational objectives
Crime prevention	Powers to spend money on various crime prevention measures
Delegated functions	<p>Power to assume a function delegated by another authority</p> <p>Power to ensure effective discharge of Council functions</p> <p>Power to employ someone to carry out Council functions</p>
Dog control orders	<p>Power to make orders for dog control offences for land in the council's area</p> <p>Power to issue fixed penalty notices for offences committed under dog control orders</p>
Drainage	Power to deal with ponds and ditches

Function	Powers and Duties
Entertainment and the arts	Provision of entertainment and support of the arts
General Power of Competence - in law	Power for an eligible council to do anything subject to statutory prohibitions, restrictions, and limitations which include those in place before or after the introduction of the General Power of Competence
Highways	<p>Power to repair and maintain public footpaths and bridleways</p> <p>Power to light roads and public places</p> <p>Provision of litter bins</p> <p>Power to provide parking places for vehicles, bicycles and motorcycles</p> <p>Power to enter into agreement as to dedication and widening</p> <p>Power to provide roadside seats and shelters, and omnibus shelters</p> <p>Consent of parish council required for ending maintenance of highway at public expense, or for stopping up or diversion of highway</p> <p>Power to complain to the Highways Authority as to protection of rights of way and roadside wastes</p> <p>Power to provide traffic signs and other notices</p> <p>Power to plant trees etc. and to maintain roadside verges</p>
Investments	Power to participate in schemes of collective investment
Land	<p>Power to acquire by agreement, to appropriate, to dispose of</p> <p>Power to accept gifts of land</p>
Lighting	Power to light roads and public places

Function	Powers and Duties
Refuse	Provision of receptacles
Lotteries	Powers to promote
Mortuaries and post-mortem rooms	Power to provide mortuaries and post-mortem rooms
Nuisances	Power to deal with offensive ditches
Open spaces	Power to acquire land and maintain
Stray property and documents	Powers to direct as to their custody
Postal and tele-communications facilities	Power to pay the Post Office, British Telecommunications or any other public telecommunications operator any loss sustained in providing post or telegraph office or tele-communications facilities
Municipal buildings and public halls	Power to provide buildings for offices and for public meetings and assemblies
Municipal conveniences	Power to provide
Raising of finance	Power to raise money through a precept
Records	Power to collect, exhibit and purchase local records
Recreation	Power to acquire land for or to provide recreation grounds, public walks, pleasure grounds and open spaces and to manage and control them Power to provide gymnasiums, playing fields, holiday camps Provision of boating pools
Planning and zoning	Right to be notified of planning applications

COMMUNITY GOVERNANCE IN BIRMINGHAM: THE NEXT DECADE

Function	owers an . uties
ourism	Power to contribute to the encouragement of tourism
raffic calmin	Powers to contribute financially to traffic-calming schemes
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Further background information

• Different types of local council

Local councils are the first formal tier of English local government. They are elected corporate bodies.

All parish councils have the same powers and duties (see Appendix 1). After 1974 many larger parish councils covering whole towns began calling themselves Town Councils. There is no difference in their powers, but the Chair can style themselves "Town Mayor". However because of their larger scale and therefore income they tend to have a staff and other resources that smaller local councils do not.

The 2007 Local Democracy and Public Involvement in Health Act brought in the right to set up parish councils in London for the first time. To encourage more local councils in cities generally the act also enabled them to be called "neighbourhood" or "community" councils.

What constitutes a function and a service

Example Planning

Section 70 (1) of the Town and Country Planning Act 1990 gives powers to local planning authorities to grant or refuse planning permission where a planning application is made to the authority. The right does not allow for the function of determining planning applications to be provided by a third party. The actual decision on whether or not to grant planning permission will therefore remain with Birmingham City Council. The delivery of planning functions, for example the processing of a planning application (not the decision), may be carried out

by Birmingham City Council or a third party under a contract or other arrangement.

Relevant authorities (e.g. Birmingham City Council) must consider an expression of interest submitted by a relevant body (to run or assist in running a service) which is in writing, within an specific time period for submission and meets other requirements for such an expression of interest (e.g. financial viability, ability to provide or assist in providing a service, how the provision or assistance will promote or improve the social, economic or environmental wellbeing of the relevant authority's area; and how it will meet the needs of the users of the relevant service).

There are various reasons why an expression of interest can be rejected, but if it is accepted, with or without modification, the authority must carry out a procurement exercise in respect of the relevant services. This must be undertaken in accordance with public procurement law in the usual way, so would be open to other bodies other than the one providing the initial expression of interest.

Authorities are also required to consider whether and how an expression of interest and any subsequent procurement exercise, can promote or improve the social, economic or environmental wellbeing of its area. This means that the City Council would need to consider the wider implications for the whole city. This is intended to encourage authorities to consider the benefits of including social benefit clauses in the delivery of the service. This is consistent with public authorities' Best Value duty and the duty in the Public Services (Social bid canote aimg

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Community rights to bid

The Localism Act also enables community groups and town and parish councils to purchase assets of community value in their area. The principal council must keep a register of such assets and add to it at the request of a parish council or community group. Such assets must be used to further the social wellbeing or social interests of the community, or be capable of doing so in the future. There are various exemptions such as private homes and hotels.

When an asset on the register is proposed for sale the owner must tell the principal council and the process must be delayed for six weeks to allow community groups and town and parish councils to decide whether to bid. If they decide to do so they will have six months to find the funding and prepare a bid. This applies to private assets such as public houses and not just those in public ownership such as libraries or community centres. Further information can be found at

<http://communityrights.org.uk/community-rights-to-bid>

Neighbourhood planning

The Neighbourhood Planning process is as follows:

- A parish council or neighbourhood forum applies to the principal council to start the process and they will have to approve the area proposed for the plan and ensure that the areas for different plans fit together as well as possible.

