

Item 8

Report of the Community Governance Review Group

Community Governance Review

Taking Forward the Proposal for a Sutton Coldfield Parish Council

1. Purpose of Report

- 1.1 To advise Full Council on the outcome of the consultation undertaken on the Community Governance Review and to approve the recommendations of the Community Governance Review Group for the creation of a Sutton Coldfield Parish Council in respect of the area that makes up the current Parliamentary constituency of Sutton Coldfield.

2. Recommendations

- 2.1 Following consultation on the Review, the Community Governance Review Group recommends that Full Council approves its recommendations in respect of the Community Governance Review, namely:-
the creation of the parish of Sutton Coldfield and of a parish council for Sutton Coldfield (see paragraph 4.4).
- 2.2 Subject to agreement to recommendation 2.1 above, the Community Governance Review Group recommends that Full Council agrees that the name of the new council shall be "Sutton Coldfield Parish Council" (see paragraph 5.2).
(Note that the City Council cannot confer the title of "Town Council" as, under legislation, that is a matter to be resolved by the new parish council once formed (see paragraph 5.2))
- 2.3 That Full Council agrees the proposed interim electoral arrangements as set out in section 6 below, subject to consultation, i.e.
- a) that the new Sutton Coldfield parish council should have 24 councillors;
 - b) that the parished area of Sutton Coldfield is divided into four voting wards coterminous with the existing City Council Sutton ward boundaries. The wards in the parish will bear the same name as the City Council wards (map appendix 1);
 - c) that there are 6 parish councillors in each of the four wards in the proposed parish council;
 - d) that the first parish elections will take place in 2016, with further elections to take place in 2018 and every four years thereafter to reflect the new Birmingham City Council electoral arrangements arising from the Boundary Commission Review.
- 2.4 That, subject to consultation, the precept for the 2016/17 financial year should be £50.00 for a Band D property, subject to final approval in the reorganisation order.

- 2.5 That a steering group of key local stakeholders is established to act as a consultative body and take forward the planning and implementation of the proposed new parish council until the new Parish Council of Sutton Coldfield is formally created. The steering group will include 2 City Councillors from each of the current 4 city wards that make up Sutton Coldfield constituency. In respect of Sutton Vesey, there shall be 1 City councillor from the Conservative party and 1 City Councillor from the Labour party, as well as community representation with 3 representatives from the Town Council Referendum Group, 1 from the Sutton Coldfield Business Improvement District and 1 from the Sutton Coldfield Charitable Trust. The steering group shall be chaired by the current Sutton Coldfield District chairman with the vice chair to be selected from one of the community representatives.
- 2.6 That from the relevant commencement date set out in the reorganisation order (1st March 2016) until councillors are elected to the new parish council of Sutton Coldfield, an interim parish council will be created (with all the statutory powers of a parish council). The interim parish council shall consist of 2 councillors from each ward who immediately before 1st March 2016 are elected city councillors for the wards of Sutton New Hall, Sutton Vesey (with 1 being a Conservative party councillor and the other being the Labour party councillor), Sutton Trinity and Sutton Four Oaks as well as the community representation set out in paragraph 2.5 above.
- 2.7 That the transfer of any land, property rights and liabilities will be subject to further agreements between the Sutton Coldfield Parish Council and Birmingham City Council.
- 2.8 That the draft timetable and process for the implementation of the proposed parish council is agreed (see paragraph 9.4).
- 2.9 That the reorganisation order to formally establish the parish council is delegated to Council Business Management Committee for approval.
- 2.10 That City Council authorises the Chief Executive, the Director of Localisation and the Director of Legal and Democratic Services to take the necessary steps to implement the decision.

3. Background

- 3.1 On 16 September 2014, following receipt of a validated petition submitted by residents in Sutton Coldfield for a Town Council, Council resolved to conduct a community governance review in the Sutton Coldfield District under the provisions of the Local Government and Public Involvement in Health Act 2007 (the 2007 Act).
- 3.2 The remit of the review was expanded to examine the Council's wider devolution structure as the boundaries of the proposed town council utilised the parliamentary constituency boundary for Sutton Coldfield around which the Council's devolved executive arrangements to District Committees have been organised since 2004.
- 3.3 The terms of reference for the Community Governance review were agreed by Full Council on 16 September 2014, thereby initiating the review, to conclude within a twelve month period.

- 3.4 In February 2015, Birmingham City Council published its proposals for future community governance. Three consultation papers were produced including the Council's initial analysis of the proposal for a town council in Sutton Coldfield. A range of consultation activities were undertaken between 25 February and 30 March 2015. These activities were jointly facilitated by an independent external facilitator who produced a report detailing the outcomes and analysis of the consultation. This report was approved by the Community Governance Review Group on 23 April 2015 and while it gave useful feedback, the Community Governance Review Group considered that the response to the consultation was disappointing and therefore recommended that a postal consultative ballot was held to provide an opportunity for all residents on the electoral register in Sutton Coldfield to express their view.
- 3.5 On 26 May 2015 Council Business Management Committee gave authority to conduct a consultative postal ballot and approved the ballot question and FAQs together with Paper 4 of the Community Governance Review, setting out the Council's position in relation to the Sutton Coldfield proposal.
- 3.6 The constitutional framework and guidance for taking forward the wider community governance arrangements of the City Council were set out in a report to Cabinet on 27 July 2015 following constitutional changes made at the May AGM of the Council. At the 27 July 2015 meeting Cabinet approved the revised ways of working protocol for District and Ward Committees / Forums and guidance on District Committee remits for Community Governance, Community Planning, Community Leadership and Neighbourhood Challenge.
- 3.7 The result of votes cast in the consultative ballot, undertaken by Electoral Reform Services, between 25 June – 16 July 2015 in response to the question *"Should a Town Council be established for the Parliamentary constituency of Sutton Coldfield within the City of Birmingham? are as follows:*

3.8

Number of eligible voters	75,431
Total number of votes cast	29,908
Turnout	39.6%
Total number of valid votes counted	29,851
Number of votes found to be invalid	57
Number voting YES	20,871 (69.9% of the valid vote)
Number voting No	8,980 (30.1% of the valid vote)

- 3.9 Responses from other consultations also favoured the creation of a town council and further details about the consultation process are set out in paragraph 10 below. At the Community Governance Review Group meeting on 17 July, to consider the responses to the consultation and the result of the consultative ballot, members unanimously agreed to recommend the creation of a town council in Sutton Coldfield to Full Council in September 2015.
- 3.10 Council Business Management Committee approved that the Community Governance Review Group and the Leader acting on their behalf be given authority to draw up a motion and background paper on the Sutton Coldfield proposal to bring to Full Council for decision in September 2015.

4. Reasons for Recommendations

- 4.1 In carrying out the Community Governance review, the Local Government and Public Involvement in Health Act 2007 requires the City Council to have regard to the identities and interest of the community. This means that Community Governance arrangements should reflect and be sufficiently representative of people living across the whole community and not just a discrete cross-section of the community.
- 4.2 In addition to the consultation undertaken between February and March 2015, the consultative postal ballot provided the opportunity for all residents on the local government electoral register in the parliamentary constituency of Sutton Coldfield to cast their vote.
- 4.3 The City Council has to have regard to the results of the consultation but is not bound to follow them. However, when weighed against the overwhelming result of the consultative ballot – both in terms of the number of electors who took part and the very large majority in favour of the proposal to establish a town (parish) council – the City Council would be at significant risk of challenge if it chose not to give greatest weight to the views expressed in the consultative ballot.
- 4.4 Under section 87 of the 2007 Act, a community governance review must make recommendations as to what new parish or parishes (if any) should be constituted in the area under review. If the review results in a recommendation to create a parish, the review must also make recommendations about the name of the new parish; as to whether or not the new parish should have a parish council; and as to whether or not the new parish should have one of the alternative styles.
- 4.5 Under section 89 of the 2007 Act, the review must also make recommendations as to what electoral arrangements should apply to any new parish council. (“Alternative styles” are explained in paragraph 5.1 below.) It is not open to the City Council to create a town council for Sutton Coldfield by name i.e. “Sutton Coldfield Town Council”. Under section 245 of the Local Government Act 1972 the adoption of such a name would be a matter for the new parish council to resolve, if one is created. This report therefore refers throughout to “the parish council” or “the new council” even though it is widely understood that any parish council for Sutton Coldfield would choose to call itself a town council.

5. Name of the Parish Council

- 5.1 As mentioned in 4.5 it is not open to the City Council to create or designate an area as a town council. However under the 2007 Act it can designate a new parish council with an “alternative style” namely:
- Village
 - Community
 - Neighbourhood
- 5.2 Notwithstanding these alternative styles Full Council is recommended to approve that the name of the new parish council shall be “Sutton Coldfield Parish Council”.

As stated in paragraph 4.5, it would then fall to the new parish council to resolve, under section 245(6) of the 1972 Act, to have the status of a town and to adopt the name of town council.

- 5.3 The wards within the parish of Sutton Coldfield shall bear the same name as the current City Council wards as an interim arrangement until the warding of Birmingham is complete and the new electoral arrangements, following the Boundary Review are introduced.

6. Interim Electoral Arrangements

- 6.1 As part of the Community Governance Review, Council is required to consider the number of councillors for the new parish council. However, the electoral arrangements for the proposed parish council will have to be considered alongside the electoral review of Birmingham City Council which is currently being carried out by the Local Government Boundary Commission. While it is understood that the Boundary Commission cannot change the boundaries to the parish council, i.e. the Sutton Coldfield parliamentary constituency boundary, it could make consequential orders on the warding arrangements and allocation of councillors to the proposed parish council.

- 6.2 The electoral arrangements for the proposed parish council would therefore need to be interim arrangements and subject to possible change from 2018 following the outcome of the Boundary Commission Review.

- 6.3 In terms of the Community Governance Review, in respect of electoral arrangements, section 95 of the 2007 Act requires the City Council to consider the following questions when deciding to recommend that a parish should, or should not, be divided into wards for the purpose of electing councillors:-

- a) Whether the number, or distribution, of the local government electors for the parish would make a single election of councillors impracticable or inconvenient
- b) whether it is desirable that any area or areas of the parish should be separately represented on the council.

- 6.4 If the City Council decides to recommend that the proposed parish should be divided into wards, it must have regard to the following factors:-

- a) the number of local government electors for the parish;
- b) any change in the number, or distribution, of the local government electors which it likely to occur in the period of five years beginning with the day when the review starts;
- c) the desirability of fixing boundaries which are, and will remain, easily identifiable;
- d) any local ties which will be broken by the fixing of any particular boundaries.

- 6.5 Whatever number of councillors are selected for the proposed parish council it is apparent that the number and distribution of the local government electors for Sutton Coldfield would make a single election of councillors impracticable or

inconvenient as the Sutton Coldfield parliamentary constituency is simply too large to be constituted a single ward. For the interim electoral arrangements for the proposed parish council, Full Council is recommended to approve that the proposed parish council adopts the current 4 City Council ward boundaries for Sutton Coldfield (Appendix 1).

- 6.6 The Community Governance Review is also required to consider the number of councillors for the proposed new parish council. The legal requirement is that a parish council must have a minimum of five members; there is no upper limit in law. National research conducted by Aston University in 1992 suggested almost all parish councils serving over 20,000 people had between 13 and 31 councillors.
- 6.7 Full Council is recommended that the proposed new parish council should as part of the interim electoral arrangements have 24 councillors, with the four wards in the parish being identical to the City Council wards in Sutton Coldfield and each ward returning six councillors.
- 6.8 Full Council is recommended to approve that the first elections to the proposed parish council take place in 2016 with further elections in 2018, to take account of electoral changes following the outcome of the Boundary Commission Review and once every four years thereafter to coincide with the City Council local elections.

7. Initial Precept and Budget for the New Council

- 7.1 Should Full Council approve the creation of a new parish council, with elections to the new parish council to be held in May 2016, Regulation 3(2) of the Local Government Finance (New Parishes) (England) Regulations 2008 No 626 requires the Council to anticipate a precept from the new parish council for 2016-17. The amount must be stated in the reorganisation order. Regulation 4 requires this to be a special item, i.e. it will be charged only on council tax payers in Sutton Coldfield. Regulation 3(4) also obliges Birmingham City Council to state in the reorganisation order the budget requirement for the town council for 2016-17 (this will be the same figure as the precept). It further provides that, in calculating its budget requirement for that year, the parish council cannot calculate an amount that is greater than the amount stated in the reorganisation order.
- 7.2 Because an entirely new parish council is being created where none currently exists, the regime of council tax referenda for “excessive” increases in council tax does not apply. Therefore, as legislation presently stands, there is no risk to the City Council that a referendum will be triggered as a result of its decision on the anticipated precept. The proposed new council may find itself subject to those rules in 2017 onwards if the Government extends it to larger town and parish councils.
- 7.3 The national average precept for existing town and parish council is just over £50 a year for a Band D property. If a precept of £50 was set for the proposed parish council, then residents in higher band properties would pay more than this (£100 a year in a Band H property) and those in lower band properties would pay less, (£39 a year in a Band B property). It was made clear to local electors in the supporting information for the postal consultative ballot what the impact of the national average precept of £50 a year would be for a Band D property in Sutton Coldfield. Setting the precept of £50 a year for a Band D property would generate in the region of

£1.8m for the proposed parish council based on the tax base for Sutton Coldfield in 2014/15.

- 7.4 It is important to stress that, whatever amount for the anticipated precept is included in the reorganisation order, it is impossible to guarantee that the impact on individual council tax bills will be precisely the same as assumed above. This is because the actual tax base for 2016-17 will be used in calculating council tax bills and it could differ from the estimate given in paragraph 7.3. While the estimate will be reviewed before the reorganisation order is made to take account of the latest information about housing completions and other relevant factors, there remains a possibility that the actual tax base will differ marginally from the estimate; and that therefore the actual amount of council tax to be paid by households could differ slightly from the figures shown above.
- 7.5 The proposed parish council, once granted parish council status, would have the right to decide their level of precept in perpetuity. However, for the purpose of planning the number and nature of services it provides, it is important that its budget for the first year is set early on to assist the planning process.
- 7.6 Full Council is therefore recommended to agree, as the basis for initial consultation, that the anticipated precept for 2016-17 should be set at £50 per Band D property. The final decision on the precept will be taken in approving the reorganisation order.

8. Implementation

- 8.1 If Full Council agrees to create a new parish, it must make a reorganisation order. The reorganisation order will set out the electoral arrangements, the precept, the transition arrangements and the transfer of any assets liabilities and services. The reorganisation must become effective by no later than 1st April in any year if elections are to be held for the new parish council in the following May. If Full Council's recommendation is to create a parish council, the next steps would include:-
- Publication and consultation on the recommendations of the Community Governance Review
 - Establishment of a steering group to take forward implementation of the parish council
 - Approval of the reorganisation order
 - Reorganisation order becomes effective 1st March 2016
 - Interim parish council established 1st March 2016
 - Elections to new parish council 5th May 2016
- 8.2 Full Council are therefore recommended to agree that a steering group, as set out at paragraph 2.5 above, be established to act as a consultative body and take forward the planning and implementation of the proposed new parish council. From 1st March 2016, when the interim parish council is created, the steering group members as set out in 2.6 will form the interim parish council until elections to the proposed parish council are held.

9. Development of a Long-term Funding and Service Agreement

- 9.1 This will not form part of the reorganisation order. A number of detailed matters will need to be addressed through an agreement or agreements under section 99 of the 2007 Act. Section 99 provides for public bodies affected by a reorganisation order to make agreements with respect to any property, income, rights, liabilities and expenses and any financial relations between parties to the agreement. The City Council needs to protect its fiduciary position and rights. There would also be implications for the practical operation of assets and facilities.
- 9.2 The alternative would be to endeavour to settle all these matters before the reorganisation order is made or the new parish council is elected. The intention is that the long-term funding and service agreement between the two councils would be developed over a period of time. In respect of the City Council, it would fall to the Cabinet to enter any such agreements.
- 9.3 The suggestion of a long-term funding and service agreement provides the opportunity for the City Council to negotiate further such arrangements with the proposed new parish council in future periods. It would also buy ample time for the proposed new parish council to consider what it wished to do for the future. Any staffing consequences would have to be considered at the time in accordance with employment law, including the TUPE Regulations.
- 9.4. The current planning assumptions are set out in Table 3.

Table 3: proposed timetable

Action	Dates
Full Council considers the recommendation of the Community Governance Review	15 September 2015
Publication and consultation on the decision of Full Council and the recommendations of the Community Governance Review	19 September 2015 to 31 October 2015
Steering Group established to take forward implementation of the parish council	September / October May 2015
CBM considers draft reorganisation order including the precept, electoral arrangements and transitional arrangements. Publication of reorganisation order following decision of Council Business Management Committee	17 November 2015
Approval of reorganisation order by Business Management Committee	15 December 2015 CBM
Reorganisation order comes into effect creating the interim Sutton Coldfield Parish Council	1 March 2016
Interim Parish Council in place until elections to the new parish council	1 March - May 2016
Elections to Sutton Coldfield Parish Council	5 May 2016
First meeting of the newly elected Sutton Coldfield Parish Council to take place within 14 days of the declaration of the results and the City Council is responsible for arranging the first meeting.	May 2016

10. Consultation

10.1 Three consultation papers were published in February 2015 setting out proposals for the wider city wide devolution arrangements together with an initial analysis of the Sutton Coldfield specific proposal for a Town Council.

Paper one - Introduction and Background: setting the overall context.

Paper two – Future of Community Governance in Birmingham: looking at local democratic structures.

Paper three – Sutton Coldfield Initial Analysis (Short Report & Full Report).

10.2 A range of consultation activities, on the proposals set out in Papers 1, 2 & 3, were undertaken in March 2015 including:-

- A partners round table discussion with 10 major city-wide partners,
- A Sutton Coldfield Specific Discussion Group drawn from the Birmingham People's Panel,
- Four Area Briefings: question and answer discussion sessions targeted at local Councillors, local residents and stakeholders,
- A Be Heard Questionnaire on the City Councils' website,
- Discussions organised by six Ward Committees, two neighbourhood forums and the Standing Up for Birmingham, (SU4B) network of community organisations and active citizens,
- Submissions via e-mail or letter,
- Discussions with young people
- via Twitter.

10.3 An independently produced report on the consultation findings highlighted that there were overwhelming numbers in favour of a Town Council in the consultation submissions (203 in favour, 14 against).

10.4 Following the consultation undertaken in March 2015 and prior to the commencement of the consultative postal ballot, Paper four - *The City Council's Conclusions on the Proposals for a Town Council in Sutton Coldfield*, was published in May 2015 and presented the Council's initial advice to residents of Sutton Coldfield on the proposal for a Town Council.

In summary, the City Council concluded that there were three broad options for the future governance of Sutton Coldfield:

1. Maintain the status quo of district and ward committees, but move to a more extensive 'neighbourhood challenge' role to improve all local public services, along with the rest of the city.
2. In addition to the above, take up other opportunities to create parish (neighbourhood) councils for the smaller neighbourhoods that people identify with, such as Boldmere, Mere Green, Falcon Lodge or Wylde Green.
3. Adopt a town council for the whole area of the Sutton Coldfield parliamentary Constituency, as specified in the petition, alongside the existing arrangements.

- 10.5 On 26 May 2015, Council Business Management Committee gave authority to undertake a postal consultative ballot, with residents on the Local Government electoral register in the Parliamentary constituency of Sutton Coldfield, on the proposal for a Sutton Coldfield Town Council. The following consultative ballot question was approved:
Should a Town Council be established in the Parliamentary Constituency of Sutton Coldfield within the City of Birmingham?
Electoral Reform Services were commissioned to conduct the Consultative postal ballot to be held in the Sutton Coldfield Constituency during the period 25 June - 16 July 2015.
- 10.6 Four Special Ward Committee meetings were held in Sutton Coldfield in June 2015 to provide residents with general information on town councils and the Sutton Coldfield specific proposals.

11. Compliance

- 11.1 The recommended decisions are in line with the Leaders Policy Statement June 2015, the Council's Organisational Improvement Plan and wider Future Council Programme.

12. Financial Implications

- 12.1 The City Council will need to ensure that the on-going relationship and costs in dealing with the proposed parish council is effectively resourced. The costs will need to be met from existing resource frameworks.
- 12.2 The next stages of the review will involve further costs to the City Council, although it is difficult to quantify them all accurately at present. The main impact will be on officer time, and this can be absorbed within existing budgets. It is not proposed to engage in expensive methods of public consultation on the reorganisation order. Consultation with the public and other interested parties will be promoted on the Council's website, through social media channels and press releases.
- 12.3 The costs of administering the proposed new council between April and May 2016 (including the cost of reconfiguring the Council Tax computer software to enable effective administration and collection of the additional precept) are yet to be established.
- 12.4 It is proposed that elections to the proposed parish council will be held alongside the planned local elections to ensure the additional costs are minimised. The City Council can recharge the costs of elections to a parish council and the intention is to recover the additional costs of elections through the parish precept when the proposed new parish council will have significant resources at its disposal. For the avoidance of doubt where the parish elections are stand-alone polls, the parish council will be solely responsible for the cost of holding those elections. If combined with other polls those costs shall be shared in accordance with any rules/guidance in force at that time.
- 12.5 The impact of creating a parish council for Sutton Coldfield was drawn clearly to the attention of electors in the supporting material for the local postal consultative ballot.

The electors who took part in the ballot were made explicitly aware of the additional precept that would arise from the establishment of a parish council.

13. Legal Implications

- 13.1 The Local Government and Public Involvement in Health Act 2007 sets out the powers associated with community governance reviews and provide the power for the Council to take decisions regarding matters arising from the review. Relevant provisions of the 2007 Act and other legislation have been mentioned throughout this report. The Council is required by Section 100(4) to have regard to the guidance issued by the Secretary of State relating to community governance reviews.
- 13.2 Upon agreeing to create a parish and parish council for Sutton Coldfield, the City Council must then approve a reorganisation order which sets out the mechanics of the establishment of the parish and its council. The order must include the budget requirement for the parish council for the financial year 2016/17 and any other provisions needed to bring the parish council into being including elections and transitional arrangements. As there is no land or property to be transferred to the proposed parish council at this stage (as that will be subject to separate agreements between the parish council and Birmingham City Council) the order will be relatively brief.
- 13.3 Once the order is made, the City Council must deposit at its main office a copy of the reorganisation order, and a map which shows the effects of the order in detail. The order and the map must be available for public inspection at all reasonable times and the City Council must publicise its availability for inspection. The City Council must also notify the relevant agencies.

14. Public Sector Equality Duty

- 14.1 No adverse impact has been identified. An outline Equality Impact Needs Assessment (EINA) has been completed. The general impact of a town council is likely to strengthen the local democratic process and increase the say of local residents and stakeholders on local matters and leverage in additional resources for local investment via the precept and other means.

15. Background Papers

- 15.1 Department for Communities and Local Government and the Local Government Boundary Commission for England – Guidance on Community Governance Reviews.
http://www.lgbce.org.uk/_data/assets/pdf_file/0019/10387/community-governance-review-guidance.pdf
- 15.2 Relevant secondary legislation
The Local Government (Parishes and Parish Councils) (England) Regulations 2008 No 625
<http://www.legislation.gov.uk/uksi/2008/625/contents/made>
The Local Government Finance (New Parishes) (England) Regulations 2008 No 626
<http://www.legislation.gov.uk/uksi/2008/626/contents/made>

15.3 Supporting information for the Community Governance Review
<http://www.birmingham.gov.uk/community-governance-review>

15.4 Supporting information for the local Postal Consultative Ballot
<http://www.birmingham.gov.uk/sutton-coldfield-ballot>

16. List of Appendices

16.1 Appendix 1 Map of the proposed parish council boundary showing current Sutton ward boundaries

Appendix 1

SUTTON COLDFIELD DISTRICT

