

**Sutton Coldfield
Town Council**
Initial Analysis
Full Report



INITIAL ANALYSIS OF THE SUTTON COLDFIELD PROPOSAL FOR A TOWN COUNCIL FULL REPORT

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INITIAL ANALYSIS OF THE SUTTON COLDFIELD PROPOSAL FOR A TOWN COUNCIL

1.0 BACKGROUND

On 8 October 2013 a petition was submitted to Birmingham City Council from local residents requesting a new Sutton Coldfield Town Council under the Local Government and Public Involvement in Health Act 2007, as detailed below.

“We the undersigned electors of the current Sutton Coldfield Constituency call upon Birmingham City Council to make the necessary provisions for establishing a Sutton Coldfield Town Council for the area designated by the existing Sutton Coldfield 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 for which a valid petition has been received, in accordance with the Local Government and Public Involvement in Health Act, 2007.

An even greater emphasis on governance and devolution has emerged in light of the Kerslake Review recommendations which need to be considered as part of the Community Governance Review.

Birmingham is a unitary authority which is responsible for providing all local authority services within its boundaries. A town council operates at a local level below the unitary council. It is a democratically elected legally independent tier of local government with its own councillors, which can provide a range of local support and services within a defined area, such as Sutton Coldfield. Community councils, neighbourhood councils, village councils, parish councils and town councils all operate within this framework.

These 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.

Through the wider Birmingham Community Governance Review, mechanisms are being explored to engage local residents in shaping their area through a “Neighbourhood Offer” which may include further support for neighbourhood forums and encouragement to the creation of neighbourhood councils (parish councils with similar powers but at a much more local, neighbourhood level). These would operate within smaller more distinct localities than that covered by a town council – aligning with the diversity of neighbourhoods and communities within Sutton Coldfield district and their different needs and priorities.

The Community Governance Review Group is now considering the best options to enable and support governance and devolution at a local level across the city.

2.0. SUTTON COLDFIELD TOWN COUNCIL PROPOSAL

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 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.

3.0 SCOPE

A project team was established in order to examine the Sutton Coldfield Town Council proposal in detail and identify key findings that could be consulted upon.

This was done by undertaking a review of the potential governance and financial requirements for a town council in Sutton Coldfield and also considering this in the light of existing town/parish councils. This included the following tasks:-

3.1 GOVERNANCE

- Identify and consider the statutory guidance on functions / services that could be devolved to a town council;
- Consider the aims/aspirations set out by the petitioners and whether these would be met through the town council model;
- Identify the new political governance structure that would be required for a town council and the impact of this;
- Identify the broad management structure, employee base and infrastructure arrangements that would be required to operate a town council.

3.2 FINANCIAL

- In considering the formation of a town council, establish high level costs for set up and on-going revenue costs;
- Establish what services and budgets or resources are appropriate to be devolved to a town council within Birmingham;

- Consider the levels of income that could be generated by precept and whether such a precept would support the delivery of proposed devolved services or additional services;
- Identify whether there would be any transfer of assets or debts to the town council;
- Consider the implications of any existing contractual obligations.

3.3 BENCHMARKING

- Consider the non-financial benefits and challenges of the town council model through analysing town councils already in existence.

4.0 STRUCTURE OF THIS REPORT

This report explains the findings of the specific tasks.

Section 5 clarifies the methodology used

Section 6 considers governance

Section 7 considers financial matters

Section 8 considers benchmarking

Section 9 draws together the conclusions of the project team.

Section 10 details the next steps

5.0 METHODOLOGY

An independent project team with competencies in legal, financial, strategic and devolvement matters was formed to progress this piece of work. Ifor Jones (Service Director, Localisation) commissioned the work and the lead officers were:

- Sajeela Naseer Project Manager (Head of Trading Standards)
- Robert Connelly Head of Electoral Services
- Parmjeet Jassal Head of City Finance (Place)

The project team undertook an analysis of relevant financial, legislative, benchmarking and other information that would help inform the specific tasks. They also considered the impact of economy, efficiency and effectiveness in ensuring the continuous improvement in the delivery of the Birmingham City Council's corporate priorities and outcomes, both at a strategic and local level.

6.0 FINDINGS - GOVERNANCE

6.1 Identify and consider the statutory guidance on functions/services that could be devolved to a town council

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 the statutory responsibilities relating to the provision of housing, social care, education and waste collections etc. They are a statutory consultee in relation to the planning, but they are not a Planning Authority. They have the *option* to exercise a variety of powers and duties including the delivery of a small number of specific local services that *add to* those provided by the principal council. The service areas to which they relate are detailed further within this section.

A town council can choose not to deliver any services and instead act purely as a means of influencing local service provision made by the principal council or other partners such as the police.

Alternatively, a town council can provide additional services (within their legal remit) to those provided by the principal council such as the provision of car parking with the consent of the principal council.

When a town council (e.g. Sutton Coldfield) is formed it can enter into discussions with the principal council (Birmingham City Council) about the *transfer* of services, budgets and assets within their statutory areas. However, this is subject to mutual agreement and securing “Best Value” by law¹

A list of town council duties and powers can be found in **Appendix 1**, while some of the statutory service areas are detailed overleaf.

¹ *Section 3 of the Local Government Act 1999 (as amended by s137 of the Local Government & Public Involvement in Health Act 2007) local authorities are under a general Duty of Best Value to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.”*

Town Council Service Areas

A town council may provide services in the following areas:

Powers and duties of town/parish councils

Duty to provide facilities

- *Allotments - Duty to consider providing allotment gardens if demand unsatisfied.*

Powers to provide facilities

Town/parish councils have powers to provide some facilities themselves, or they can contribute towards their provision by others. There are large variations in the services provided by parishes, but they can include the following:

- *Support and encouragement of arts and crafts*
- *Provision of village halls*
- *Recreation grounds, parks, children's play areas, playing fields and swimming baths*
- *Cemeteries and crematoria*
- *Maintenance of closed churchyards*
- *Cleaning and drainage of ponds etc.*
- *Control of litter*
- *Public conveniences*
- *Creation and maintenance of footpaths and bridleways*
- *Provision of cycle and motorcycle parking*
- *Acquisition and maintenance of rights of way*
- *Public clocks*
- *War memorials*
- *Encouragement of tourism*

They may also provide the following subject to the consent of the county council or unitary authority of the area in which they lie:

- *Bus shelters*
- *Signposting of footpaths*
- *Lighting of footpaths*
- *Off-street car parks*
- *Provision, maintenance and protection of roadside verges*

Representative powers

Town/parish councils must be notified by the district or county council of:

- *All planning applications in their areas*

- *Intention to provide a burial ground in the parish*
- *Proposals to carry out sewerage works*
- *Footpath and bridleway (more generally, 'rights of way') surveys*
- *Intention to make byelaws in relation to hackney carriages, music and dancing, promenades, sea shore and street naming*

Miscellaneous powers

In some cases town/parish councils possess the following powers:

- *Creation of a neighbourhood plan*
- *Guardianship of common land*
- *Withholding of consent to stop up unclassified highways and footpaths*
- *Consultation on appointment of managers of primary schools*
- *Trustees or appointing trustees of local charities*

Extended town council service delivery in statutory areas

When a town council (e.g. Sutton Coldfield) is formed it can enter into discussions with the principal council (Birmingham City Council) about the transfer of services, budgets) and assets within the areas mentioned above. However, this is subject to mutual agreement.

Any such transfer would also require the principal authority to demonstrate best value (see above). For instance, would it be more efficient, effective and economic to deliver services strategically, by the town council, or through a commissioning model? Consideration would need to be given to any debts or liabilities associated with those services or assets.

6.2 Consider the aims/aspirations set out by the petitioners and whether these would be met through the town council model

In order to further clarify the role of a town council within Sutton Coldfield, the aims of the Sutton Coldfield Town Council Referendum Group have been considered. They are shown below (taken directly from their website www.suttoncoldfieldtowncouncil.com)

- “Setting up of legalised Town Council, along with significant major powers from the primary authority [Birmingham] covering the issues below.
- “Sutton Coldfield Planning Department, with full planning authority within the Sutton Border. Located in Sutton.
- “All council owned land including Green Belt transferred to Sutton control.
- “Legal affirmation, consolidation, and control of existing Sutton border.
- “Legal affirmation and control of Sutton Green Belt, Public Realm and Open Spaces.

- “Full Local Accountability: Transfer of significant funding authority
- “Local Planning Authority with power to create a Neighbourhood Plan for the whole of Sutton Coldfield and its Green Belt, against which all planning decisions would legally have due regard.
- “Sutton to have full planning control and ownership of Broadway Malyan Town Plan, and of the eventual re-development of its centre. Currently certain aspects are based on City Centre type standards, not suitable for Sutton.
- “Sutton to have its own local council officers located in Sutton, Officers located in Birmingham will simply implement Birmingham policies and control.
- “Element of local control of education with control of school entry allocation. Local ownership and control of school playing fields.
- “New Authority to have General Power of Competence, and manage and control council owned car parks with ownership of income, and share proceeds of any subsequent development.
- “Highways: Authority to have input and element of authority and consultation with contractors on roads, pavement, street lighting and tree planting policy.
- “Sutton Control of All Signage.
- “New Authority to have input on main railway station on condition, and historic appearance.
- “New Authority to have major control of refuse disposal and wheelie bins
- “New Authority to have major role over preservation of current leisure services. Playing fields and sports grounds
- “New Authority to have control over running and protection of Sutton Park
- “New Authority to have major input to all medical services.
- “New Authority to have major role over police and fire service locations and operation.
- “New Authority to have full control over ownership of Sutton Town Hall and Council House, its approaches and grounds.”

The aims relate primarily to control of or delivery of services outside the statutory powers or duties of town councils. As such the response below considers whether such control or delivery is possible and whether there are

any risks to such devolvement. A full response to the aims can be found at Appendix 2.

Town Council service delivery outside statutory areas

To our knowledge there are no parish or town councils that deliver services outside the remit shown in Appendix 1. The Localism Act 2011 enables relevant bodies i.e. voluntary and community bodies (including social enterprises), employees of the authority and parish/town councils to express an interest in running a local authority service. This is called the **Community Right to Challenge (CRC)**. Exceptions to this are services which are excluded by legislation (e.g. packages of services for health and social care for named individuals with complex needs). The CRC relates to 'relevant services' and not functions. Generally speaking, a function is a duty or power that requires decision making by the responsible person or body, whereas a service does not.

What constitutes a function and a service?

Example 1: 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 whether to grant a planning application 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 the local planning authority itself, or by a third party on behalf of the authority.

Example 2: Youth justice

The Crime and Disorder Act (1998) places a duty on local authorities to ensure there is appropriate provision of youth justice services. Decisions (reached following consultation with interested parties as part of the commissioning cycle) on which services are provided, where they are located, funding etc. are a function of the authority. The community right to challenge will not apply here.

Individual (parts of) services with young people to prevent further offending may be provided by the local authority, or by a third party on behalf of the authority. This means the authority would set out the requirements of the service as part of any procurement exercise which potential providers would bid to deliver. This may, for example, include addressing specific difficulties faced by young offenders, such as drug and alcohol problems or homelessness. The right will apply here.

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 well-being 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.

Grounds whereby an Expression of Interest may be rejected

1. The expression of interest does not comply with any of the requirements specified in the Act or in regulations.
2. The relevant body provides information in the expression of interest which in the opinion of the relevant authority, is in a material particular inadequate or inaccurate.
3. The relevant authority considers, based on the information in the expression of interest, that the relevant body or, where applicable-
 - (a) any member of the consortium of which it is a part, or
 - (b) any sub-contractor referred to in the expression of interest is not suitable to provide or assist in providing the relevant service.
4. The expression of interest relates to a relevant service where a decision, evidenced in writing, has been taken by the relevant authority to stop providing that service.
5. The expression of interest relates to a relevant service -
 - (a) provided, in whole or in part, by or on behalf of the relevant authority to persons who are also in receipt of a service provided or arranged by an NHS body which is integrated with the relevant service; and
 - (b) the continued integration of such services is, in the opinion of the relevant authority, critical to the well-being of those persons.
6. The relevant service is already the subject of a procurement exercise.
7. The relevant authority and a third party have entered into negotiations for provision of the service, which negotiations are at least in part conducted in writing.
8. The relevant authority has published its intention to consider the provision of the relevant service by a body that 2 or more specified employees of that authority propose to establish.
9. The relevant authority considers that the expression of interest is frivolous or vexatious.
10. The relevant authority considers that acceptance of the expression of interest is likely to lead to contravention of an enactment or other rule of law or a breach of statutory duty.

If the expression of interest 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 open to other bodies other than that which provided the initial expression of interest.

Hence, there is no guarantee that the eventual provider of the service would be the instigator of the 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 well-being of its area, to this end Birmingham City Council would need to take into account the wider implications for the whole city and not just the wishes of the town council. 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 Value) Act 2012 to consider how the services they commission and procure might improve the economic, social and environmental well-being of the area.

The Localism Act 2011 does not expressly require a contract to be awarded and in some cases, there may be a duty to *not* award e.g. where "Best Value" in law has not been demonstrated. Termination costs of existing contracts or the breakup costs of affected shared service arrangements will be an issue here.

Further information about CRC may be found at the following website:

www.gov.uk/government/publications/community-right-to-challenge-statutory-guidance.

In addition to CRC parish and town councils can benefit from the **Right to Bid**, also contained within the Localism Act, 2011. This enables them to bid for assets of community value. 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 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 6 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://mycommunityrights.org.uk/community-right-to-bid/>

While it is possible for Birmingham City Council to arrange for the discharge of any of its functions by any other “local authority”, such devolution may not be advisable for the following reasons:

- *Both section 101 of Local Government Act 1972 (“1972 Act”) and the general power of competence in the Localism Act 2011 include significant caveats to prevent the untrammelled devolution of powers and services. In considering the transfer of powers and duties there would need to be detailed analysis of every piece of legislation covering each power, this would take a significant amount of time and would therefore be very expensive.*
- *There are potentially two definitions of “local authority” within the 1972 Act – one at s.270 and another at s.101 (13) which may be inconsistent and prevent a parish/town council exercising certain functions. This matter may have to be tested in the courts.*
- *No other parish/town etc. council to our knowledge has devolved powers in addition to the statutory service areas shown above.*
- *To our knowledge the issue of devolvement of powers to a parish/town council has not been as yet been considered by the courts. This means that any decision to devolve extra powers to Sutton Coldfield would potentially be the first case to come before the courts if litigation arose. Hence there is a significant risk of judicial review and the outcome is not certain.*
- *However, the CRC has yet to be used widely and has not been subject, at least to our knowledge, to any legal challenges in the courts.*
- *In any event any transfer would require the principal council to demonstrate best value (for instance would it be more efficient, effective, economic to deliver services strategically, by the town council, or through a commissioning model) and consideration would need to be given to any debts or liabilities associated with those services or assets.*
- *In any event, there would not be a true devolution of powers, as s.101 of the 1972 Act was designed to allow for a situation where, in certain circumstances, the exercise of the power would revert automatically to the principal authority (i.e. Birmingham City Council)*
- *There is potentially an easier, less legally contentious, and cheaper method of achieving the aim of devolving extra powers to a local level via the establishment of a Committee of Birmingham City Council. A proportion of the membership of the committee could be made up of certain Sutton Coldfield Town Councillors.*
- *However, within the Kerslake Review there is a clear direction that District Committees should not be responsible for delivering services or managing them through Service Level Agreements. One can logically extend this clarification to indicate that Kerslake’s view is that devolvement of services should not be the focus of Birmingham’s new model for devolution.*

Other factors:

Kerslake suggests that if District Committees are to be retained, they should be refocused on shaping and leading their local areas through influence, representation and independent challenge of all public services located in the District, including those of the council; and that the Districts

District, including those of the council; and that the Districts should be provided with a modest commissioning budget to purchase additional services that help meet local priorities. Services commissioned will not necessarily need to be managed or provided by the council. They will need to effectively manage their own finances and meetings must be open to the public and outside of the town hall.

The suggestions made in the paragraph above clearly mirror the role and aspirations of parish/town councils across the country in the raising of a precept and their support for local issues without the devolvement of significant powers or services.

Birmingham City Council within its Community Governance Review for the whole city has sought to reflect the recommendations made by Kerslake and its own and citizens aspirations for local devolution. As such the proposals being put forward in the “Community Governance in Birmingham: The Next Decade” consultation papers will amount to a way forward for all of Birmingham that is an alternative to the town council model and which aims to deliver real local governance outcomes for citizens in a way that is realistic and efficient given current resource constraints.

While it is possible for a town council to deliver services outside its statutory areas, there are such legal constraints, challenges and risks involved that may 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.

A town council is not a replacement for a principal council and will not deliver complete independence and autonomy.

6.3 Identify the new political governance structure that would be required for a town council and the impact of this

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 31 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 (4 a year), the elections of Councillors (every 4 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.

6.4 Identify the broad management structure, employee base and infrastructure arrangements that would be required to operate a town council

Beneath the governance structure would lie the management structure. It is not possible to identify which posts would be required in this structure as they would be dependent on which services are delivered. The structure may be very lean for town councils who seek purely to influence outcomes, but even in this scenario, it is likely that there may be a development officer, a committee officer, and an administrative assistant. Obviously where services are delivered the management structure will need to include the frontline staff as well as appropriate managers. The administrative requirements will also increase, as will the potential need for an additional finance officer.

7.0 FINDINGS - FINANCIAL

Town councils are funded principally through an annual precept – an additional council tax levied on local tax payers.

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

7.1 In considering the formation of a town council, establish high level costs for set up and on-going revenue 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-super-Mare) to £448,000 for Shrewsbury.

These costs amounted to between 9% and 16% of gross expenditure (total expenditure supported by other income in addition to the precept, such as grants and charges and resources to make good the loss of Council Tax Support Grant which was provided to parishes up to 2012/13

Whilst it is certain these costs will be incurred by the proposed Sutton Coldfield Town Council, it is difficult to provide a reasonable estimate due to the range of factors (numbers of members, direct services, level of income etc.) that can influence the operating model. However, based on the findings and the size of the proposed Sutton Town Council, one could assume at least £200,000 per annum.

7.2 Establish what services and budgets or resources are appropriate to be devolved to a town council within Birmingham

Principal councils (e.g. Birmingham City Council) can by mutual agreement provide a grant to deliver some services and transfer staff and assets if appropriate.

Any such transfer would require the principal council to demonstrate “best value in law” (for instance would it be more efficient, effective, economic to deliver services strategically, by the town council, or through a commissioning model) and consideration would need to be given to any debts or liabilities associated with those services or assets.

Of the three town councils we have benchmarked in detail (Lichfield, Shrewsbury and Weston-super-Mare) only one (Shrewsbury) received such a grant.

A broader benchmarking exercise was conducted with 14 parish and town councils (see section 8.1), where again only Shrewsbury Town Council received ongoing funding from the principal council

Funding can also be raised through, for instance income from car parks or markets, rental of property etc.

7.3 Consider the levels of income that could be generated by precept and whether such a precept would support the delivery of proposed devolved services or additional services

Sutton Coldfield Town Council – Estimated Total Precept Yield

The Tax Base for Sutton Coldfield Town Council is estimated at 36,128 band D Equivalent properties. The precept yield, therefore, for each £10 levied would be £361,280 as summarised in Table 1.

At the national average of a £50 precept, the estimated total precept for Sutton Town Council would be in the region of £1.8m.

Table 1: Sutton Coldfield Town Council - Estimated Total Precept Yield

Precept	Tax Base (Band D Equivalent Properties)	Estimated Total Precept
£10	36,128	£361,280
£20	36,128	£722,560
£30	36,128	£1,083,840
£40	36,128	£1,445,120
£50	36,128	£1,806,400

Sutton Coldfield Town Council – Estimated Precept Per Household

As in the case of Council Tax the precept payable by households will vary according to the tax band of the property.

Worked Example

If a precept of £50 is set for a given year, a household in a Band D property would pay £50 compared to a household in a Band H property, who would pay double the amount ie £100. On the other hand, a household in a Band B property would pay £39 (78% of £50).

Table 2: Sutton Town Council - Precept Per Household

Tax Band	Statutory Proportion (fraction)	Statutory Proportion (percentage)	Precept	Precept	Precept	Precept	Precept
			£	£	£	£	£
Band AR	5/9	56%	6	11	17	22	28
Band A	6/9	67%	7	13	20	27	33
Band B	7/9	78%	8	16	23	31	39
Band C	8/9	89%	9	18	27	36	44
Band D	1	100%	10	20	30	40	50
Band E	11/9	122%	12	24	37	49	61
Band F	13/9	144%	14	29	43	58	72
Band G	15/9	167%	17	33	50	67	83
Band H	18/9	200%	20	40	60	80	100

The potential local precept for Sutton Coldfield Town Council is described in more detail within **Appendix 3**.

7.4 Identify whether there would be any transfer of assets, debts or liabilities to the town council

When a town council (e.g. Sutton Coldfield) is formed it can enter into discussions with the principal council (Birmingham City Council) about the transfer of services including budgets, assets, debts and liabilities subject to mutual agreement and securing “best value in law”.

All assets within the city are currently part of the asset rationalisation programme. Hence a business case for transfer would need to be made. This would then be considered within the context of the overall programme.

The transfer of any debts in relation to assets would be considered as part of the transfer process.

Any prudential borrowing, debts or liabilities currently held at a district level will be considered as part of the transfer of services following a business plan by the new town council and within the wider devolution agenda.

The current community asset transfer programme would also be a means by which community groups etc. may seek to transfer assets to local control.

7.5 Consider the implications of any existing contractual obligations

The majority of Birmingham City Council services are being regularly evaluated to establish if a commissioning and contracting model would be appropriate. Where significant contracts, such as the highways contract with Amey Birmingham Highways Limited and the waste disposal contract with Veolia Environmental Services, are in existence there will be citywide

implications (e.g. financial, service delivery, quality) relating to any change in such contracts. However, it is not possible to establish the significance of any change or how the contracts may operate within a town council model until further clarity is given relating to any proposed changes.

However in response to certain aims put forward by the Sutton Coldfield Referendum Group relating to contract areas, the following broad responses have been established:

- **Highways: Authority to have input and element of authority and consultation with contractors on roads, pavement, street lighting and tree planting policy.**

Highways maintenance and management within Birmingham is undertaken under the Highways Maintenance and Management Private Finance Initiative (HMMPFI) contract with Amey Birmingham Highways Limited (ABHL). It makes provision for ABHL to consult with Constituency Committees (i.e. now District Committees) on their Service Provider Programmes (which includes Annual Programmes).

ABHL is responsible for achieving the investment in and maintenance of the Project Network e. all highways/footways maintenance at public expense and street lighting columns and signs throughout the Council's area.

This contract commenced in June 2010 and is for 25 years. Any amendment to the contract to establish new consultation mechanisms would be subject to the High Value Change mechanism in the contract. Such a change would require agreement by the senior lenders and there would therefore be a significant financial cost to making a change of this type.

The impact of such a change may raise a risk in maintaining a unified City wide standard across the rest of the city.

- **New Authority to have major control of refuse disposal and wheelie bins**

Response: A parish/town council does not have statutory powers in relation to refuse collection and disposal. However, it does have powers in the area of provision of litter bins. It may therefore use the funding derived from the local precept in relation to this matter. Any extra litter bin provision would require negotiation with Birmingham City Council or any other provider to pay for them to be emptied at a frequency to be determined. Furthermore, Birmingham City Council is in a contract with Veolia Environmental Services Birmingham until 2019 with regard to the disposal of waste/refuse. As such the waste in a town council provided litter bin would be subject to Birmingham City Council's waste disposal contract and must be delivered into that contract and appropriate contract costs paid.

8.0 FINDINGS - BENCHMARKING

8.1 Consider the non-financial benefits and challenges of the town council model through analysing town councils already in existence

Preliminary benchmarking has conducted with Shrewsbury Town Council, Leeds (parish councils), Weston-super-Mare Town Council, Lichfield City Council (parish council), Central Milton Keynes Parish Council, New Frankley Parish Council, Tring Town Council, Andover Town Council, Petersfield Town Council, Swanage Parish Council, Queens Park Community Council, Salisbury City Council, Dunstable Town Council, Hereford Town Council.

It has been decided that the following councils be analysed in more detail as comparators.

Shrewsbury Town Council,	population 72,000
Weston-super-Mare Town Council,	population 76,143
Lichfield City Council,	population 32,000

The analysis of these three councils is shown at **appendix 4**.

The primary non-financial benefits of a town/parish council derive from the fact that these types of council are the most local level of government. A town council supports the process of devolution of power and is able to provide a range of local support and services within a defined area, such as Sutton Coldfield. A town council supports responsiveness to community needs and interests. Its 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.

The appointment and accountability of local town councillors enables the views and concerns of residents to be gathered, raised and addressed through the town council model. Thus finding local solutions to local problems using a range of influencing and support mechanisms that developed by the town council and the delivery of defined town council service areas, while leaving the responsibility of strategic delivery of services to the principal council.

The democratic value of parish councils covering small neighbourhoods or villages is that the councillors elected to the principal council may represent a much wider area and therefore there is an additional representation specifically for that community. However, in the case of the proposed Sutton Coldfield Town Council there are already 12 councillors representing the wards within the area and sitting on a District Committee to represent Sutton Coldfield as a whole. It is difficult to assess the value of adding a further set of local councillors, because the proposed town council would be unique. It is also not possible to assess the value to service improvement of devolving the

range of services mentioned by the Sutton Coldfield Town Council Referendum Group, as this has not occurred anywhere else and the devolvement of such services is not advisable due to significant legal constraints and risks.

There are challenges of course and potentially the greatest of these would be the view that another layer of local government is bureaucratic and unnecessary. Furthermore, there will be an element of expectation management, in that there may be issues that residents may expect support in that are either outside the remit of the town council or where there are budgetary difficulties in meeting those expectations.

9.0 CONCLUSIONS

9.1 Role of a Town Council

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 consultee in relation to planning, but they are not a Planning Authority. A town council can provide additional services to those provided by the principal council and take on others with the consent of the principal council, such as the service areas shown in section 6.1.

It can also enter into discussions with the principal council about the transfer of existing services, budgets and assets within the areas mentioned in section 6.1. However this is subject to mutual agreement and “Best Value” in law.

A town council can choose not to deliver any services and instead act purely as a means of influencing local service provision made by the principal council or other partners such as the police.

The Localism Act, 2011 provides additional powers for parish councils through the Community Right to Challenge and Neighbourhood Planning.

9.2 Meeting the Aims of Sutton Coldfield Referendum Group

A town council is not a replacement for a principal authority 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 above.

While it is possible for a town council to deliver services outside these areas, there are such legal constraints, challenges and risks involved that would 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 authority.

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.

9.3 Alternative options

In seeking to establish a model that will enable Sutton Coldfield residents to influence local services in order to address local issues there are alternatives to a town council model. Primarily through the wider Birmingham Community Governance Review, mechanisms are being explored to engage local residents in shaping their area through a "Neighbourhood Offer" which may include further support for neighbourhood forums and encouragement to the creation of neighbourhood councils (parish councils with similar powers but at a much more local, neighbourhood level). These would operate within smaller more distinct localities than that covered by a town council – aligning with the diversity of neighbourhoods and communities within Sutton Coldfield district and their different needs and priorities.

The Community Governance Review Group is now considering the best options to enable and support governance and devolution at a local level across the city.

10.0 NEXT STEPS

- 10.1 The information within this report will be used to inform the Birmingham wide Community Governance Review (CGR), including but not restricted to the proposals for a Sutton Coldfield Town Council that was resolved on 19 September 2014.

- 10.2 In conducting the CGR consultation exercise Sutton Coldfield residents will be able to comment on the consultation papers alongside residents from across the city. In addition a People's Panel focus group will be held with members of the Panel who are Sutton Coldfield residents with the purpose of obtaining feedback from residents in relation the wider proposals and whether these would deliver local influence within Sutton Coldfield.
- 10.3 This feedback will be considered along with: the proposals for a wider Birmingham community governance model; strategic priorities and outcomes; economic, efficiency and effectiveness of any model; methods of delivery of community governance.
- 10.4 This feedback will used to inform a Sutton Coldfield proposal for community governance to be put to Sutton Coldfield residents in the summer of 2015 and subject to a further consultation exercise.

Appendix 1
Powers and duties of Parish Councils

Function	Powers and Duties	Statutory Provisions
Allotments	Powers to provide allotments. Duty to provide allotment gardens if demand unsatisfied	Small Holdings and Allotments Act 1908, ss. 23, 26 and 42
Allowances for councillors	Power to pay councillors allowances	Local Authorities (Members' Allowances) (England) Regulations 2003 – England Local Government (Wales) Measure 2011, Part 8 – Wales
Baths and washhouses	Power to provide public baths and washhouses	Public Health Act 1936, ss. 221, 222, 223 and 227
Borrowing	Power to borrow money for statutory functions	Local Government Act 1972 Sch 13
Burial grounds, cemeteries, and crematoria	Power to acquire and maintain Power to provide Power to agree to maintain monuments and memorials Power to contribute towards expenses of cemeteries	Open Spaces Act 1906, ss. 9 and 10; Local Government Act 1972, s. 214; Local Government Act 1972, s. 214; Parish Councils and Burial Authorities (Miscellaneous Provisions) Act 1970, s.1 Local Government Act 1972, s. 214(6)
Bus shelters	Power to provide and maintain shelters	Local Government (Miscellaneous Provisions) Act 1953, s.4

Function	Powers and Duties	Statutory Provisions
Bye Laws	Power to make bye-laws for public walks and pleasure grounds Cycle parks Baths and washhouses Public bathing Hiring of pleasure boats in parks and pleasure grounds Open spaces and burial grounds Mortuaries and post-mortem rooms	Public Health Act 1875, s. 164 Road Traffic Regulation Act 1984, s. 57(7) Public Health Act 1936, s. 223 Public Health Act 1936, s.231 Public Health Amendments Act 1907, s. 44 (2); Public Health Act 1961, s54 Open Spaces Act 1906, s.15 Public Health Act 1936, s. 198
Charities	Duty to receive accounts of parochial charities Power to appoint trustees of parochial charities Power to act as trustee of non-ecclesiastical charity	Charities Act 1960, s. 32 Charities Act 1992, s.79 Charities Act 2011, ss.298-303 Local Government Act 1972, s.139(1)
Clocks	Power to provide public clocks	Parish Councils Act 1957, s. 2
Closed churchyards	Powers as to maintenance	Local Government Act 1972, s. 215
Commons and common pastures	Powers in relation to inclosure, as to regulation and management, and as to providing common pasture Power to protect unclaimed common land from unlawful interference	Inclosure Act 1845; Local Government Act 1894, s. 8(4); Smallholdings and Allotments Act 1908, s. 34 Commons Registration Act 1965, s.9
Community Right to Challenge	Power to submit an expression of interest in running a service provided by a principal council	Localism Act 2011, ss. 81-86

Function	Powers and Duties	Statutory Provisions
Conference facilities	Power to provide and encourage the use of facilities	Local Government Act 1972, s. 144
Community centres and village halls	Power to provide and equip buildings for use of clubs having athletic, social or educational objectives	Local Government (Miscellaneous Provisions) Act 1976, s. 19
Crime prevention	Powers to spend money on various crime prevention measures	Local Government and Rating Act 1997, s.31
Delegated Functions	Power to assume a function delegated by another Authority Power to ensure effective discharge of Council functions Power to employ someone to carry out Council functions	Local Government Act 1972, ss.101, 111 & 112
Dog control orders	Power to make orders for dog control offences for land in the council's area Power to issue fixed penalty notices for offences committed under dog control orders	Clean Neighbourhoods and Environment Act 2005, s. 55 Clean Neighbourhoods and Environment Act 2005, s. 59
Drainage	Power to deal with ponds and ditches	Public Health Act 1936, s. 260
Entertainment and the arts	Provision of entertainment and support of the arts	Local Government Act 1972, s. 145
General Power of Competence - England	Power for an eligible council to do anything subject to statutory prohibitions, restrictions,	Localism Act 2011, ss. 1-8

Function	Powers and Duties	Statutory Provisions
	and limitations which include those in place before or after the introduction of the General Power of Competence	
Gifts	Power to accept	Local Government Act 1972, s. 139
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 motor-cycles</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 Highway 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>	<p>Highways Act 1980, ss. 43, 50</p> <p>Parish Councils Act 1957, s. 3; Highways Act 1980, s. 301 Local Government Act 1972, Sch.14 para 27 Litter Act 1983, ss. 5, 6</p> <p>Road Traffic Regulation Act 1984 ss. 57, 63 Highways Act 1980, ss. 30, 72</p> <p>Parish Councils Act 1957, s. 1 Highways Act 1980, ss. 47, 116 Highways Act 1980, s. 130</p> <p>Road Traffic Regulation Act 1984, s. 72 Highways Act, 1980, s. 96</p>
Investments	Power to participate in schemes of collective investment	Trustee Investments Act 1961, s. 11

Function	Powers and Duties	Statutory Provisions
Land	Power to acquire by agreement, to appropriate, to dispose of Power to accept gifts of land	Local Government Act 1972 ss. 124, 126, 127 Local Government Act 1972, s. 139
Lighting	Power to light roads and public places	Parish Councils Act 1957, s. 3; Highways Act 1980
Litter	Provision of receptacles	Litter Act 1983, ss. 5, 6
Lotteries	Powers to promote	Lotteries and Amusements Act 1976, s. 7
Mortuaries and post-mortem rooms	Power to provide mortuaries and post-mortem rooms	Public Health Act 1936, s. 198
Nuisances	Power to deal with offensive ditches	Public Health Act 1936, s. 260
Open spaces	Power to acquire land and maintain	Public Health Act 1875, s. 164; Open Spaces Act 1906, ss. 9 & 10
Parish property and documents	Powers to direct as to their custody	Local Government Act 1972, s. 226
Postal and telecommunications 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 telecommunications facilities	Post Office Act 1953, s. 51; Telecommunications Act 1984, s. 97
Public buildings and village	Power to provide buildings for offices and for	Local Government Act 1972, s. 133

Function	Powers and Duties	Statutory Provisions
halls	public meetings and assemblies	
Public conveniences	Power to provide	Public Health Act 1936, s. 87
Raising of finance	Power to raise money through a precept	Local Government Finance Act 1992, s.41
Records	Power to collect, exhibit and purchase local records	Local Government (Records) Act 1962, ss. 1 and 2
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	Public Health Act 1875, s. 164; Local Government Act 1972, Sch. 14, para 27; Public Health Acts Amendment Act 1890 s. 44; Open Spaces Act 1906, ss. 9 and 10; Local Government (Miscellaneous Provisions) Act 1976, s. 19 Public Health Act 1961, s. 54
Town and Country Planning	Right to be notified of planning applications	Town and Country Planning Act 1990, Sch. 1, para 8
Tourism	Power to contribute to the encouragement of tourism	Local Government Act 1972, s. 144
Traffic calming	Powers to contribute financially to traffic calming schemes	Local Government and Rating act 1997, s.26
Transport	Powers to spend money on community transport schemes	Local Government and Rating Act 1997, s.26-29
War memorials	Power to maintain, repair, protect and adapt	War Memorials (Local Authorities'

Function	Powers and Duties	Statutory Provisions
	war memorials	Powers) Act 1923, s. 1; as extended by Local Government Act 1948, s. 133
Water supply	Power to utilise well, spring or stream and to provide facilities for obtaining water therefrom	Public Health Act 1936, s. 125

This list is based on the Department of Environment Consultation Paper, "The Role of Parish and Town Councils in England" August 1992.

This is not a comprehensive list. It has been cross checked with the information provided by the National Association of Local Councils (NALC). The full list, including reference to legislation is contained in the report *Local Councils Explained* (2013), which is available to purchase from NALC.

Appendix 2

The aims of the Sutton Coldfield Town Council Referendum Group are detailed on their website at <http://www.suttoncoldfieldtowncouncil.com/index.asp>. These are detailed below along with our responses:

Our wishes are that any proposed structure includes strong local accountability on the following:

- **Setting up of legalised Town Council, along with significant major powers from the primary authority [Birmingham] covering the issues below.**

*Response: a list of the statutory powers and duties exercisable by a parish/town council is set out in the table in **Appendix 1**.*

When a town council (e.g. Sutton Coldfield) is formed it can enter into discussions with the principal council (Birmingham City Council) about the transfer of services, budgets) and assets within the areas mentioned above. However this is subject to mutual agreement.

Any such transfer would require the principal authority to demonstrate best value (for instance would it be more efficient, effective, economic to deliver services strategically, by the town council, or through a commissioning model) and consideration would need to be given to any debts or liabilities associated with those services or assets.

There are legal constraints and risks to the transfer of any services, budgets and assets outside those areas mentioned above, from the principal authority to the town council. Therefore, a town council will not operate as a council that would hold the budget for and deliver virtually all local services, that is the role of the principal authority.

While it is possible for Birmingham City Council to arrange for the discharge of any of its functions by any other “local authority”, such devolution may not be advisable for the following reasons:

- *Both section 101 of Local Government Act 1972 (“1972 Act”) and the general power of competence in the Localism Act 2011 include significant caveats to prevent the untrammelled devolution of powers and services. In considering the transfer of powers and duties there would need to be detailed analysis of every piece of legislation covering each power, this would take a significant amount of time and would therefore be very expensive.*
- *There are potentially two definitions of “local authority” within the 1972 Act – one at s.270 and another at s.101 (13) which may be inconsistent and prevent a parish/town council exercising certain functions. This matter may have to be tested in the courts.*
- *No other parish/town etc. council to our knowledge has devolved powers in addition to the statutory list shown in **Appendix 1***

- *To our knowledge the issue of devolvement of powers to a parish/town council has not been as yet been considered by the courts. This means that any decision to devolve extra powers to Sutton Coldfield would potentially be the first case to come before the courts if litigation arose. Hence there is a significant risk of judicial review and the outcome is not certain.*
- *In any event, there would not be a true devolution of powers, as s.101 of the 1972 Act was designed to allow for a situation where, in certain circumstances, the exercise of the power would revert automatically to the principal authority (ie Birmingham City Council).*
- *There is potentially an easier, less legally contentious, and cheaper method of achieving the aim of devolving extra powers to a local level via the establishment of a Committee of Birmingham City Council. A proportion of the membership of the committee could be made up of certain Sutton Coldfield Town Councillors.*
- *However, within the Kerslake Review there is a clear direction that District Committees should not be responsible for delivering services or managing them through Service Level Agreements. One can logically extend this clarification to indicate that Kerslake's view is that devolvement of services should not be the focus of Birmingham's new model for devolution.*

Other factors:

Kerslake suggests that if District Committees are to be retained, they should be refocused on shaping and leading their local areas through influence, representation and independent challenge of all public services located in the District, including those of the council; and that the Districts should be provided with a modest commissioning budget to purchase additional services that help meet local priorities. Services commissioned will not necessarily need to be managed or provided by the council. They will need to effectively manage their own finances and meetings must be open to the public and outside of the town hall;

The suggestions made in the paragraph above clearly mirror the role and aspirations of parish/town councils across the country in the raising of a precept and their support for local issues without the devolvement of significant powers or services.

Birmingham City Council within its Community Governance Review for the whole city has sought to reflect the recommendations made by Kerslake and its own and citizens aspirations for local devolution. As such the proposal put forward in the "Community Governance in Birmingham: The Next Decade" identifies a way forward for all of Birmingham that is an alternative to the town council model, while delivering the real local governance outcomes for citizens.

- **Sutton Coldfield Planning Department, with full planning authority within the Sutton Border. Located in Sutton.**

Response: Birmingham City Council is the legal Planning Authority for the Birmingham area. This requirement cannot be delivered by any other local authority as this a statutory duty that must remain with Birmingham City Council. A town council will have the right to be notified of and consulted on planning applications.

- **All council owned land including Green Belt transferred to Sutton control**

Response: Council owned land is a strategic asset of Birmingham City Council. Current and future use of the land is informed by Birmingham's Development Plan "Birmingham Plan 2031" The council owned land in Sutton Coldfield therefore forms part of the overall strategic plan for development of the City. The transfer of some specific sites could be investigated further; but such transfer would have to be made at best value.

- **Legal affirmation, consolidation, and control of existing Sutton border**

Response; The Boundary Commission and the Local Government Boundary Commission for England determines the boundaries of constituencies and wards in England and not the Principal area (or Town Council). As is currently the case any Principal Area (or Town Council), as well as any other interested stakeholder, can make representations to the Boundary Commission on any proposals or changes to a ward/Constituency or even on reviews between local authority boundaries.

- **Legal affirmation and control of Sutton Green Belt, Public Realm and Open Spaces**

Response: Parish/town councils have the power to acquire and maintain land by agreement for the purpose of providing for recreation and open space, such powers would not allow the parish/town council to control the green belt, public realm or open spaces.

The transfer and control of land within the boundaries of any new town council can only be done with the mutual agreement of the principal and town council.

- **Full Local Accountability: Transfer of significant funding authority**

Response: Parish/town councils are separate legal bodies, responsible for their own finances. They receive their funding by making an annual charge, called a precept. This means that council tax bills for residents who have parish or town councils in their areas will include an amount for running them.

There would not be a significant transfer of funds from Birmingham City Council. However, where there is mutual agreement for the transfer of some services to the town council (within their statutory powers) then there may be transfer of assets and budgets. The main funding for a parish/town council comes from the precept.

- **Local Planning Authority with power to create a Neighbourhood Plan for the whole of Sutton Coldfield and its Green Belt, against which all planning decisions would legally have due regard**

Response: A parish/town council could create a neighbourhood plan for part, parts or the whole of Sutton Coldfield, but such a plan would be subject to the provisions of the Birmingham Development Plan and National Planning Policy Framework i.e. NPPF

- **Sutton to have full planning control and ownership of Broadway Malvan Town Plan, and of the eventual re-development of its centre. Currently certain aspects are based on City Centre type standards, not suitable for Sutton.**

Response: A parish/town council has the right to be consulted in relation to such development proposals, this can influence such development, a Neighbourhood Plan could set out agreed proposals for the town centre, but such proposal would be subject to agreement by the local Planning Authority subject to the requirements of the Birmingham Development Plan and National Planning Policy Framework.

- **Sutton to have its own local council officers located in Sutton, Officers located in Birmingham will simply implement Birmingham policies and control.**

The precept raised by the town council can be used to employ staff. These staff can be located within Sutton Coldfield to carry out services provided by the town council.

- **Element of local control of education with control of school entry allocation. Local ownership and control of school playing fields.**

The local authority's functions relating to school admissions and the ownership/control of school playing fields are prescribed in the Education Act 1996, the School Standards and Framework Act 1998 and associated Regulations and statutory guidance. The local authority cannot, as suggested, delegate these functions to a Town Council. For school admissions, the local authority is the admission authority for community and voluntary controlled schools, unless the function has been delegated to the school governing body. For foundation schools (including Trust schools), voluntary-aided schools and Academies, governing bodies/Academy Trusts are the admission authority. In its role as landlord for community schools, the local authority has a statutory obligation (Education Act 1996) to ensure that schools have playing fields of the appropriate standards.

- **New Authority to have General Power of Competence, and manage and control council owned car parks with ownership of income, and share proceeds of any subsequent development.**

The General Power of Competence (GPC) was introduced by the Localism Act 2011 and took effect in February 2012. In simple terms, it gives councils the power to do anything an individual can do provided it is not prohibited by other legislation. It applies to all principal councils (district, county and unitary councils etc.). It also applies to eligible parish and town councils.

Section 101 of the Local Government Act 1972 and the general powers of competence in the Localism Act 2011 are lodged with significant caveats to prevent untrammelled devolution of powers and services. In order to find out which powers or duties could be transferred to a Parish Council, would have to be detailed analysis of every piece of legislation covering each power.

One that may be specific caveat of the GPC may be relevant in relation to the stated aspiration:

Where using the GPC for charging or trading purposes, the recipient should agree to the service being provided, the income from charges should not exceed the cost of provision and, where things are done for commercial purposes, this must be done through a specified type of company.

With regard to the management and control of current Birmingham City Council car parks in Sutton Coldfield, There is no specific power in place for a parish/town council to take ownership of car parks. This matter would need to be negotiated and mutually agreed.

- **Highways: Authority to have input and element of authority and consultation with contractors on roads, pavement, street lighting and tree planting policy.**

Highways maintenance and management within Birmingham is undertaken under the Highways Maintenance and Management Private Finance Initiative (HMMPFI) contract with Amey Birmingham Highways Limited (ABHL). It makes provision for ABHL to consult with Constituency Committees (ie now District Committees) on their Service Provider Programmes (which includes Annual Programmes).

ABHL is responsible for achieving the investment in and maintenance of the Project Network e. all highways/footways maintenance at public expense and street lighting columns and signs throughout the Council's area.

This contract commenced in June 2010 and is for 25 years. Any amendment to the contract to establish new consultation mechanisms would be subject to the High Value Change mechanism in the contract. Such a change would require agreement by the senior lenders and there would therefore be a significant financial cost to making a change of this type.

The impact of such a change may raise a risk in maintaining a unified City wide standard across the rest of the city.

It is therefore unlikely that a Sutton Coldfield Town Council would be able to exert the desired influence except through discussion with the District Committee, without there being an amendment to the contract.

- **Sutton Control of All Signage.**

The income from a precept could be used to purchase enhanced/specific signage. The erection of such signs would be subject to planning approval. It should be noted that Sutton Coldfield Business Improvement District have also contributed to the erection of signage.

- **New Authority to have input on main railway station on condition, and historic appearance.**

Response: A Parish Council will have no control over the main Railway station; the station would be subject to the control of Network Rail and development proposals subject to local Planning Authority control.

- **New Authority to have major control of refuse disposal and wheelie bins**

Response: A parish/town council does not have statutory powers in relation to refuse collection and disposal. However, it does have powers in the area of provision of litter bins. It may therefore use the funding derived from the local precept in relation to this matter. Any extra litter bin provision would require negotiation with Birmingham City Council or any other provider to pay for them to be emptied at a frequency to be determined. Furthermore, Birmingham City Council is in a contract with Veolia Environmental Services Birmingham until 2019 with regard to the disposal of waste/refuse. As such the waste in a town council provided litter bin would be subject to Birmingham City Council's waste disposal contract and must be delivered into that contract and appropriate contract costs paid.

- **New Authority to have major role over preservation of current leisure services. Playing fields and sports grounds**

Response: A parish/town council has the power to encourage and make use of and provide conference facilities, power to provide and equip buildings for use of clubs having athlete, social or recreational activities. Provision of entertainment and support of the arts. Can acquire land for recreational purposes.

The current leisure facilities in Birmingham are strategically delivered. A town council would be able to make representation to Birmingham City Council with regard to those facilities, but this would not translate to a "major role" – A town council is a key stakeholder but would not be the deliverer of the current provision

New Authority to have control over running and protection of Sutton Park

Response: Parish/town councils have the power to acquire and maintain land by agreement for the purpose of providing for recreation and open space, such powers would not allow the parish/town council to control the green belt, public realm or open spaces.

The transfer and control of land within the boundaries of any new town council can only be done with the mutual agreement of the principal and town council.

- **New Authority to have major input to all medical services.**

Response: A parish/town council has no right or automatic role in the matter of medical service provision. This is outside the remit of Birmingham City Council to comment on.

- **New Authority to have major role over police and fire service locations and operation.**

Response: A parish/town council has no right or automatic role in the matter of police and fire service provision. This is outside the remit of Birmingham City Council to comment on.

- **New Authority to have full control over ownership of Sutton Town Hall and Council House, its approaches and grounds**

Response: This would have to be considered in the same manner as other assets taking into account the wider financial context and the risks and forward business plans associated with the building.

Appendix 3

Sutton Town Council – Income Generation Through Local Precept

Local Precept

Each year, a Town Council produces its business plan which identifies the priorities for the coming year (direct and support services to be delivered) underwritten by the financial plan detailing how these will be funded through income (fees and charges, grant etc.).

The shortage in funding between planned expenditure and income to deliver priority services, including civic and democratic support services, is raised through a council tax known as a “local precept”.

Town Councils can instruct their billing authority to collect this local precept on their behalf. It is worth emphasising, that this precept is payable in addition to the Council Tax set by the billing authority, Birmingham City Council.

Sutton Coldfield Town Council - Precept Calculation

There is a set formula to calculate the local precept, based on the number of equivalent band D properties.

Firstly, the number of domestic “dwellings on valuation list” is established, of which there are 41,403 in Sutton Coldfield. This number is then adjusted to take account of estimated relief and council tax discounts etc. to arrive at the “equivalent number of chargeable dwellings” and in the case of Sutton Coldfield, this number is 33,909.

The statutory proportion and a 2.9% reduction for non-collection (based on Citywide) is then applied to arrive at the number of “equivalent band D properties” of which there are 36,128 in Sutton Coldfield, as summarised in Table 1 below

Table 1: Sutton Coldfield Town Council - Precept Calculation

Tax Band	*Dwellings on Valuation List	**Equivalent Number of Chargeable Dwellings	Statutory Proportion	***Equivalent Band D Properties
Band AR	0	1	5/9	1
Band A	3,323	1,602	6/9	1,037
Band B	5,565	3,846	7/9	2,904
Band C	7,419	5,890	8/9	5,084
Band D	9,621	8,314	1	8,073
Band E	8,516	7,736	11/9	9,181
Band F	4,032	3,765	13/9	5,280
Band G	2,564	2,416	15/9	3,910
Band H	363	339	18/9	658
	41,403	33,909	0	36,128

* data source:2014/15 tax base (best information currently available)

**after estimated adjustments and discounts

*** after statutory proportion and a 2.9% reduction for non-collection

Sutton Coldfield Town Council – Estimated Total Local Precept Yield

The Tax Base for Sutton Coldfield Town Council is estimated at 36,128 band D Equivalent properties. The precept yield, therefore, for each £10 levied would be £361,280 as summarised in Table 2 below.

At the national average of a £50 precept, the estimated total precept for Sutton Town Council would be in the region of £1.8m

Table 2: Sutton Coldfield Town Council - Estimated Total Local Precept Yield

Local Precept	Tax Base (Band D Equivalent Properties)	Estimated Total Local Precept
£10	36,128	£361,280
£20	36,128	£722,560
£30	36,128	£1,083,840
£40	36,128	£1,445,120
£50	36,128	£1,806,400

Sutton Coldfield Town Council – Estimated Local Precept Per Household

As in the case of Council Tax, the local precept payable by households will vary according to the tax band of the property they live in.

Worked Example

If a precept of £50 is set for a given year, a household in a Band D property would pay £50 compared to a household 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).

Table 3: Sutton Town Council – Local Precept Per Household

Tax Band	Statutory Proportion (fraction)	Statutory Proportion (percentage)	Precept £				
Band AR	5/9	56%	6	11	17	22	28
Band A	6/9	67%	7	13	20	27	33
Band B	7/9	78%	8	16	23	31	39
Band C	8/9	89%	9	18	27	36	44
Band D	1	100%	10	20	30	40	50
Band E	11/9	122%	12	24	37	49	61
Band F	13/9	144%	14	29	43	58	72
Band G	15/9	167%	17	33	50	67	83
Band H	18/9	200%	20	40	60	80	100

Appendix 4

Council	Lichfield City Council (2013/14)	Shrewsbury Town Council (2013/14)	Weston-Super- Mare Town Council (2013/14)
Population size	32,000	72,000	76,143
Established (Year)	1980	2009	2000
Total Expenditure	£923,538	£3,552,142	£1,719,958
Total Income	-£251,822	-2,329,988	-£231,475
Other Grant from Billing Authority	£0	-£269,500	£0
Contribution from reserves	-£33,116	£0	£0
Net Expenditure	£638,600	£952,654	£1,488,483
Resources to make good loss of Council Tax Support Grant paid up until 2012/13	-£43,279	-£104,256	-£238,730
Net Precept Requirement	£595,321	£848,398	£1,249,753
Number of Band D Households (after localisation of council tax benefit)	11,309	21,269	22,441
Precept – Band D	£52.64	£39.89	£55.69
Basic Running Costs (democratic, management, administrative and civic costs)	£144,913	£447,858	£159,011
Percentage of basic running costs to gross expenditure	15.7%	12.6%	9.2%
Balances and General Fund and Earmarked Reserves	£671,508	£3,149,911	£4,000,000
Mayor and Deputy Mayor	£7,347 (including Sheriff allowance)	£6,500	£4,365
Number of Members	28	17	31
Remuneration (in total)	Volunteers	£17,000	Volunteers
Management Team	2 (Town Clerk, Asst. Town Clerk)	3 (Town Clerk, Operations Manager, RFO)	3 (Town Clerk, Asst. Town Clerk, RFO)
Number of Staff	13	71	23

Council	Lichfield City Council (2013/14)	Shrewsbury Town Council (2013/14)	Weston-Super- Mare Town Council (2013/14)
Services Delivered	<ul style="list-style-type: none"> • Allotments • Christmas lights • Civic role - social/cultural exchanges with twin cities • Community facilities – Guildhall, community hall • Grants for local organisations • Planning consultees • Public amenities - benches, bus shelters, footpaths, highway verges, street lighting, • Maintenance of open spaces - parks, green space, play areas, sports pitches, etc. • Markets (owned) 	<ul style="list-style-type: none"> • Allotments • Public amenities - bus shelters, highway verges, public toilets, street lighting • Community facilities • Maintenance of open spaces - parks, green space, play areas, sports pitches, horticultural services, etc. • Planning consultees • Markets 	<ul style="list-style-type: none"> • Allotments – administration and running handed to Weston Allotment Club • Cemeteries – General Powers of Management • Maintenance of open spaces - parks, green space, play areas, sports pitches, etc.some owned, some leased from North Somerset Council • Planning consultees • Public amenities – bus shelters, CCTV, dog bins, noticeboards • Youth services – helped form youth council
Contracted Services?		<ul style="list-style-type: none"> • Grounds maintenance to Shropshire via a SLA 	<ul style="list-style-type: none"> • Tourism Services contracted to consultant • Youth Café to YMCA on SLA
Set up costs?		100,000	Minimal - started with 3 people due to only allotments being devolved