

**Decision Report – Leader of the Council  
Decision**



Forward Plan Reference: FP/24/03/09

Decision Date – 27 March 2024

Key Decision – Yes

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**Asset and Service Devolution to Bridgwater Town Council**

Executive Member(s): Cllr Bill Revans – Leader of the Council

Lead Members: Cllr Federica Smith-Roberts - Lead Member for Communities, Housing and Culture and Cllr Ros Wyke – Lead Member for Economic Development, Planning & Assets

Local Member(s) and Division: Cllr Andy Dingwall & Cllr Diogo Rodrigues (Bridgwater East & Bawdrip), Cllr Hilary Bruce & Cllr Leigh Redman (Bridgwater North & Central), Cllr Kathy Pearce & Cllr Brian Smedley (Bridgwater South) and Cllr Lance Duddridge & Cllr Gill Slocombe (Bridgwater West)

Lead Officer: Sarah Dowden Service Director Regulatory and Operational

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**Summary**

- 1.1** This report is to advise members on Devolution of Operations and Services to Bridgwater Town Council. Somerset Council and Bridgwater Town Council are working towards a handover period of 1 May 2024.
- 1.2** As part of the transition from 5 Councils to the new Somerset Council (SC) in 2023 a pilot study for the devolution of assets and services was undertaken with Bridgwater Town Council (BTC). This pilot clearly demonstrated the ambition of the Town Council to deliver for its community but also the challenges of seeking to progress the devolution of assets or services in the absence of a clearly defined procedure and framework and limited cost data to help support a sound business case.
- 1.3** Since vesting day, the financial situation Somerset Council is in has led to further conversations with Bridgwater Town Council to understand what other services Somerset Council could devolve to them. Both SC and BWTC have worked through these options, and they can be found in appendix 2.
- 1.4** Devolving services to BWTC will help to protect those services for the communities they serve.

**Recommendations**

- 2.1 That the Leader of the Council agrees:**

- a. To devolve Operational Services listed in Appendix 2, covering the area within Appendix 1 to Bridgwater Town Council, in line with the Council's adopted Asset and Services Devolution Framework from 1<sup>st</sup> May 2024.
- b. To transfer equipment, as required, to Bridgwater Town Council, ready for those operational services from 1<sup>st</sup> May 2024.
- c. To transfer the assets included in Appendix 1, with the site plans in Appendix 5, as soon as practical following 1<sup>st</sup> May 2024 and to delegate to the Service Director - Strategic Asset Management and the Head of Legal to conclude terms and execute the transfers.

**\* Note – the Leader of the Council and Lead Member for Governance & Communications, the Chair of Scrutiny Committee – Corporate & Resources and the Chair of Scrutiny Committee – Communities has agreed the use of special urgency and urgent implementation to enable this decision to be taken and implemented immediately.**

### **Reasons for recommendations**

- 3.1** Executive Members support the principle for devolution of assets and services to Town, City and Parish Councils.
- 3.2** Officers have worked collaboratively with Bridgwater Town Council.
- 3.3** Due diligence has been carried out for the disposing authority (Somerset Council) and also for Bridgwater Town Council
- 3.4** Any further devolution of assets and services will be subject to a separate decision-making process.
- 3.5** All transfers are based on the condition at the transfer date and offered at nil consideration.

### **Other Options Considered**

- 4.1** Other options included not progressing with Devolution at all in this area.
- 4.2** Given the financial position of the council the above option has been dismissed. In addition, the service area could reduce the level of service it provides to make a saving, but that would be a less favourable position for

both the community in terms of service delivery and the Council in terms of the financial saving.

### **Links to Council Plan and Medium-Term Financial Plan**

- 5.1** Devolution of services is part of Somerset Council's plan, and the Asset and Services Devolution Framework was adopted in January 2024.
- 5.2** A Fairer, Ambitious Somerset -  
City, town and parish councils are well placed to understand their local communities and run their services to support this. A stated priority for Somerset Council is to reduce the inequalities that cause these disparities, so that everyone in Somerset can live their lives as they choose.
- 5.3** A Flourishing and Resilient Somerset -  
Devolution of services to City, town and parish councils give these organisations the freedom to invest in their key open spaces and high streets to support the existing economy, increase the number of events and encourage visitors. Insourcing operations, either through Somerset Council or city, town and parish councils, contributes to economic stability by managing costs effectively. It supports the development of a skilled workforce and local opportunities, aligning with the council's goal of promoting a stable and flourishing economy.

### **Financial and Risk Implications**

- 6.1** Officers have worked collectively with BTC to build a budget for running the services listed in the appendix. Through this process, officers have been able to estimate that devolution of services to BTC will bring a full year saving of circa £323,900 per annum for Regulatory and Operational Services. This is mainly made up of salaries, operational costs such as waste disposal, consumables and general maintenance, plant and machinery maintenance.
- 6.2** The service will work with the finance team to ensure the appropriate adjustments are made to the in year budgets to reflect the 11/12<sup>ths</sup> saving in 2024/25.
- 6.3** Further savings for the wider authority will be achieved from reduced transport costs, but these are not included here as these budgets do not sit within Regulatory and Operational Services.
- 6.4** Transfers for operational services are to be made on the 1st May with the responsibility for services being undertaken by the Town Council from then regardless of the final transfer of the Assets.

Key Risks

**Reduced Service Quality**

As a much smaller council, BTC will not have access to the same resources or expertise as a unitary authority. This could potentially lead to decreased efficiency in service delivery, or issues in addressing community needs.

<b>Likelihood</b>	<b>2</b>	<b>Impact</b>	<b>4</b>	<b>Risk Score</b>	<b>8</b>
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Somerset Council staff are supporting BTC colleagues to understand budget, staffing and service requirements in detail. Operational Services team will also support handover to the new BTC and be ready to step in if required.

Town Councils also have no cap on their council tax, so can raise their precept if required to allow wider expansion or more investment in services.

**Fragmentation of Services**

Devolving services to town councils could result in fragmentation, with different councils responsible for different services. This could lead to coordination challenges and inconsistencies in service provision across the County.

<b>Likelihood</b>	<b>4</b>	<b>Impact</b>	<b>2</b>	<b>Risk Score</b>	<b>8</b>
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Somerset Council are supporting BTC on a proactive comms plan which sets out who will be doing what in the town following devolution.

All Council owned land is GIS mapped and these maps have also been shared with BTC.

**Lack of Capacity**

As a smaller council, BTC may lack the capacity to effectively manage certain services, particularly those that require specialized expertise or resources. This could result in gaps in service provision or sub-par service quality.

<b>Likelihood</b>	<b>2</b>	<b>Impact</b>	<b>3</b>	<b>Risk Score</b>	<b>6</b>
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Somerset Council staff are supporting BTC colleagues to understand budget, staffing and service requirements in detail. Operational Services team will also support handover to the new BTC, and be available to lend support and advice if required,

Town Councils also have no cap on their council tax, so can raise their precept if required to allow wider expansion or more investment in services.

**Delayed Transfer of Asset Ownership**

With a growing devolution programme, there is pressure on Asset and Legal services to complete asset transfers. This may result in a backlog, and BTC may take on maintenance on land and assets of which they will

not own for some time. This may cause frustration and discontent, and at worst breakdown of relationship.					
<b>Likelihood</b>	<b>3</b>	<b>Impact</b>	<b>4</b>	<b>Risk Score</b>	<b>12</b>
As a devolution pilot, asset transfer is progressing well and devolution of BTC is being treated as a priority. There is also a £600k fund being made available from reserves to support the devolution process, which can be used to increase legal resources where required.					

<b>Somerset Council as Accountable Authority for Street Cleansing</b>					
Street Cleansing is a statutory function, and although the service will be devolved, Somerset will remain the accountable authority.					
<b>Likelihood</b>	<b>2</b>	<b>Impact</b>	<b>4</b>	<b>Risk Score</b>	<b>8</b>
Somerset Council have worked with BTC to ensure all street cleansing requirements are understood, and BTC are employing suitably qualified people to undertake the service. All work will still be undertaken in accordance to the <a href="#">DEFRA Code of Practice on Litter and Refuse</a>					

**Legal Implications**

**7.1** The transfer of assets into the ownership of BTC will be subject to a formal legal process. This process is underway and is being led by the Council’s Strategic Asset Management and Legal teams. All existing covenants and restrictions on any open spaces will remain in place as part of the transfer.

**HR Implications**

**8.1** Under TUPE regulations, the Council as the current employer is obliged to identify posts that are subject to a TUPE transfer to the new employer. A consultation process is underway with those staff who are impacted, and timeline for the consultation has been prepared and shared with Bridgwater Town Council. It can be found in Appendix 4.

**9.1 Other Implications**

BTC have suggested they may wish to rent a space at the Council’s depot in Colley Lane to store a Heavy Goods Vehicle sweeper and a small amount of equipment. The space required amounts to the equivalent to three parking spaces and operational staff feel that there is the room to allow this. If BTC wish to pursue this, there will need to be a basic lease agreement drawn up and signed.

**Equalities Implications**

**9.2** Under TUPE regulations, the Council as the current employer is obliged to identify posts that are subject to a TUPE transfer to the new employer. A consultation process is underway with those staff who are impacted, and

timeline for the consultation has been prepared and shared with Bridgwater Town Council. It can be found in Appendix 4.

An equality impact assessment has been completed and is attached to Appendix 3.

### **Community Safety Implications**

- 9.3** Community Safety as a service is not being devolved to BTC. Devolution of services and assets to Bridgwater Town Council will not bring negative impacts on the community. The Town Council will continue to maintain and protect assets as the local authority have done in the past.

Bridgwater Town Council are already part of a long established community safety partnership within Bridgwater Town centre area, and are therefore well placed to continue to support the community safety work in the town.

Somerset Council and BTC will continue to share data and statistics to support the common approach of improving community safety within the town centre area.

### **Climate Change and Sustainability Implications**

- 9.4** Devolution of key urban open spaces does give Somerset Council less control over key urban sites, and consistency on nature friendly grassland management and tree planting and maintenance may be reduced. This could lessen the Council's wider impact on nature recovery. However, the Council's Climate Emergency Strategy, Tree Strategy and Local Nature Recovery Strategy identify city, town and parish councils as key partners in the delivery of these agendas.

### **Health and Safety Implications**

- 9.5** In this proposal SC is handing over the responsibility and risk to BTC. The Town Council are aware of their Health and Safety obligations not only to those staff who are transferring to the town council but also towards those members of the public who use the parks and open spaces under their control.

BTC will need to ensure operations conform with legislation, largely but not limited to the Environmental Protection Act 1990 and Health and Safety at Work etc Act 1974. The Council has the General Power of Competence so does not need to concern itself with other powers available to local councils to take on the services outlined in the appendix.

Officers have worked closely with colleagues at the town council and are assured that BTC are aware of the health and safety impacts and have measures in place to manage any risk.

### **Health and Wellbeing Implications**

- 9.6** Somerset council is committed to a formal TUPE consultation process that supports our staff who will be impacted by this devolution. The service and HR are working through this process, alongside the Town Council to ensure the transfer is successful.

### **Social Value**

- 9.7** There is no procurement or commissioning process related to this report, and therefore no social value implications.

### **Scrutiny comments / recommendations:**

- 10.1** The Asset and Services Devolution Framework was considered by Scrutiny Committee – Corporate and Resources on 5<sup>th</sup> December 2023.

### **Background**

- 11.1** Sedgemoor District Council, Somerset County Council and since unitary, Somerset Council, has been in discussions with Bridgwater Town Council on asset and service devolution since November 2021.
- 11.2** A pilot programme was established by the former Somerset County Council and Sedgemoor District Council and in December 2022, agreement was reached for SDC and SCC to devolve the following assets and services to BTC:
- Mansfield Park
  - St Matthew's Field and Fair
  - Blake Gardens
  - Victoria Park
  - Eastover Park/Cranleigh Gardens
  - King Square
  - Market Rights and on-street trading concessions
  - West St Market (part of the fair)
  - Rollercoaster (former SCC assets)
  - The Docks and associated public realm (former SCC assets) to transfer in 2025/26)

**11.3** Following the Council's financial emergency, officers have been working with BTC to agree a further round of asset and service devolution, to transfer on May 1st 2024. This includes:

- 11.4**
- Street Cleaning across Bridgwater including highway channels and litter removal from verges
  - Fly tipping
  - Provision and collection of litter bins and dog waste bins
  - Carnival clean-up
  - Bedding planting
  - Management and maintenance of open spaces assets, including both green spaces as well as "hard" open spaces
  - Grass cutting and open spaces management
  - Play areas
  - Trees on Council owned land
  - Grass cutting in Wembdon Road Cemetery and St Mary's Church (however responsibility and maintenance of paths and walls will rest with Somerset Council)
  - Winter services, such as filling grit bins
  - Roadside verges maintenance including grass cutting
  - Vegetation clearance and cutting on the Rights of Way network
  - Road Sweeping across Drain jetting/Gully cleansing
  - Non-illuminated sign cleaning and maintenance
  - Weed treatment
  - Minor Highways functions such as footway and footpath repairs
  - Blake Gardens' toilets

Somerset will be also granting a license to occupy part of Colley Lane depot (see 9.1 above).

**11.5** In order to achieve this, officers from Somerset Council have been working with colleagues from BTC to support the building of an annual budget for these works, as well as identify the necessary amount of plant and machinery required.

These works will need to be delivered in line with relevant guidance and legislation, including the Health and Safety Act 1974, the Environmental Protection Act 1990 and DEFRA Code of Practice on Litter and Refuse. BTC are providing relevant training to existing staff and are recruiting for further qualified staff to allow them to safely undertake services. Through this process, Somerset Council have been assured that BTC will have everything required to meet any statutory or legal requirements when delivering services.



In February 2024, Full Council at BTC approved the devolution programme in full, as well as an increase in the town council precept to fund the provision of additional services. A date of 1<sup>st</sup> May 2024 was also agreed for the devolution of services to complete.

It should be noted that whilst all services will devolve on 1/5/2024, the legal transfer of some assets will not follow until afterwards. This is largely due to capacity and the time required to complete asset transfers. Somerset Council and BTC have agreed that outstanding asset transfers should not hold up the service devolution element.

Under TUPE regulations, the Council as the current employer is obliged to identify posts that are subject to a TUPE transfer to the new employer. The Council has identified 10 posts that will be TUPEd across to BTC on the 1<sup>st</sup> May 2024. Of these 10 posts, 6 are either vacant or filled by agency staff. Therefore although 10 posts will transfer across to BTC under TUPE, only 4 are currently filled by Somerset Council staff.

- 11.6** The Asset Management Group (AMG) has been informed of the programme of asset transfers assets and the 6 open/green spaces and the Rollercoaster building was declared surplus by AMG on the 30<sup>th</sup> of January and 16<sup>th</sup> of February 2024. The Rollercoaster building is to be transferred to BTC, but with a right for Somerset Council's Children's Services to utilise the building on a sessional basis and contributing a fair and reasonable proportion toward the utility costs in respect of the areas and periods of use. Somerset Council will be retaining for sole use by Children's Services (Block TA) an ancillary building and two rooms in the main building. The reservation of rights to continue to use the site for children's services provision ensures that the building will remain open for community use.

## **Background Papers**

- 12.1** Framework for Asset and/or Service Devolution

<https://democracy.somerset.gov.uk/documents/s18613/Devolution%20Framework.pdf>

Corporate and Resources Scrutiny Report – 5<sup>th</sup> December 2023

<https://democracy.somerset.gov.uk/documents/s18612/Scrutiny%20Report%20Devolution%2005122023.pdf>

## **Appendices**

- 12.3**

1. Area covered by the devolution

2. Assets and operations covered by the devolution
3. EIA for devolution of services and assets
4. HR devolution timeline
5. Site Plans

## Report Sign-Off

	Officer Name	Date Completed
Legal & Governance Implications	David Clark	7.3.2024
Communications	Peter Elliott	11.3.2024
Finance & Procurement	Nicola Hix	20.3.2024
Workforce	Dawn Bettridge	20.3.2024
Asset Management	Oliver Woodhams	20.3.2024
Executive Director / Senior Manager	Chris Hall	7.3.2024
Strategy & Performance	Alyn Jones	13.3.2024
Executive Lead Member	Cllr Bill Revans – Leader of the Council  Cllr Federica Smith-Roberts – Lead Member for Communities, Housing and Culture  Cllr Ros Wyke – Lead Member for Economic Development, Planning & Assets	13.3.2024 Briefing carried out
<b>Consulted:</b>	Councillor Name	
Local Division Members	Cllr Andy Dingwall & Cllr Diogo Rodrigues (Bridgwater East & Bawdrip),	14.3.2024 Consulted, and briefing carried out.
	Cllr Hilary Bruce & Cllr Leigh Redman (Bridgwater North & Central),	14.3.2024 Consulted, and briefing carried out.
	Cllr Kathy Pearce & Cllr Brian Smedley (Bridgwater South)	14.3.2024 Consulted, and

	Cllr Lance Duddridge & Cllr Gill Slocombe (Bridgwater West)	briefing carried out. 14.3.2024 Consulted, and briefing carried out.
Opposition Spokesperson	Opposition Spokesperson – Leader – Cllr David Fothergill  Opposition Spokesperson for Prosperity, Assets and Development – Cllr Mark Healey  Opposition Spokesperson for Communities, Housing and Culture – Andy Dingwall	Consulted via email 13.3.2024  Consulted via email 14.3.2024
Scrutiny Chair	Scrutiny for Communities Committee – Cllr Gwil Wren  and  Scrutiny for Corporate and Resources – Cllr Bob Filmer	14.3.2024 Consulted, and email exchange carried out  14.3.2024 Consulted, and email exchange carried out