

Decision Report

Proposed Decision Date 29/1/25
Key Decision FP/24/05/24



Asset and Service Devolution to Wells City Council

Local Member(s) and Division(s) affected: Cllr Theo Butt Philip (Wells), Cllr Tessa Munt (Wells)

Executive Director: Chris Hall, Executive Director, Community, Place & Economy.

Executive Summary

This report seeks approval for devolution of assets and services detailed in Appendix 1 to Wells City Council (WCC) for 1st June 2025.

Devolution of services to Wells City Council will protect those services for residents of Wells and deliver savings for Somerset Council.

Recommendations

That the Leader of the Council

- a. Agrees to devolve operational services and asset listed in Appendix 1, to Wells City Council from 1st June 2025, in line with the Council's adopted Asset and Services Devolution Framework.
- b. To transfer equipment, as required, to Wells City Council, ready for those operational services, from 1st May 2025.
- c. Delegate authority to the Executive Director Executive Director, Community, Place & Economy, in consultation with the Lead Member for Economic Development, Planning and Assets to agree the transfer of or grant of rights over the land and property assets detailed in Appendix 1 on appropriate terms as soon as practically possible by, on or after 1st June 2025, provided the Interim Head of Legal Services is satisfied that all relevant legal requirements have been met.
- d. Delegate authority to the Service Director, Regulatory and Operational Services, in consultation with the Executive Lead Member for Communities, HRA, Culture, Equality and Diversity and the Executive Director, Community, Place & Economy to agree the transfer of operational services on appropriate terms as soon as practically possible by, on or after 1st June 2025, provided the Interim Head of Legal Services is satisfied that all relevant legal requirements have been met

Reasons for Proposals

- 1.1 Executive Members support the principle for devolution of assets and services to City, Town and Parish Councils.
- 1.2 Officers have worked collaboratively with Wells City Council to ensure that devolution of services will be a seamless process, with no detrimental impact to residents of Wells.
- 1.3 Officers are satisfied that sufficient due diligence has been carried out by both the disposing authority (Somerset Council) and Wells City Council as the new service operator.
- 1.4 Any further devolution of assets and services will be subject to a separate decision-making process.
- 1.5 All transfers are based on the condition at the transfer date and offered at nil consideration.
- 1.6 The devolution of services in Wells supports strategic opportunities to reduce depot occupation across the county.
- 1.7 The Asset Management Group (AMG) has been informed of the programme of asset transfers assets. AMG agreed in principle that a transfer of the assets to WCC would be supported under the asset devolution programme. This was subject to further assessment of strategic / financial value – including potential value for BNG / phosphate credits), which has now been completed.

Final sign off was given by AMG 18/10/24.

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Main report and supporting information



Background and purpose of report

- 2.1** This report is to advise members on devolution of assets and services to Wells City Council (WCC). Somerset Council (SC) and Wells City Council are working towards a transfer date of 1 June 2025, subject to the relevant democratic approval processes at both Councils.

Groundcare and Street Cleansing services have been provided by an external contractor in the former Mendip District Council area since 2012. This contract expires on May 31st 2025. It is the preference of both SC and WCC to line up devolution around this contract so that services can transfer immediately upon expiration of the contract.

- 2.2** WCC have long held an ambition to run more services, especially around open spaces. There is already some legacy maintenance agreements in place, whereby WCC managed areas of grass, verge and parkland on behalf of the former Mendip District Council.

WCC also have their own land, and a team of groundcare staff who manage this for the city council.

Following the Leader's letter to city, towns and parish councils from Somerset Council regarding devolution opportunities last year, Wells City Council responded positively, expressing a desire to take on assets and services.

The city council immediately stepped into fund the Union Street car park public toilets, and have agreed to a freehold transfer of the building to protect the facility longer term. This is being dealt with via different decision process, but does form part of a wider devolution package, but immediately saved Somerset Council £30k per annum.

- 2.3** Officers have since been in conversation with Wells City Council regarding devolution of further services and assets to support Somerset Council's financial position and protect services for residents of Wells. The relationships between officers have been good and the conversations positive.

SC and WCC officers agreed a wider package of service and asset devolution, and this can be found in Appendix 1.

- 2.4** Given that services in Wells are part of a wider external contract that covers the whole of the former MDC area, it is difficult to give exact figures on

savings from this devolution. However, Wells equates to approximately 18% of the groundcare contract by square metreage, which represents circa £100k of the current annual contract price for this element of work.

There will likely be further savings from non-core contract maintenance to play areas, street furniture and trees, although this is responsive to harder to quantify.

2.5 Devolving services to WCC will help to protect those services for the communities they serve.

2.6 Officers from both Councils have been working together to determine a sufficient budget to inform any required increase in the WCC precept to fund the devolution of services. WCC already have an experienced open spaces manager in place who is overseeing this, as well as a dedicated devolution officer with considerable experience in local government and the Wells area.

Wells City Council has agreed the principle of devolution through internal member working groups and ran a public consultation during September and October.

Following the consultation, WCC took a devolution proposal through their full council process, together with a fully costed budget. A decision to approve the Wells devolution package was passed on 19/12/2024 by WCC Full Council.

2.7 Somerset Council officers have worked alongside officers at WCC on this process and are therefore reassured that WCC has the skills and means to successfully manage the assets and services listed in Appendix 1.

In addition to the Open Spaces Manager and Devolution Officer, WCC already have qualified staff in post who will be able to manage the additional responsibilities, as well as an existing grounds maintenance team who manage areas of land within the town.

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. WCC 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 has been assured that WCC will have everything required to meet any statutory or legal requirements when delivering services.

2.8 A date of 1st June 2025 has been agreed as a target for devolution of services to complete, subject to the relevant democratic approval from both Councils.

2.9 It should be noted that whilst all services will devolve on this date, the legal transfer of some assets may not follow until a later date (although a simultaneous transfer is the aim). This is largely due to capacity and the time required to complete asset transfers. Somerset Council and WCC have agreed that outstanding asset transfers should not hold up the service devolution element.

2.10 Three closed churchyards are included in the devolution package:

- Mendip Hospital, Wells BA5 3NB.
- Cathedral Green, Wells, BA5 1LY
- St Cuthberts, St Cuthbert Street, Wells, BA5 2AW.

It should be noted that closed churchyards are usually a duty rather than a legal interest in land. When the Diocese determines that a churchyard is full, legislation states that whilst the Diocese retains the land ownership, maintenance is passed to the parish. The parish can then in turn pass this to the Unitary authority. This is the case here.

The devolution package agreed between WCC and SC passes the maintenance of the churchyards to WCC, but the land will remain with the Diocese.

2.11 Devolution of the market within Wells was also requested by WCC, but this is being dealt with separately as a wider markets discussion with the main city, town and parish councils within the former Mendip area.

Links to Council Plan and Medium-Term Financial Plan

3.1 This decision links to the following Somerset Council Plan 2023-27 objectives:

3.2 A Fairer, Ambitious Somerset
City, city 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.

3.3 A Flourishing and Resilient Somerset –
Devolution of services to City, city 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, city 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.

Other options considered

4.1 *Declining devolution conversations with Wells City Council and not progressing devolution in this area.*

With the expiration of the external grounds maintenance contract on 31/5/2024, there is no service provision in place beyond this date. Should Somerset Council choose not to devolve services to WCC, the Council would need to ensure that services continued, either via a new contract or by bringing the work in house. Officers are ready to in source work in the former MDC area and believe this would be cheaper than the current contract arrangement. Although this option would deliver some savings, there would still be a cost to Somerset Council.

4.2 *Reducing levels of service, continuing to operate the services listed in Appendix 1 and retaining the assets listed in Appendix 1.*

Although this option would deliver some savings, this saving would not be significant enough against the backdrop of the Council's financial emergency.

This option would also reduce the quality of the local environment for residents of Wells. Devolution of services protects this. This would be a less favourable position for both the community in terms of service delivery and the Council in terms of the financial saving.

It would also mean that Operational Services would still need to provide a service in Wells, either via in house teams or a new contract arrangement. This would be a cost for SC.

Key considerations for the Council

Scrutiny comments / recommendations:

5.1 The Asset and Services Devolution Framework was considered by Scrutiny on 5th December 2023.

5.2 An update on devolution progress was presented to Community Scrutiny Committee on 13/6/2024 and 11/12/2024. Wells was included in these updates.

Consultation and feedback

- 6.1** There has been no consultation or engagement from Somerset Council on this specific devolution programme. It is felt that WCC as the new service provider is best placed to undertake consultation and engagement. WCC ran a public consultation during September and October.

Financial and Risk Implications

- 7.1** Officers have analysed the current external contract and the resources required to manage the assets services listed in Appendix 1. Given that services in Wells are part of a wider external contract that covers the whole of the former MDC area, it is difficult to give exact figures on savings from this devolution. However, Wells equates to approximately 18% of the groundcare contract by square metreage, which represents circa £100k of the current annual contract price for this element of work.

There will likely be further savings from non-core contract maintenance to play areas, street furniture and trees, although this is responsive and harder to quantify.

- 7.2** The service will work with the finance team to ensure the appropriate adjustments are made to the in year budgets to reflect a 10 month saving in 2025/26 based on the end date of the contract, and then a full year saving for 26/27.
- 7.3** Further savings for the wider authority will be achieved from reduced asset maintenance costs, but these are not included here as these budgets do not sit within Regulatory and Operational Services.
- 7.4** Transfers for operational services are to be made on the 1st June 2025 with the responsibility for services being undertaken by the City Council from then irrespective of the final transfer date of the assets.
- 7.5** If there was a gap between the transfer of services and the transfer of assets, this would mean that WCC would be maintaining land owned by Somerset Council. A temporary maintenance agreement would need to be put in place between the two authorities that sets out roles and responsibilities until transfers complete.

The Finance team will work closely with Property and Legal on the transfer of the assets in respect of removing them from the Council's asset registers and reflecting this in the Council's Financial Statement of Accounts.

7.6 Key Risks

Reduced Service Quality					
As a smaller council, WCC 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.					
Likelihood	2	Impact	4	Risk Score	8
Somerset Council staff have supported WCC colleagues to understand budget, staffing and service requirements in detail. Operational Services team will also support handover to the new WCC and be ready to step in if required. WCC already manage some open spaces and play areas, and an experienced open spaces manager in post. The city councils also has 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.					
Likelihood	4	Impact	2	Risk Score	8
Somerset Council is supporting WCC 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 WCC.					

Lack of Capacity					
As a smaller council, WCC 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.					
Likelihood	2	Impact	3	Risk Score	6
Somerset Council staff are supporting WCC colleagues to understand budget, staffing and service requirements in detail. Operational Services team will also support handover to the new WCC, and be available to lend support and advice if required. WCC already manage some open spaces and play areas, and an experienced open spaces manager in post. City 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 WCC 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.					
Likelihood	3	Impact	4	Risk Score	12
Wells has been identified as a devolution priority and Strategic Asset Management is aiming to have all assets transferred when the services move across on 1 st April 2025. There is also a £600k fund being made available from reserves to support the devolution process, which is being used to increase legal resources where required.					

Agreement on Devolution Not Reached Before End of External Contract					
If an agreement to devolve services before the end of the external contract on May 31 st 2025 was not reached, services would fall to the Council to deliver.					
Likelihood	2	Impact	3	Risk Score	6
Officers on both sides are committed to the delivery of devolution for the end of the contract. However this is subject to a democratic process and budget setting. The Council has a back up position to undertake this work itself until such a time that devolution was resolved. It is felt that this could be delivered inside the current budget envelope and the service could therefore sustain the cost for a limited period of time. This may involve TUPEing staff into the organisation, and then out again to WCC upon devolution.					

Legal and Procurement Implications

- 8.1 The transfer of assets into the ownership of WCC will be subject to a formal legal process. This will be 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.

- 8.2 If there was a gap between the transfer of services and the transfer of assets, this would mean that WCC would be maintaining land owned by Somerset Council. A temporary maintenance agreement would need to put in place between the two authorities that sets out roles and responsibilities until transfers complete.

- 8.3 The transfer of assets at nil consideration, as opposed to at commercial value, is permitted by the provisions of the General Disposal Consent within section 123 of the Local Government Act, provided that there is a benefit for communities and residents in Somerset. As appropriate, asset transfers will be structured to ensure that community benefit is maintained through the

transfer of assets and services. Valuations of the interests transferred will be undertaken by appropriately qualified council staff prior to the transfer of assets, with approval of the Secretary of State obtained if required under the Act.

8.4 Legally, Somerset Council cannot transfer ownership of highways verges and land. WCC will therefore manage this grass on behalf of Somerset Council via a management agreement between the two authorities.

8.5 Three closed churchyards are included in the devolution package:

- Mendip Hospital, Wells BA5 3NB.
- Cathedral Green, Wells, BA5 1LY
- St Cuthberts, St Cuthbert Street, Wells, BA5 2AW.

It should be noted that closed churchyards are usually a duty rather than a legal interest in land. When the Diocese determines that a churchyard is full, legislation states that whilst the Diocese retains the land ownership, maintenance is passed to the parish. The parish can then in turn pass this to the Unitary authority. This is the case here.

The devolution package agreed between WCC and SC passes the maintenance of the churchyards to WCC, but the land will remain with the Diocese.

HR / Workforce Implications

9.1 Under the Transfer of Undertakings (Protection of Employment) regulations (TUPE), the external contractor as the current employer is obliged to identify posts that are subject to a TUPE transfer to the new employer. If devolution was achieved by the end of the contract, it is envisaged that some staff from the external contractor would TUPE into WCC. This would be a matter between the external contractor and WCC.

However, if an agreement was not reached and SC were required to in source the work, then staff would TUPE into SC. This would also be the case if devolution was to happen after the contract end date. Staff would be required to TUPE into SC, and then out to WCC again on the point of devolution.

Although additional work and unsettling for staff, this is achievable.

A full consultation process will be undertaken with impacted staff in this scenario.

Equalities Implications

- 10.1** An equality impact assessment has been completed and is attached as Appendix 2.
- 10.2** Those currently accessing these services should not see a reduction in their current access or level of service. Town, Parish and City Councils have identical responsibilities under the Equality Act 2010 so reasonable adjustments and due regard consideration will be part of any considerations should changes be made to these services in the future. As part of Somerset Councils commitment to working in partnership with our Town, Parish and City Councils we will provide training opportunities to talk about and understand these responsibilities if needed.

Community Safety Implications

- 11.1** Community Safety as a service is not being devolved to WCC.
- Devolution of services and assets to WCC will not bring negative impacts on the community. The City Council will continue to maintain and protect assets as the local authority has done in the past.

Climate Change and Sustainability Implications

- 12.1** Devolution of urban open spaces does give Somerset Council less control over how they are managed across the county, 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, city and parish councils as key partners in the delivery of these agendas.

Health and Safety Implications

- 13.1** In this proposal SC is handing over the responsibility and risk to WCC. The Town Council is 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.
- WCC 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 WCC are aware of the health and safety impacts and have measures in place to manage any risk. WCC already manage some open spaces and play areas, and an experienced open spaces manager in post.

Health and Wellbeing Implications

14.1 There are no health and wellbeing implications associated with this report.

Social Value

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

Background Papers

16.1 Framework for Asset and/or Service Devolution
<https://democracy.somerset.gov.uk/documents/s18613/Devolution%20Framework.pdf>

Corporate and Resources Scrutiny Report – 5th December 2023

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

Appendices

17.1

1. Services and Assets covered by the devolution
2. EIA for devolution of services and assets

Report assurance checklist ahead of report publication (for Audit, Executive, Full Council and Scrutiny Committees)

	Officer Name	Date Completed
Legal & Governance Implications	Jill Byron	20/1/2025
Finance & Procurement	Nicola Hix	14/1/2025

Asset Management (*)	Simon Lewis	15/01/2025
Executive Director	Chris Hall	14/01/2025
Executive Lead Member	Cllr Federica Smith-Roberts	17/1/2025
Consulted:	Councillor Name	
Local Division Members	Cllr Theo Butt Philip (Wells), Cllr Tessa Munt (Wells)	9/1/2025
Opposition Spokesperson(s)	Cllr Diogo Rodrigues	9/1/2025
Relevant Scrutiny Chair(s)	Cllr Gwil Wren	13/1/2025

Note:

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Directors may nominate additional officers to act on their behalf

(*) – these areas only need to be consulted on proposals if the proposals have workforce or asset management implications

Reports will not be published if assurance checklist has not been adequately completed – report author to liaise with Democratic Services well ahead of publication deadline.