

Wiveliscombe Town Council – 10th December 2018

Wiveliscombe Library

Report and motion proposed by Marion Mann, Dave Mansell and Tim Parker

1. Summary

- 1.1. This report contains a motion to allow the Town Council to decide, if it wishes, to give support for the library to be retained in Wiveliscombe and, if so, what support would be offered.
- 1.2. The report also provides updates and information on:
 - The Council's expression of interest in a Community Library Partnership.
 - A Community Library Partnership (CLP) and responsibilities for a community partner.
 - Additional community involvement with the Town Council as lead partner for a CLP.
 - Library opening hours and costs.
 - Legal powers for the Council to enter into a CLP.

2. **Motion** (each lettered part to be considered and voted on separately)

The Council resolves:

- A. EITHER – To support the retention of the library in Wiveliscombe, with arrangements as outlined in paragraph 5.1).

OR – Not to support the retention of the library in Wiveliscombe.

NOTE: If the Council resolves not to support the retention of the library then the rest of the motion falls. If the Council resolves to support retaining the library the remaining parts of the motion are to be taken in turn.

- B. Subject to assumptions noted in section 8, to allocate funding for the library in the Council's budget from 2019/20 of:

EITHER – £6,000 to allow the library to be managed and staffed by Somerset County Council with staffed opening hours of 12.5 to 15 hours per week.

OR – £8,500 to allow the library to be managed and staffed by Somerset County Council with staffed opening hours of 15 to 17.5 hours per week.

- C. To seek additional funding, including a total of £1,000 to £2,000 per annum from neighbouring Parish Councils, which should allow higher levels of staffed opening hours (so either 15 or 17.5 hours as shown respectively in the two options for part B of this motion).

- D. A library working group be established to negotiate on behalf of Wiveliscombe Town Council with neighbouring Parishes Councils, Somerset County Council and Community Groups on agreement terms for a Community Library Partnership in Wiveliscombe, in accordance with resolutions of the Council on the library. Issues to address include those outlined in Section 11. The group to report back to future meetings of the Council, including to seek approval for any agreements with other parties and for any additional funding relating to changes in assumed costs. The group to also develop proposals to manage the transition to a CLP as outlined in section 10.
- E. Using the Town Council's legal powers, as outlined in section 9, the lead partner for a Community Library Partnership with Somerset County Council to be:
- EITHER – Wiveliscombe Town Council.
- OR – A community group.
- F. To decide the membership of the working group and, if needed, how a community group will be identified as the lead partner. Also to identify any issues of potential concern so that the working group can investigate how it may be possible to address these.

3. What is a Community Library Partnership?

- 3.1. Following consultation, Somerset County Council's Cabinet decided on 5th November 2018 to close Wiveliscombe library unless a Community Library Partnership can be established.
- 3.2. Community Library Partnerships (CLPs) were described in the November 2018 report to the Town Council. Key features include:
- A partnership between the County Council and a community partner(s), which provides a service from a library building ... to a minimum standard, monitored by the County Council through a legal contract.
 - Operating Somerset Library service policies and procedures.
 - Being accessible to all members of the community, with no restriction placed upon access.
- 3.3. SCC will provide a 'Core Offer' to CLPs without charge, which includes training and ongoing technical support, the provision of book stock, ICT equipment and all back-office systems. SCC will take responsibility for management, insurance, oversight and risk management in any area where it was being funded to do so.
- 3.4. For Wiveliscombe library, SCC are offering additional financial support of £9,000 per annum, with £3,000 of this available to match staff costs. This is the second highest financial offer for a CLP in the County (after Street).

4. Expression of interest, SCC response and timetable

- 4.1. As agreed, Wiveliscombe Town Council submitted an expression of interest for a Wiveliscombe library to SCC by the deadline of 15th November 2018.
- 4.2. Notification has been received from SCC that the CLP proposal submitted for Wiveliscombe library has “a strong potential to be viable”, so SCC will continue to operate our library with the current staffing and opening hours until 31st March 2019.
- 4.3. SCC have asked that the Town Council resolves who will be the lead partner and the proposed budget and requirement for staffing hours by 10th December. They also note that “whilst we understand that Wiveliscombe Town Council and other funders may not be able to give final confirmation of funding until budget setting meetings are held in the new year, we do need to move forward on the basis of a specific number of hours that are agreed in principle”.
- 4.4. Following resolution of the above issues, SCC have identified the following key actions they would like to take forward over the next 2-3 months:
 - SCC will draw up the terms of a sub-lease for the library premises.
 - At an early stage (as soon as possible after 10th December), SCC will need to jointly finalise any revisions necessary to library opening hours, which would operate from 1st April onwards. Following on from this, SCC will recruit to fill posts for the hours of weekly staffing requested for Wiveliscombe library.
 - At an early stage, SCC will need to understand future arrangements for cleaning, and any TUPE issues that may arise.
 - The terms of a contract between the lead partner and SCC will be discussed and agreed.
- 4.5. If a community group, rather than the Town Council, is to be the lead community partner, then further actions will be necessary:
 - The community group will need to be formally and legally constituted and apply for relevant legal status e.g. an application to the Charities Commission.
 - The community group will need to develop a robust cashflow forecast and budget for 2019/20, which officers from the project team would like to review in due course.
- 4.6. In SCC’s invitation to put forward an expression of interest, a timetable was given which included:
 - “If discussions progress successfully, an agreement would be drawn up in the form of a contract which, if it is acceptable to both parties, SCC would aim to sign by 31 January 2019 or as soon as possible after that date.
 - “If a viable Expression of Interest is received, but agreement cannot be reached by February 15th 2019, the County Council would commence steps to close the library and arrange alternative library service provision as determined by Cabinet (mobile library and/or outreach library services).”

5. Community Library Partnership proposals and responsibilities

- 5.1. For a CLP in Wiveliscombe, it is proposed that SCC be paid to manage and staff the library, with a community partner, such as the Town Council or a community group, taking on responsibility for the building.
- 5.2. SCC's lease of the current library building runs to 4th May 2020 and SCC will not take on an extension, so future arrangements will need to be made by the community partner. SCC will support discussions between potential community partners and the current landlord on arrangements beyond this date, but only in a facilitative, liaison role.
- 5.3. There should be potential to agree a new lease or other arrangements for a library building, but this cannot be certain at this time, and also to make savings on building costs, including by claiming relief on business rates, which currently cost £2,328 per annum.
- 5.4. Responsibilities of the community partner are expected to include:
 - Building repairs and maintenance, insurance and safety.
 - Business rates and utilities costs.
 - Caretaking, security, cleaning and waste services.
 - Service contracts (e.g. fire alarms, security alarms, heating / electrical systems).
 - Maintaining and replacing non-ICT furniture and equipment.
 - Nominating a lead partner, responsible person or committee to liaise with the County Council over management issues.
 - Reviewing library performance indicators collated and reported by SCC.
 - Maintaining financial records, producing annual accounts, and arranging for these to be published and audited.
 - Procedures for collecting and banking cash from the librarian.
 - Developing procedures and checks to prevent fraud, theft and the misuse of funds.
 - Setting an annual budget and monitoring against this budget.
 - Facilitating an SCC audit of grant funding provided and income.
 - Considering insurance for public liability (including any non-staffed hours), building and contents, fire risks, employer's liability (to cover volunteers) and for cash and fidelity.
- 5.5. SCC will assist with the transfer of services and pass on details and templates for current procedures.
- 5.6. If a community group is the lead partner, SCC have noted "steps must be taken urgently to identify a group, which should be legally constituted as an incorporated organisation so that it may enter into the necessary leases and contracts". It is likely that SCC will also need to be satisfied that such a group is sustainable and viable and has a representative and accountable governance structure, as indicated in CLP guidance issued by SCC.

- 5.7. There may be an additional cost with a community group option, as it is expected that the Town Council would have to pay VAT at 20% on funding for the library services provided to a community group, which they may not be able to reclaim. Although the VAT may be reclaimable if the community group is registered for VAT, but the situation is quite complex and is still being checked. It may also depend on the circumstances that apply to the community group.
- 5.8. Wiveliscombe Town Council would wish to ensure that public funds being provided to a community group are managed and used correctly and to have procedures in place for this purpose.
- 5.9. A community group as lead partner would be taking on greater risks and liabilities than a local council with precepting powers, such as Wiveliscombe Town Council.

6. Wiveliscombe Town Council as lead partner and community involvement

- 6.1. If the Town Council is the lead partner in a CLP with SCC, there are some parallels to responsibilities already taken on for the provision of public toilets and the management of this building in Wiveliscombe.
- 6.2. A committee could be established to manage library responsibilities, possibly combined with the current public toilets sub-committee, which oversees and undertakes most of the administrative duties for this service, with the support of the Town Clerk.
- 6.3. In addition, a community sub-committee could be established to encourage and facilitate community involvement with the library.
- 6.4. It may be best to establish these arrangements at the Town Council's meeting to confirm committees and working groups and their membership following the local elections in May 2019. In the interim, the library working group could oversee and put in place the necessary arrangements with support from the Town Clerk.

7. Opening hours

- 7.1. Current opening hours for Wiveliscombe library are:

Monday	Closed
Tuesday	10am to 12.30pm and 2.30pm to 5pm
Wednesday	Closed
Thursday	10am to 12.30pm and 2.30pm to 5pm
Friday	10am to 12.30pm and 2.30pm to 5pm
Saturday	10am to 12.30pm

- 7.2. This is a total of 17.5 opening hours plus additional staff time for setting up and closing.

7.3. Staffed opening hours from April 2019 will depend on what can be afforded from the budget made available.

8. Costs

8.1. Costs and savings for Wiveliscombe library were presented in the November 2018 report to the Town Council.

8.2. Assumptions made on costs include:

- 100% (NNDR) Business Rates relief will be available (at least from 2020/21).
- Small savings of £600 can be made on cleaning and maintenance costs.
- Additional costs of £750 may be incurred for insurance and water charges.
- Rent for the library building is as shown in the confidential paper supplied by SCC on Wiveliscombe Library: possible Community Library Partnership models Financial illustration – 2019/20 prices.
- An additional cost is not incurred due to VAT on payments made to a community group.

8.3. The November 2018 report also covered the funding that would be required to keep Wiveliscombe library open as a CLP.

8.4. It should be possible to check and verify library costs, including assumptions above, while progress is made in agreeing arrangements and a CLP contract with SCC.

9. Legal powers

9.1. Four other Town and Parish Councils are proposing to enter into Community Library Partnerships with SCC along the same lines as proposed for Wiveliscombe, with the council as the lead partner, funding SCC to manage and staff the library and with the council taking on management of the building.

9.2. A Senior Solicitor at SCC has given advice on legal powers that can be used by Town and Parish Councils, which in summary identifies two options:

- Eligible Councils may use their general power of competence to grant funds to a community Library partnership ...
- Parish and town councils which are not Eligible may rely on section 137(3) of the Local Government Act 1972 ...

9.3. The Council's Clerk has stated that "the Town Council can use expenditure under section 137 to fund an independent organisation to help run the library service".

9.4. The advice from the Senior Solicitor at SCC states: "section 137(3)(b) authorises Local Councils to contribute to the costs both of Somerset County Council as the library authority for Somerset and any other body responsible for running a community library (providing it was done on a not-for-profit basis)".

- 9.5. The Society of Local Council Clerks have issued informal notes on the power of Parish Councils to provide library services which state “if a council does not have the GPC, it will have to rely on ... the power in LGA 1972, s 137”.
- 9.6. Section 137(1)(b) of the Local Government Act 1972 says the direct benefit needs to “be commensurate with the expenditure to be incurred”. Benefits from the library in Wiveliscombe are detailed in the joint Wiveliscombe response to SCC’s consultation. If the library were to be closed, there would be a negative economic impact on the area and costs by users would be incurred in travelling to libraries in Taunton, Wellington or Dulverton. These costs are high and show that the benefit from expenditure on retaining the library would be justified.
- 9.7. In future, the Town Council may have a Clerk with the necessary qualification so that it would be eligible to use the general power of competence, but this is not currently the case, so the only option is to use the Section 137 power.

10. Managing the transition and voluntary input to the library

- 10.1. If the library is to be retained, it would be best to see a seamless transition, as far as is possible, to a new Community Library Partnership for Wiveliscombe library, and to put a plan in place during the pre-agreement negotiation stage for this purpose.
- 10.2. There is an existing Friends of Wiveliscombe Library (FoWL) group of volunteers who undertake and contribute to activities and displays at the library. It is anticipated and hoped that FoWL activities will continue, and it should be welcomed if they or other voluntary groups have positive and practical proposals to contribute more.
- 10.3. A library working group should develop proposals to manage the transition to a CLP.

11. Community Library Partnership agreement between Wiveliscombe Town Council and Somerset County Council

- 11.1. SCC are offering a 7-year term for an initial CLP contract together with annual funding of £9,000. If the library is to be retained, it would seem sensible to secure this offer.
- 11.2. Break clauses could be requested in the contract to allow the Town Council to give notice to withdraw from the agreement, particularly if there is a significant change in costs or in the performance or use of the library.
- 11.3. There is an issue to address due to the current lease of the library building ending in May 2020. During the negotiation phase for a CLP agreement, it would be prudent to make enquiries about the potential and terms for a new lease for the current library building from May 2020 and, possibly, to seek for the current lease to be reassigned, rather than a sub-lease agreed.

- 11.4. At an early stage, the Town Council will need to understand options for future cleaning arrangements, and any TUPE issues that may arise, relating to Transfer of Undertakings (Protection of Employment) regulations.
- 11.5. Staffed library hours for a CLP from April 2019 will depend on funding that can be secured.
- 11.6. The Town Council is invited to identify other issues of potential concern, so that the library working group (if its establishment is approved) can investigate how it may be possible to address these issues during the negotiation phase.
- 11.7. The Town Council should negotiate in good faith with SCC and other parties, but there would not be a binding commitment or obligation until the Town Council had given approval to enter into a contract with SCC. For instance, the Council might need to withdraw if it was found that costs to support the library would be substantially higher than those currently indicated.

12. Background papers

- a) Report to Wiveliscombe Town Council, March 2018 - The Future of Wiveliscombe Library
- b) Joint Response on Behalf of Wiveliscombe Library, June 2018 to Somerset County Council Libraries Consultation 2018
- c) Somerset County Council, September 2018 - Somerset Library Service Redesign Programme 2018: Community Library Partnership guidance v.2.0
- d) Somerset County Council, October 2018 - Invitation to put forward an Expression of Interest in forming a Community Library Partnership for Wiveliscombe
- e) Somerset County Council, April 2018 - Legal position on funding by Parish and Town Councils
- f) Report to Wiveliscombe Town Council, November 2018 - Report and Recommendations on Wiveliscombe Library
- g) Email from: Alison Benfield, Society of Local Council Clerks, 6 November 2018 at 11:11; Subject: Fw: Library's
- h) Email to all Wiveliscombe Town Councillors from Parish Clerk, 7 November 2018 at 17:25, Subject: Library - Motion
- i) Somerset County Council, Cabinet Decision Report, 5 November 2018 - Library Service Redesign: Changes to the way library services are delivered
- j) Somerset County Council, October 2018 - Wiveliscombe Library – possible Community Library Partnership models: Financial illustration – 2019/20 prices (Confidential)
- k) Wiveliscombe Town Council, November 2018 - Expression of Interest in a Community Library Partnership for Wiveliscombe Library
- l) Somerset County Council, 26 November 2018 - Response to the Expression of Interest in Forming a Community Library Partnership for Wiveliscombe