

# **Wiveliscombe Town Council – 12<sup>th</sup> November 2018**

## **Report and Recommendations on Wiveliscombe Library**

### **1) Summary**

- a. This report provides an update on the outcome of Somerset County Council's consultation on library services and recommends that Wiveliscombe Town Council submits an Expression of Interest for a Community Library Partnership (draft in Annex B).

### **2) Recommendations for Motion**

- a. The Council notes:
  - Submitting an Expression of Interest to Somerset County Council for a Community Library Partnership (CLP) in Wiveliscombe would ensure Wiveliscombe library is not closed in January 2019 and stays open until at least the end of March 2019.
  - An Expression of Interest for a CLP by Wiveliscombe Town Council is not legally binding and would not give a commitment or obligation to take on any responsibility.
  - The deadline for submitting an Expression of Interest is 12 noon on 15<sup>th</sup> November 2018.
  - Submitting an Expression of Interest would create time for the Town Council to take a fully informed decision on the future of Wiveliscombe library and ensure sufficient legal advice is obtained and, if necessary and possible, to put arrangements in place for the Council to take a decision.
  - The proposals contained in this report.
- b. Wiveliscombe Town Council submits an Expression of Interest to Somerset County Council for a Community Library Partnership (CLP) by the deadline of 12 noon on 15<sup>th</sup> November 2018.
- c. The future of Wiveliscombe library be discussed at a future meeting of the Town Council by no later than 14<sup>th</sup> January 2019, which could be a special meeting for this purpose if needed.
- d. The legal situation with regard to the use of the Section 137 power be further checked to see if it can be used for a decision on the future of the library. If not, that arrangements are made for a qualified Town Clerk to advise the Town Council on a

General Power of Competence resolution and a decision on the library at a cost of up to £300.

- e. That discussions be held with neighbouring Parish Councils as outlined in section 9 of this report.

### **3) Background**

- a. Wiveliscombe library is very well used. As reported to the Town Council in March 2018, our library has among the best borrower and visitor rates per person in its catchment when compared to other libraries within Somerset. It has 1,412 registered users (Feb 2018), 696 active borrowers (Sept 2017) and 24,880 visits per annum.
- b. Wiveliscombe library provides many services in addition to book borrowing. It is a source of information, hosts activities and events and is a hub for social interaction and inclusion. The library is also an important part of the retail and service mix for Wiveliscombe, which serves as a centre for the surrounding rural area. The value and benefits of our library were highlighted in the 40-page joint response submitted for Wiveliscombe library to SCC's consultation.
- c. Somerset County Council's consultation on the future of library services ran from 29<sup>th</sup> January to 13<sup>th</sup> June 2018. SCC's summary report on the consultation responses from 241 people who indicated that Wiveliscombe was their most used or nearest library, was as follows:
  - "Strong views were expressed that the library in Wiveliscombe should be retained and fully funded by the county council. There was limited engagement with the stated options from the proposals.
  - "Views were expressed that there is an extremely poor bus service to alternative library buildings, including no service between Wiveliscombe and Wellington.
  - "A mobile library was thought to be too restrictive to users and would in no way serve the needs of a community the size of Wiveliscombe. There is a social aspect of the library building with many in the community using it which would be lost if it went to a mobile-only solution.
  - "There was some very good feedback for the library staff and views were expressed that they could not be replaced by well-meaning volunteers. Furthermore, it was stated that volunteer resources are limited in the area due to other volunteer run services, so there were serious doubts over the viability and sustainability of a community run solution.
  - "Given the number of cuts to services over the last number of years in the area, there is a feeling that the community in Wiveliscombe are getting a 'poor deal' for the council tax that they pay."

- d. SCC announced its final recommendations on 16<sup>th</sup> October 2018 in an 824-page report prepared for SCC's Cabinet. Wiveliscombe library was among 15 libraries in Somerset recommended for closure unless a Community Library Partnership (CLP) could be established. The recommendations were accepted by SCC's Scrutiny for Policies and Place Committee on 24<sup>th</sup> October 2018.
- e. At the Scrutiny meeting, the Committee were asked to recommend to the Cabinet that Wiveliscombe Library be included in the list of libraries to continue to be operated and funded by the County Council, with a statement made to support this request. Wiveliscombe library was frequently mentioned during the near 3-hour debate on the report but the Scrutiny Committee did not take up the request to recommend that Wiveliscombe library be saved from closure. Officers said there were three other libraries in a similar position to Wiveliscombe and retaining these four would reduce SCC's cost saving by £115,000.
- f. SCC's Cabinet took a final decision on 5<sup>th</sup> November 2018 to proceed with the recommendations, making only minor amendments to the CLP funding offered. As a result, Wiveliscombe library will be closed from January 2019 unless an Expression of Interest for a Community Library Partnership is submitted by 15<sup>th</sup> November 2018.
- g. If Wiveliscombe library is closed, library services for the area will be provided instead through a combination of a mobile library (3-4 times per month) and digital library services and, what SCC regard as, "reasonable access to alternative library buildings", which will primarily mean travelling to libraries in Taunton or Wellington.
- h. If a viable Expression of Interest for a CLP is submitted, the County Council will continue to manage and fully fund Wiveliscombe library until 31<sup>st</sup> March 2019, to allow time for further discussions and agreement to take place.
- i. If progress and an acceptable agreement is made, SCC would prepare a contract and wish to sign this by 31<sup>st</sup> January 2019 or as soon as possible after then.
- j. If agreement cannot be reached by 15<sup>th</sup> February 2019, the County Council would commence steps to close the library, arrange alternative library service provision and Wiveliscombe library would close on 1<sup>st</sup> April 2019.
- k. SCC's vision for libraries, including CLPs, is for them to be "a dynamic, evolving and integral part of the community that open up a world of opportunities for reading, understanding and discovery", but Wiveliscombe and neighbouring Parishes will not share this future if we do not have a library for users in our area.

#### **4) Power for the Town Council to support and fund Wiveliscombe library**

- a. A paper on the legal position for the provision of funding by Parish and Town Councils to support library services has been prepared by SCC, which outlines two

powers that can be used: the Power of General Competence (GPC) or Section 137. These are described in Annex A.

- b. The Town Clerk requested advice from the Society of Local Council Clerks on the GPC, which, in summary, is as follows:

“If a council has GPC and under it decides to do 'something' that is going to cost money - it can raise this money as part of the precept and the 'something' will form part of the estimates of income and expenditure. It cannot say 'we have GPC so will make our precept £xxx' without the backing of the budgets.”

- c. Wiveliscombe Town Council's Standing Orders (adopted September 2012) include the following on the GPC:

#### 25. Power of General Competence

a) Before exercising the power of general competence, a meeting of the full Council shall have passed a resolution to confirm it has satisfied the prescribed statutory criteria required to qualify as an eligible parish council.

b) The Council's period of eligibility begins on the date that the resolution under Standing order 25 (a) above was made and has to be renewed by Council Resolution at the annual meeting of the Council that takes place in a year of ordinary elections.

c) After the expiry of its preceding period of eligibility, the Council continues to be an eligible council solely for the purpose of completing any activity undertaken in the exercise of the power to promote well-being which was not completed before the expiry of the Council's preceding period of eligibility referred to in standing order 25(b) above.

- d. The current Town Clerk has indicated that he does not hold the necessary qualification for the Council to be eligible to use the General Power of Competence.
- e. Conflicting legal advice has been received on whether Section 137 can be used for this purpose. If it can be used, it could be decided that the direct benefit to our area and residents, as outlined in paragraphs 3a and 3b of this report, will be commensurate with the expenditure incurred, as outlined in section 8 of this report.
- f. The Town Clerk also requested advice from the Society of Local Council Clerks on Section 137. This lacks clarity but concluded: “It looks like you cannot do it”.
- g. SCC's legal advice on Section 137 is: “a Local Council can contribute to the funds of "any body" which provides a public service on a not-for-profit basis (i.e. not for the "purposes of gain"). Running library services for the general public, whether as a library authority or as a community library, is clearly a public service. The library

authority runs its services on a not-for-profit basis - section 8 of the 1964 Act and Regulation 3(3) of the Library Charges (England and Wales) Regulations 1991 (SI 1991/2712) in effect restrict the library authority's ability to make a gain from the provision of library services. Therefore, ... 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).”

## **5) Community Library Partnership (CLP) options**

a. SCC summarise features of CLPs, where established, as follows:

- Partnerships between the County Council and one or more community partners, which provide a service from a library building in a community as an alternative to closing the library and providing services in other ways;
- Deliver a range of lending stock, public computer access and associated printing and scanning, public wi-fi access, and specific support for children through the Summer Reading Challenge and support to the Bookstart programme;
- Provide services to a minimum standard, monitored by the County Council through a legal contract;
- Part of the County Council’s statutory Libraries Service.

b. CLPs will be managed as part of the established Libraries West consortium, which includes:

- Operating Somerset Library service policies and procedures and provide a core of library services consistent with those provided elsewhere in the network;
- Operating the same library systems for the issuing and return of items and for internet access, enabling residents to retain one library card for all libraries within the Somerset and Libraries West networks; and
- Being accessible to all members of the community, with no restriction placed upon access; and
- Ensuring that current and future lending stock remains accessible to residents across the County and the Libraries West consortium via the Libraries Management system.

c. The County Council will support any community wanting to take on their library service through a CLP with a ‘Core Offer’ supplied without any charge, which

includes training and ongoing technical support, the provision of book stock (including a regular supply of new books) and ICT equipment.

- d. Income raised at the library from charges and sales can be retained but must be re-invested in the library.
- e. SCC will promote the library alongside other libraries on its website, library service social media channels and e-newsletter, and provide materials to run the Summer Reading Challenge and Bookstart programmes.
- f. SCC will make all existing furniture, fixtures and non-ICT equipment available to the community, through loan or a transfer, and support the procurement of replacement furniture and equipment going forward.
- g. SCC would take responsibility for management, oversight and risk management in any area where it was being funded to do so.
- h. SCC says it has “an open mind as to how a community could support its library, but most Community Library Partnerships are likely to be based on a community partner taking responsibility (either directly or through the provision of funding) for the library building and/or for frontline staffing, with the County Council supporting the technical, professional and ‘back office’ aspects of the library service.”
- i. Possible models suggested are:
  - Community managed, volunteer based.
  - Community funded, SCC staffed and managed.
  - Hybrid model, with one option being “the community may take on responsibility for the library building and its running costs, but the County Council could assume responsibility for the management and staffing of the library, under a service level agreement with the lead community partner.
- j. Further details on CLPs and the Core Offer from SCC are given in a paper: Somerset Library Service Redesign Programme 2018: Community Library Partnership guidance v.2.0.

## **6) SCC offer for a Wiveliscombe Community Library Partnership**

- a. In addition to the Core Offer outlined above, SCC offered direct financial support to 8 of the 15 libraries to be closed unless a CLP is established. SCC Cabinet amended this offer on 5<sup>th</sup> November, so that the other 7 libraries were also offered annual funding of £2,000.
- b. Wiveliscombe library has the second highest financial support offer in the county (after Street) and the offer was increased twice during the consultation from £5,000 per annum at the start, to £7,500 when the final recommendations were published

and to £9,000 when the final decision was taken at Cabinet, following the Scrutiny meeting.

- c. The offer for a Wiveliscombe CLP now consists of a basic contribution of £6,000 per annum and a further £3,000 per annum available if matched to cover staff costs.
- d. The Cabinet also decided to extend the term offered for CLP agreements, including for Wiveliscombe, from an initial commitment of 5 to 7 years.
- e. SCC provided information and offered support with regard to the current library building as follows:

“The library building in Wiveliscombe is owned by a private landlord and leased to the County Council on a lease which ends on 4<sup>th</sup> May 2020. The County Council will offer potential community partners occupancy on equivalent terms, subject to the continuing operation of a public library under a Community Library Partnership agreement, signed between the County Council and the community partner(s), covering the period up to the 4<sup>th</sup> May 2020. The County Council will support discussions between potential community partners and the current landlord on arrangements beyond this date, but will not be able to provide any support beyond a facilitative, liaison role. Community partners would need to agree their own terms for a lease arrangement beyond 4<sup>th</sup> May 2020, and the council will end its lease at the site when the current lease expires.”

## **7) Proposed model for a Wiveliscombe Community Library Partnership**

- a. During the libraries redesign consultation, consideration was given to options for a community group and volunteers to run Wiveliscombe library. Early on, groups and people involved agreed that Wiveliscombe library should be funded and run by the County Council and this was the strong message from Wiveliscombe, which was maintained throughout the consultation process. There were also strong opinions that the library should not be run by volunteers and that the core staff should be employed.
- b. Once the final recommendations were published and accepted by SCC’s Scrutiny Committee, it was clear another option was needed if Wiveliscombe library was to be saved from closure. Proposals were then developed for an option involving the Town and Parish Councils, as the only bodies with the realistic possibility of raising and sustaining the funding required.
- c. A public meeting was held to discuss the options in Wiveliscombe Community Centre on 25<sup>th</sup> October 2018, which was attended by about 80 people (with a further 30 sending apologies). Two options for saving the library were presented and discussed. There was limited support for a community managed library run by volunteers and this was not considered sustainable. Also, there was still not a group willing to take it forward and one did not emerge at the meeting. A second option

involving Wiveliscombe Town Council (and neighbouring Parishes) raising the Council Tax precept to fund the library had near unanimous support.

- d. The second option proposes a hybrid CLP model, which would involve:
- Paying SCC to staff and manage the library, who would also provide holiday and sickness cover, etc.
  - WTC sub-leasing the library building and paying building costs.
- e. The funding needed would be provided by the Town Council with additional contributions from neighbouring Parish Councils, probably raised from precepts on the Council Tax. The costs and savings are covered in the next section, but initial calculations (before the latest financial offer from SCC), presented at the public meeting, suggested that for Wiveliscombe this would cost £5 to £8 per household per annum for a Band D dwelling, with a smaller amount from Parishes willing to contribute.
- f. If thought preferable, funding could be provided to SCC so that they continue to fully manage Wiveliscombe library including the building. However, there are drawbacks with this. It is likely to cost more and, significantly, arrangements to secure the lease or an alternative building would still be required from May 2020.
- g. There is potential to achieve savings from taking responsibility for the building, particularly from Business Rates relief, so, on current knowledge, this appears to be a better option. Although this option is likely to entail additional administration and risks for the Town Council, but it may be possible to minimise and mitigate these.
- h. Currently, it is thought the best option would be to seek a future extension of the current building lease from May 2020 on the same or similar terms to those that would apply from April 2019, but this needs to be confirmed, as addressed further in section 11 of this report.

## **8) Costs and savings**

- a. SCC has provided the following forecast costs for continuing to run Wiveliscombe library in 2019/20:

Staff costs	£14,220
Cleaning & waste	£2,541
Elec, phone, supplies	£1,589
Rent & rates	£10,052
Maintenance	£2,344



Income	(£1,900)
<b>NET TOTAL</b>	<b>£28,846</b>

- b. As detailed in section 6, SCC are now offering annual funding of £9,000 per annum to support a Wiveliscombe CLP and, at no charge, they will continue to provide the books, computers and all back-office systems. It should be possible to make small savings on cleaning and maintenance (£600 assumed), claim business rates relief (at least from 2020/21) and achieve another significant saving from a confidential factor that emerged during the consultation, which together reduce the funding gap required to keep the library open and running as currently to £10,000 per year.
- c. The current library opening hours are 3.5 days per week (17.5 hours). These hours are regarded as the preferred minimum to properly maintain and manage the library service in Wiveliscombe. If further savings were to be needed, a reduction in staffed opening hours may be the only way to achieve these. If staffed opening hours were reduced to 2.5 days per week, this would reduce the funding gap to £6,000 per year.
- d. The Town Council already arranges cleaning, maintenance and insurance for the public toilets and some of these arrangements may be partially or fully extendable to the library building.
- e. Currently, Somerset County Council has to pay Business Rates on the library of over £2,000 per annum, which are included in their forecast costs for 2019/20. It should be possible for the Town Council to claim full relief on these rates, as it does currently for the public toilets. The situation for claiming on the library too needs to be confirmed, but it is understood this will be possible from 2020/21 when full rate relief is to be provided on public toilets (as announced in the recent Budget), which would then allow the Town Council to claim single-building rate relief on the library.
- f. SCC has also agreed to progress talks with Districts Councils with a view to seeking Discretionary Rate Relief for CLPs, which, if agreed, may then apply from 2019/20.
- g. If Business Rates on the library needed to be paid in 2019/20 only, it is proposed that the Town Council fund this element of the library costs from reserves.
- h. To raise £6,000 per annum (to cover the library being staffed for 2.5 days per week as indicated in paragraph 8c above) from the precept by Wiveliscombe Town Council alone, would add about £5.30 per annum to the Council Tax for Band D dwellings (and ranging from £3.50 for a Band A to £10.60 for Band H). It should also be noted that households with low incomes are able to claim Council Tax Support to reduce their Council Tax bills.
- i. As covered in the next section, it is proposed that Parish Councils also make on-going contributions to cover the costs of a CLP in Wiveliscombe. If Parish contributions amount to £1,500 per annum, this would leave £8,500 to be funded by Wiveliscombe Town Council with library opening hours being maintained as currently (staffed for 3.5 days per week). To raise this from the Wiveliscombe

precept would add about £7.50 to the Council Tax for Band D dwellings (and ranging from £5 for a Band A to £15 for Band H).

- j. At this time, there can be no certainty on the number of Parishes who would contribute or how much. It may prove to be the case that the Parish Council contributions influence the staffed opening hours that can be maintained. At this stage, it is not proposed that Wiveliscombe would fully fund the same opening hours as currently on its own. It is proposed that Wiveliscombe Town Council agree to commit funding to allow the library to remain open with staffed opening hours of at least 2.5 days per week, with cost implications as shown in paragraph 8h above.

## **9) Contributions from Neighbouring Parish Councils**

- a. SCC data indicates that about three-quarters of Wiveliscombe library users live in the Wiveliscombe Town Council area and about a quarter live in the following neighbouring Parishes: Bathealton, Brompton Ralph, Chipstable, Clatworthy, Fitzhead, Halse, Huish Champflower, Lydeard St Lawrence and Tolland, and Milverton.
- b. Parish Councils for these areas have already been informed of the current situation and asked to consider if they could contribute, with early positive responses received from Chipstable and Milverton. Upton have also expressed potential interest.
- c. It is likely that a meeting would need to be held to discuss how a joint funding solution could work, which will be proposed if Wiveliscombe Town Council agrees to submit an Expression of Interest. Wiveliscombe Town Council would need to be the lead partner as the host of the library, with the largest population and more library users than all the other Parishes combined. It is proposed that the Town Council be represented at this meeting(s) by the Vice-Chair and Cllr Mansell.

## **10) Submission of an Expression of Interest**

- a. A draft Expression of Interest to submit to SCC is contained in Annex B.
- b. If agreed, it is proposed that this be submitted solely by Wiveliscombe Town Council at this stage, but discussions will then be held with Parish Councils on their future involvement and the form of future commitment to a CLP agreement with SCC.
- c. SCC state in their invitation to form CLPs: "An Expression of Interest is not legally binding and would not commit or oblige [partners] to take on any responsibility. The County Council will review all Expressions of Interest received and assess the viability of proposals contained therein. Where the County Council considers that there is potential to develop a Community Library Partnership, a period of discussion, negotiation and agreement would ensue where the details of the partnership would be established and, if possible, agreed through a contract."

- d. The deadline set by SCC, as part of their libraries redesign programme, for submitting an Expression of Interest is 12 noon on 15th November 2018.
- e. SCC have been asked if this deadline could be extended. A short extension may be possible if needed but would require reasons for the request and prior agreement by SCC. However, SCC observed that an Expression of Interest can be submitted without legal obligation, as detailed in paragraph 10c, and request that submissions are made by the deadline agreed by SCC Cabinet.

## **11) Negotiation of Agreement with Somerset County Council**

- a. If an Expression of Interest is submitted, SCC's decision on whether to take forward negotiations for a Wiveliscombe CLP and potential contributions from other Parishes will be reported to Wiveliscombe Town Council. Guidance on funding required from the precept in Wiveliscombe will be available in time for the Council to set the annual budget, which may include options for the number of staffed opening hours.
- b. If SCC agree the Expression of Interest is viable, a decision would then need to be taken on how to take forward negotiations with SCC to secure an acceptable CLP agreement. This may involve a small number of Town Councillors and may include representation from contributing Parish Councils. The Town Council will be asked to decide on this when and if progress is made to this stage.
- c. The negotiation stage will be an opportunity to scrutinise library costs and establish whether savings can be made, as well as to consider risks and how these can be mitigated.
- d. At this stage, it should be possible to address the potential and terms for extending the current building lease, and also for further exploring alternative library locations, after the end of the current lease. Alternative locations may involve one of the schools, although many have suggested that continuing to have a town centre location would be preferable, but this may depend on the costs involved.
- e. If uncertainty remained on the future location of the library building after May 2020 this would need to be taken into account in the terms of an agreement with SCC, with a view to minimising risks to Wiveliscombe Town Council and keeping future options open.
- f. There may be legal costs involved in securing a new building lease, but this is not yet known and it may be possible to minimise these by agreeing to a continuation of the current lease on similar or the same terms to those that apply up to May 2020.
- g. If the process proposed in this report is approved, Town Council approval would still need to be given to put a final agreement for a Wiveliscombe library CLP with SCC into effect.

## **12) Future Possibilities**

- a. For now, the priority is to decide whether to submit an Expression of Interest and, if approved, to then agree acceptable terms for a CLP with SCC. Time for this is short and, as outlined in this report, there is a lot to be done if the future of Wiveliscombe library is to be secured.
- b. However, if a CLP is agreed, this may allow some new opportunities for developing the library service in Wiveliscombe, possibly involving additional and wider community or volunteer input. There may also be opportunities for making greater use of the library building for community benefit. This should not be the focus now, but it may be worth keeping such possibilities in mind.

Report author: Dave Mansell, 6<sup>th</sup> November 2018

### 13) Background papers

- a. Somerset County Council, October 2017 – Somerset Libraries: Vision, Strategic Direction and Outcomes Framework 2017-2021
- b. Report to Wiveliscombe Town Council, March 2018 - The Future of Wiveliscombe Library
- c. Somerset County Council Libraries Consultation 2018: Joint Response on Behalf of Wiveliscombe Library, June 2018
- 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, September 2018 - Somerset Library Service Redesign Programme 2018: Community Library Partnership guidance v.2.0
- f. Somerset County Council, October 2018 - Property proposals and other support proposed for a Community Library Partnership in Wiveliscombe
- g. Somerset County Council, November 2018 - Revised Property proposals and other support proposed for a Community Library Partnership in Wiveliscombe
- h. Somerset County Council, October 2018 - Wiveliscombe Library – possible Community Library Partnership models: Financial illustration – 2019/20 prices (Strictly Confidential)
- i. Somerset County Council, April 2018 - Legal position on funding by Parish and Town Councils
- j. Statutory Instruments 2012 No. 965, Local Government, England - The Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012
- k. Department for Communities and Local Government - Explanatory Memorandum to The Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012
- l. National Association of Local Councils, Legal Topic Note, March 2017: Section 137 of The Local Government Act 1972
- m. National Association of Local Councils, Briefing on Section 137 limit for 2018/19
- n. Somerset County Council - Libraries Redesign programme 2018: website (including Libraries Catchment Mapping tool) online at [somersetlibraries.co.uk/redesign/](http://somersetlibraries.co.uk/redesign/)
- o. Somerset County Council Decision Report, November 2018 - Library Service Redesign: Changes to the way library services are delivered

## ANNEX A – Statutory Duty and Funding Power for Libraries

Two legal questions have been raised previously in regard to Town and Parish Councils providing funding for a Community Library Partnership with Somerset County Council. One relates to SCC's statutory duty to provide library services and another to whether a Town or Parish Council can provide funding for a library. These are addressed below and further information is contained in section 4 of this report.

### 1) Statutory Duty for Library Authorities

The Government has provided guidance on libraries as a statutory service online at: [www.gov.uk/government/publications/guidance-on-libraries-as-a-statutory-service/libraries-as-a-statutory-service](http://www.gov.uk/government/publications/guidance-on-libraries-as-a-statutory-service/libraries-as-a-statutory-service)

Somerset County Council (the library authority for our area) states ([Libraries Redesign programme 2018, frequently asked questions](#)) that:

“We will continue to meet our statutory duty of ensuring all Somerset residents have reasonable access to library services. In some locations we are proposing to continue to deliver our statutory duty through a library building, as we do now. In other areas we are proposing to try to work in partnership with community groups to keep library buildings open. Where this isn't possible, we propose to deliver our statutory duty in alternative ways – for example through library outreach services, online, or through additional mobile library stops.

“In the event that a community chooses to step out of a community library partnership in future, we may deliver our statutory duty in the alternative way described in these proposals without consulting on this change again.”

Therefore, a library building in Wiveliscombe appears to be regarded as discretionary and not a necessary part of SCC's statutory duty.

### 2) Powers for Local Councils to fund a library

The summary of advice from a Senior Solicitor at Somerset County Council is that:

a) “Eligible Councils may use their general power of competence to grant funds to a community Library partnership and there is nothing (including any provision in the Public Libraries and Museums Act 1964) to prevent them from doing so;”

b) “Parish and town councils which are not Eligible may rely on section 137(3) of the Local Government Act 1972 to provide funds both to community library

partnerships and to library authorities providing the funds contributed do not exceed a specified level.”

#### i) General Power of Competence (GPC)

A Local Government Association guide (2013) on [The General Power of Competence: Empowering councils to make a difference](#) states:

Page 8 - “In summary, the GPC enables councils to do things:

- an individual may generally do
- anywhere in the UK or elsewhere
- for a commercial purpose or otherwise, for a charge or without a charge
- without the need to demonstrate that it will benefit the authority, its area or persons resident or present in its area (although in practice councils will want to realise such benefits).

Page 10 - “Adopting the GPC has given town and parish councils the confidence and power to take on additional services, including where principal authorities have had to reduce provision.” ... “The GPC enabled Crewkerne to fund the youth service by avoiding the limitations on discretionary spend imposed by s137 of the Local Government Act 1972.”

Page 12: - “For town and parish councils, there was a maximum amount for such spending [under s137] which does not apply to the GPC.”

A Local Council is eligible to use the GPC when it has resolved to adopt the power, has at least two thirds of its members being declared elected and the Clerk holding an appropriate qualification, as described in The Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012.

There have been some statements saying the GPC does not provide councils with new powers to raise tax or precepts or to borrow, but this is not indicated in the relevant legislation or regulations that apply to Local Councils (Towns and Parishes).

A Government Impact Statement (Communities and Local Government, 2011 - Localism Bill: general power of competence for local authorities) included the following:

Page 9 – “However, some limitations will be placed on local authorities’ powers. In particular, they will remain governed by the existing regimes in relation to taxation, precepting and borrowing (including Prudential Borrowing).”

Page 15 – “Our proposals will not provide local authorities with any new power to raise tax or precepts, or to borrow.”

Initially, the GPC power was only provided in 2011 to Principal Councils (County, District, Unitary), who have restrictions in their precepting powers, which do not also

apply to Local Councils, such as Wiveliscombe Town Council or neighbouring Parish Councils.

When the GPC was extended to Local Councils in 2012, an Explanatory Memorandum was published by the Government, which can be viewed and downloaded at: [http://www.legislation.gov.uk/ukxi/2012/965/pdfs/ukxiem\\_20120965\\_en.pdf](http://www.legislation.gov.uk/ukxi/2012/965/pdfs/ukxiem_20120965_en.pdf)

This Government Memorandum includes the following, with underlining added for emphasis:

10.2 This is a permissive power and therefore there is no compulsion on any tier of local government to make use of it. The impact on the public sector will be determined by how parish councils decide to use the power. The extension of the power to certain parish councils will enable those councils to do things that they have previously been unable to do under existing powers, and this may result in increases in the parish precept. As with the well-being power, there is no limit set on the amount that an authority may spend under the general power. Equally, as it allows them to act in their own financial self-interest, there is potential for efficiencies and savings to be made.

There are many examples on how the GPC has been used by Town and Parish Councils to make a difference and raise their precepts, including in Somerset, notably by Frome Town Council and Martock Parish Council<sup>1</sup>. Therefore, it appears clear that restrictions on precepting are not part of the GPC and these separate restrictions also only apply to Principal Councils, but not to Local Councils.

## ii) Section 137 of the Local Government Act 1972

Section 137 of the Local Government Act 1972 enables Local Councils to spend a limited amount of money for the direct benefit of its area or all or some of its inhabitants, where there is no other alternative power for expenditure.

Section 36 of the Local Government and Housing Act 1989 amended the s137 power and requires the council to ensure that the direct benefit accruing to its area or residents is commensurate with the expenditure incurred. Therefore, this must be properly authorised by resolution and it is open to challenge by the auditor, or by a local government elector objector at audit, on the basis that the expenditure is larger than the direct benefit would justify.

The maximum amount which a council may spend under s137 in any one fiscal year is an index-linked amount for each person on the electoral roll, which for 2018/19 is £7.86.

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<sup>1</sup> Other Somerset Local Councils adopting the GPC include Cheddon Fitzpaine, Crewkerne, Milverton, South Petherton, Puriton and Wells and it is possible there are a lot more.



This would allow Wiveliscombe Town Council to spend over £19,000 in 2018/19 and more next year with index-linking.

Section 137 cannot be used by a Parish Council in England that is eligible to exercise the GPC, except to donate money to charities and bodies providing a public service on a non-profit making basis in the UK. The GPC gives eligible Local Councils greater and less restricted powers than Section 137.

## **ANNEX B – Draft Expression of Interest Submission to SCC**

To follow