

**TAVISTOCK TOWN COUNCIL
TUESDAY 5TH MARCH, 2019
PUBLIC CONVENIENCES IN TAVISTOCK**

1. PURPOSE OF REPORT

To enable Council to formally consider an offer from the Borough Council (WDBC) to either convey public toilets currently in its ownership to the Town Council for continuing operation, or to close them.

More specifically to come to a view, in principle, on the answers to two questions posed by the Borough as part of the offer, namely:-

- o which (if any), of the WDBC public conveniences in Tavistock to take on and, if so,
- o whether or not to endorse the introduction of charging.

This report should be read in conjunction with the report submitted to the Budget & Policy Committee on 19th February, 2019 and the accompanying Minutes.

2. CORPORATE POLICY CONSIDERATIONS

The proposal potentially relates to priorities such as D1 (Representation), D3 (Consultation), C1 (Working Together), C5 (Community Assets), EN1 (Environment).

3. LEGAL AND RISK MANAGEMENT ISSUES

Council will be aware of the issues which can arise from the transfer/acquisition of assets, associated matters/costs and encumbrances. It has in place arrangements in respect of surveys, valuations, consultation etc within its policy framework.

The Council will need to seek to secure an appropriate level of assurance in key areas – not least ability to meet revenue and capital costs, liabilities etc to ensure that associated risks are mitigated and managed as best they can.

4. RESOURCE ISSUES

The resource issues arising from this report include, but are not limited to, capital commitment, revenue commitment, staffing/capacity and

contract management. Costs currently incurred by the Borough Council are set out in more detail within the report and its appendices.

By way of shorthand a £6,000 increase in cost to the Town Council roughly approximates to a 1% increase in Council Tax. If supported the proposals submitted as at the most recent cost base would necessitate an estimated increase of 9.5% on the 2020/21 precept in connection with running solely the Guildhall and Bedford Car Park toilets.

5. COMMUNICATIONS ISSUES

In view of the potential implications of the proposal, including scale of costs to the council tax payer:- a survey has been available on-line, paper surveys distributed to 5000 households in the Town and there has been publicity in the local newspaper. These have been to help inform the community, elicit their views and provide a consultation response base for consideration by Council of next steps. 427 survey responses were received.

Discussions have taken place with Officers of the Borough Council regarding the basis upon which public conveniences are to be treated, the options available to the Town Council and contents of previous reports. Preliminary discussions have taken place with the Surveyors to the Council.

6. RECOMMENDATIONS

The Council, in principle:-

- a) Consider whether or not it wishes to take on the Management of one or more of the 3 public conveniences in Tavistock commencing in April 2020, and currently operated by the Borough Council.
- b) In the event the answer to (a) above is in the affirmative, it further indicate, in relation to each of the premises listed whether or not to proceed as follows:-

Guildhall Car Park Toilets

Subject to survey and legal advice; and satisfactory clarification of the cost of previous capital renovation works to the premises the Council accept the offer of the freehold of the Guildhall Car Park Toilets.

Bedford Car Park Toilets (either/or)

subject to:

- availability on a suitable peppercorn (or equivalent) lease;
- no application of a full repairing obligation, nor WDBC 'staff and vehicle costs',
- legal advice;

the Council accept the offer of the leasehold operation of the Bedford Car Park Toilets.

Or –

In the event that the above proposal is not acceptable to the Borough Council, it be advised that the Town Council does not intend to take on the operation of the Bedford Car Park toilets.

Bus Station Toilets

The Council does not proceed with the offer of the operation of the Bus Station Toilets.

- c) With regard to charging for usage (pay as you go) in any public conveniences which might be taken on by the Council, (and in view of the lack of meaningful income that could be derived¹) WDBC be advised that the Council does not intend to take up the offer of 'pay as you go' installation.
- d) Subject to agreement on the foregoing points officers be authorised to proceed with the necessary arrangements pending any further instructions of Council.

1. BACKGROUND

- 1.1 The background to this matter has been set out in the previous report (19th February Budget and Policy Committee refers). At that meeting additional questions were raised which have been passed to WDBC and were as follows²:-

¹ On the basis of provider company projections unless charges were to be in the order of 50p+

² Where received the answers are annotated in italics

- Request for the new cleaning contract prices to appropriately understand the prospective cost per unit?

Answer³:-

- *Tavistock - Bedford car park = £5458*
- *Tavistock - Bus Station = £6957*
- *Tavistock - Guildhall = £7785.*

- Clarification as to what costs comprise the 'WDBC staff and vehicle costs' heading

Answer:- awaited

- Confirmation as to what the annual servicing cost would be for the 'pay as you go' mechanisms it had proposed?

Answer:- *Maintenance is approximately £900 per site.*

- Confirmation as to whether, based on WDBC projections, charging at 20p per visit would equate to a projected annual gross⁴ income of approximately £6,000pa?

Answer:- *yes that is correct*

- Whether there was any dependency as between the bus station toilets and the kiosk, also what the kiosk generates by way of income each year.

Answer:- awaited

- Whether any lease for the Bedford Car Park toilets could have the facility for break clauses;

Answer:- awaited

- Confirmation of the scope and cost of the works to the Bedford Car Park toilet building fabric which were recently undertaken.

Answer:- *The following repairs were undertaken -*

- *Slipped missing slates were repositioned*
- *Flashings repaired/ replaced to chimneys and dormer windows*
- *Guttering to front elevation replaced*
- *Re-pointing to front elevation around windows*

³ Council will note the significant variances from the charges applicable under the previous contract

⁴ ie before cost of collection, servicing/maintenance, repair/replacement, banking etc.

- *Internal re-plastering where long-term leaking guttering had caused damage.*

I attach a further copy of our record of repairs to all the facilities in Tavistock. Unfortunately, we don't have earlier records due to a change in our building maintenance software and because we no longer have paper records.

- 1.2 Typically Town Council decisions are made on an evidential basis, identifying the costs and benefits associated with a particular course of action, and the impact upon the council tax. This report attempts to follow that process insofar as it can.
- 1.3 However, the drafting acknowledges that the decision being explored may necessarily be less based upon a conventional business case than a local and more community oriented assessment of what is appropriate and affordable. That is because statutory powers and duties relating to public health largely sit at the principal council tier. The divesting of toilet provision by the Borough Council reflects the financial pressure it is under, that it has no duty in this regard and, as such, a business case for provision on a cost/benefit analysis has in effect already been undertaken by WDBC.
- 1.4 However, as the most local tier of local government the Town Council may wish to attach a different weighting to the various factors notwithstanding that, with the exception of overheads, the cost base for delivery is likely to be broadly the same for it as the Borough on most cost heads⁵.
- 1.5 In the final analysis this is a decision for the Town Council as to whether it could/should take on the additional expense of these services at a cost to the local tax payer recognising that public conveniences are a service both to residents and visitors alike.
- 1.6 It is equally a matter for the Borough Council, as service operator and landowner, to decide whether to close them.

⁵ Subject to clarification on 'WDBC staff and vehicle costs' and the revised contract cleaning cost

2. CURRENT SITUATION

- 2.1 The previous report to the Budget and Policy Committee set out the overall situation. Attention being drawn, in particular, to Appendix 1 of that report setting out the costs incurred by WDBC in delivering public conveniences in the Town (in the order of £114,000⁶).
- 2.2 This report is premised upon an expectation from previous discussions within this Chamber that, subject to an appropriate evidence base, the Council is prepared to consider delivering/subsidising some of those services previously delivered by WDBC in the interests of community, economy, health and hygiene.

Assessing Costs

- 2.3 There are a range of costs associated with managing and maintaining public conveniences (Appendix 1 refers).
- 2.4 These can be broadly broken down into revenue and capital. Each of these can be loosely further sub-divided into cleaning and 'other' revenue costs, and routine maintenance and structural maintenance.
- 2.5 The significance of this distinction is that cleaning costs and routine maintenance (other factors notwithstanding) can potentially be fairly predictable. Cleaning and consumables are subject to contract and (other than in cases of persistent vandalism) routine maintenance is likely to also be predictable.
- 2.6 The other two categories may be less so. For example the Bedford Car Park toilets are understood to be a listed building in apparently poor condition. A full repairing lease would place the obligation for structural repair upon the Town Council at a date and in an amount unknown⁷. Similarly when assessing 'other' revenue costs the Council would need to identify the cost of contract monitoring, the allocation of its overheads ie what new resource might be required etc.

⁶ After adjustment for TTC grant iro £6,500

⁷ This is an issue because WDBC have asked for a full repairing lease.

2.7 The assessment is further complicated as regards capital costs/premises condition surveys by virtue of WDBC advising⁸ that it does not have access to property maintenance records or similar from prior to recently moving to a digital only platform. A copy of the limited records it does hold is attached at Appendix 2.

2.8 However, on the information provided (and subject to the new cleaning contract costs) it is possible to provisionally anticipate from the figures provided by WDBC:

- Cleaning cost, repairs, electricity, water charges etc given being fair indicators of near term future expense;
- Business rates are expected to fall away when Government delivers on its commitment to change this so far as public conveniences are concerned (note this is more or less offset by virtue of the WDBC figures discounting Town Council contributions, consequently the overall cost base changes little);
- The Town Council would need to make its own estimates as to the timing and capital cost of any future refurbishments. For example the refurbishment of the Pannier Market toilets was iro £60,000;
- The Town Council would need to make its own estimates as to the capital cost of structural repairs for premises of which it assumed the freehold or any full repairing obligations;
- As to methods of delivering the actual cleaning service itself direct provision would not be competitive with the prices available under the offered contract via WDBC;
- The Town Council would further need to make its own assessment of the amount to be attributed to internal recharge and staff costs. Eg using the WDBC figures and assuming all other costs remained the same, with exclusion of its 'WDBC staff and vehicle costs' (and with adjustment for

⁸ 'We would have had paper records at that time. However, these are no longer available.'

TTC grant) leads to a residual expected cost⁹ figure of £76,966 across all three premises on the existing cleaning contract (£62,816 on the revised/new cleaning contract). Whilst the Town Council would not necessarily have the same costs under the 'staff and vehicle' budget head (being as it were 'on site') one could reasonably estimate the minimum cost of contract administration/monitoring, inspection, co-ordination of work, insurance etc adding at least another £10,000 pa¹⁰. This then gives an overall estimated cost to TTC figure in the region of £86,966pa (or as per adjustment for the revised cleaning contract £72,816).

- o On this basis delivery of the two main toilets only (ie not the bus station) would suggest an estimated revenue cost approximating to a Council tax increase of (on the new contract figure) iro £59,772 - (9.5%)¹¹.

Note – this excludes any potential structural (Guildhall Car Park Toilets) or major refurbishment (Guildhall or Bedford Car Park Toilets) works and assumes no full repairing lease obligations regarding the Bedford Car Park toilets.

2.9 A copy of the new cleaning contract risk assessment and specification as negotiated by WDBC is enclosed at Appendix 3.

2.10 More generally it will be noted that the staff cost base of the Town Council in terms of pay and grading, superannuation etc is consistent with other local authorities, including the Borough. Consequently appreciable savings do not exist in this area.

Public Opinion

2.11 A public survey has been undertaken and 427 responses were received. By way of summary:

⁹ Against an overall cost of £120,600 after adjustment for TTC grant further amending to £113,592 after adjustment for future business rate removal.

¹⁰ By way of information proportion of overall costs incurred by WDBC for each of the premises in relation to the toilet contract for the Borough are Bus Station 5.99%, Bedford Car Park 15.98%, Guildhall Car Park 19.97%

¹¹ or for all three 11.56% next financial year.

- Approx. 90% of respondents support continued provision of toilets at public cost;
- A similar % had used toilets in the town in the last 12 months;
- The most used toilets were Guildhall Car Park (over 80%) followed by Bedford Car Park (@70%) and then the Bus Station @30%);
- The bulk of usage was identified as occasional or weekly;
- The public convenience identified as most important (with over 50% support from respondents) was Guildhall Car Park;
- The public convenience identified as least important showed more or less level pegging between Bedford Car Park (@40.7%) and the Bus Station (40.9%);
- The two largest entries for the additional charge residents would be prepared to pay through Council tax for the service were
 - nothing - @39.6%; and
 - £0-£8 @40.6%
- Whilst approximately 68% respondents would be prepared to use 'pay as you go' nearly 80% indicated a 20p price threshold;
- Nearly 60% supported daytime only opening;
- The majority of respondents were 45 years old plus.

2.12 These figures show a clear preference for retention of some form of toilet provision aligned with sensitivity around cost – however funded. The parity between the Bus Station and Bedford Car Park in terms of the assessment as to the 'least important' facility to retain is perhaps unexpected given the difference in usage levels.

Cleaning Arrangements

2.13 The cleaning arrangements presently in situ are not proposed to be changed either in terms of hours opening or provider¹². There is no current organisational capacity to accommodate an additional draw on physical resources and alternative arrangements would almost certainly increase the cost base.

¹² Subject to cost. However, the revised contract secured by WDBC appears, on the surface, to be most competitive and represents a significant saving over the previous one

2.14 Cleaning costs have recently been subject to open procurement and the revised figures are (for two of the venues) considerably more competitive than was previously the case. However, it is suggested that after 12 months operation it would be prudent for all these arrangements be reviewed against cost and experience.

Charging

2.15 The survey indicated general support for charging at the lower level (20p). Using the projections of the service provider engaged by WDBC this would generate a gross income of approximately £6,000pa (if the Council took on all three facilities). However, this figure is very modest when compared against operating costs.

2.16 More significantly (at 20p) the option is, it is suggested, uneconomic. Servicing costs are £2,700pa (excluding the possibility of vandalism/repairs), staff would need to be deployed to collect monies regularly and there would need to be a change to the council banking mandate. Consequently, and unless a higher fee were to be charged, the best case scenario would be a small surplus of income over cost (less than £2,000pa) with a reasonable likelihood in any one year of costs exceeding income. Pay as you go is not at this time an economically viable option¹³.

The Premises

2.17 Guildhall Car Park Toilets.

- i. These appear to be the most heavily used and are in closest proximity to the Town Centre. They are of relatively modern construction and do not have historic issues (such as foul water runs from the bus station) and appear in reasonable condition.
- ii. If they were to close there would likely be a consequential impact on other facilities in that area such as the Guildhall Gateway Centre and Pannier Market which are not designed to meet significant extra demand

¹³ Additionally there is understood to be an unresolved question more generally as to whether VAT should be accounted for as part of income received from toilets in the public sector in the same way as it is in the case of private sector commercial units.

and do/will not charge. In addition there are days/times when those facilities are not open.

- iii. The Guildhall Car Park toilets also form part of the curtilage of the historic listed courtroom and have a relationship to other land in the ownership of the Council.

2.18 Bedford Car Park Toilets

- i) These are also heavily used and, arguably, utilised in part by a different cohort to that of the Guildhall Car Park. The former being dominated by shoppers/visitors, the latter (at certain times of the day/year) by users of The Meadows.
- ii) However, the premises are understood to be listed:
 - o and the offer by the Borough Council is such as to transfer its residual responsibility for structural maintenance and repair of the fabric of the building (walls, roof, etc) to the Town Council (a full repairing lease) .

This is normal practice in commercial transactions or when letting premises at a peppercorn for use by another party to serve its own purposes (such as a sports clubhouse). However, in the specific circumstances of this case both your Surveyor and your officers consider a full repairing lease to be both onerous and inappropriate. ie the Town Council is (in effect) being asked to take over and deliver at its own cost/subsidy a service of the Borough Council. Your Surveyor further considers that in the general open market it would be unlikely that anyone would take on a full repairing liability for this unit even if there was an income¹⁴.

- o Furthermore, the reason for the lease offer was that in negotiations it had already been indicated TTC would be most unlikely to seek to take on the

¹⁴ the same points would apply to the Guildhall and Bus station car parks if they were offered on those terms.

freehold of these listed premises because of the potentially significant repairing obligation. For it to then take on the equivalent responsibility under a lease would be in effect to subsidise the landlords responsibilities .

- o The separate matter of the unlawfulness of making any payments with regard to the area occupied by the other tenant is addressed in the prior report.
- iii. It should be noted that notwithstanding excluding the full repairing obligation the recommendation in this report still enables the Borough Council to save, on its own most recent cost figures, iro £43,539¹⁵pa with a consequential passporting of future revenue costs to TTC and a continuation of the service for the benefit of the community.
- iv. In summary your Surveyor and officers can only recommend that the Council consider taking on the Bedford Car Park premises (should it wish to do so) on the basis of a peppercorn lease which does not impose the full repairing obligation¹⁶.

2.19 Bus Station Toilets

- i. These are the least used of the three sets of toilets. Notwithstanding that these will have a particular benefit to certain users they do sit in close proximity (2mins walk) to the Bedford Car Park toilets and it is hard to justify these on a cost benefit analysis – not least with a projected increase in cleaning costs.
- ii. In addition there have been historic issues with drainage runs and blockages which cannot be confirmed to have been wholly resolved with any degree of confidence.

¹⁵ Net figure, after allowing for TTC grant.

¹⁶ Nor any other consequential WDBC costs given that TTC would be meeting the cost of delivering the toilets in full and WDBC would be liable for that proportion of the fabric of the building in any event if it were vacant.

- 2.20 General – there is one area which has not been explored because of usage levels (and historic issues around foul water) but should be mentioned in the interests of completeness. Namely in view of survey responses regarding the parity of ‘least important’ facilities the possibility of retaining the Bus Station facility in place of the Bedford Car Park if agreement cannot be reached with WDBC on repairing obligations.

3. CONCLUSION

- 3.1 The recent community survey indicates a clear level of support for retention of a base level of provision of public conveniences and the Town Council has an opportunity to decide whether it wishes (and can afford) to take on the associated cost and responsibility.
- 3.2 If it does not the Borough Council has advised it will proceed to close facilities as soon as possible. Whilst any transferring toilets will only pass to TTC in April 2020, it is important to note that WDBC have indicated that is contingent on notice this financial year as to how TTC intends to proceed. An in principle decision is therefore sought from Council at this Meeting.
- 3.3 In summary there is necessarily no ‘right’ answer to a situation such as this. In drawing up the recommendations in this report your officers have sought to try and balance community expectations against cost. However, the increase in precept projected is substantial and it is difficult to predict what other calls may be made on Council resources over the next year. It may therefore also be appropriate to consider a reduced option of only taking on the Guildhall public conveniences.
- 3.4 Whilst the Council does not have as much information as it would normally seek, an in principle decision on the above basis provides scope for additional clarification prior to any final determination/vesting.
- 3.5 Applying the criteria listed in the previous report to the Budget and Policy Committee your officers would recommend that TTC advise WDBC that if minded to proceed with acquisition - in principle:

Guildhall Car Park Toilets

- a) Subject to Survey and satisfactory clarification of the cost of previous capital renovation works to the premises the Council accepts the offer of the freehold of the Guildhall Car Park Toilets.

Bedford Car Park Toilets

- b) Either
 - 1. the Council accept the offer of the operation of the Bedford Car Park Toilets subject to:
 - o availability on a peppercorn or equivalent lease;
 - o no full repairing obligation, nor the application of WDBC 'staff and vehicle costs'.
 - or, in the event the above arrangement cannot be secured,
 - 2. The Council is not in a position to accept the offer of the operation of the Bus Station Toilets.

Bus Station Toilets

- c) The Council is not in a position to accept the offer of the operation of the Bus Station Toilets.

3.6 As indicated earlier this decision comes at a difficult time when Council budgets (capital and revenue) are already under extreme pressure, both now and for the foreseeable future. These arise not least from challenges to income streams and other initiatives in progress to support both the local economy and historic built environment. If unexpected other revenue costs should arise – either in this project or elsewhere, the Council does not have the ability, either from reserves or revenue, to fund that other than by way of recourse to the Council Tax payer.

CARL HEARN
TOWN CLERK - MARCH 2019