

Policy Group – 17 May 2017

Future of the West Lulworth public toilets

1. Purpose of report

To consider the options for the future of the Council's public toilets at West Lulworth.

2. Key issues

- 2.1 A Policy Development Panel (PDP) in 2011 considered the future of all public toilets owned by the Council. Subsequently five were transferred to the respective town and parish councils. The PDP also considered the future of the West Lulworth public toilets and consulted representatives of West Lulworth Parish Council who, at the time, advised that they were not able to take them over. In December 2011 the Council resolved to transfer the land and buildings to the Lulworth Estate (The Estate) at no cost.
- 2.2 The Estate subsequently applied for a wider planning permission in the Lulworth Cove area which was refused. On appeal the Estate gained its current permission to use the existing buildings (including the pump house) to provide toilet facilities and a café / bistro. During this process the transfer of the land did not occur and the toilets have deteriorated. However, recently the Estate has advised that it still wished to proceed but intended to apply to amend its current permission to allow a comprehensive development of the site, rather than use the current toilet buildings.
- 2.3 A further report to Council on the future of the toilets was deferred last year after West Lulworth Parish Council submitted written and verbal representations raising concerns that the toilets, potentially, would not be open 24 hours a day, possibly not located in their current position and may not be operated in perpetuity. It also advised that it now wished to be considered as the recipient of the asset, which is valued at £94,500.

Since that time officers have met and exchanged correspondence with the Parish Council in addition to seeking clarification from the Estate. For the Parish Council to take control of the asset, it would want the Council to part fund the refurbishment of the building, underwrite a grant application for the rest of the cost of the refurbishment and contribute half of the running costs, in perpetuity. The options considered were therefore:

Option 1: Transfer the toilets to the Estate, free of charge on the proviso that they provide and operate full public toilet facilities on or very near the site in the lower cove area in the future, and that the facilities are open to the public on the same or very similar basis as currently operated by the Council, that is open 24 hours per day and free to use.

Option 2: Transfer the toilets to West Lulworth Parish Council and make a capital contribution of £10,000 or £100,000 and an annual revenue contribution of half of the running costs. However, an agreement to pay a revenue contribution in perpetuity would be unlawful.

Option 3: Retain the toilets and refurbish them at a capital cost of £100,000 and continue to meet the running costs.

- 2.4 Consequently, there are only two viable options. These are Option 1 and Option 3 above.
- 2.5 If the Council decides to transfer the land it must be satisfied that it provides an opportunity to significantly improve the toilet facilities in the lower Cove area, is viable in the long term and provides best value for money for the council tax payer. Transfer to the Estate may represent best value provided the Estate provides full public toilets of a high quality on a timely basis, which are open to the public on a similar basis as currently operated by the Council which the Estate has confirmed is their intention. The Council also may consider the wider opportunity this option presents by enhancing the economy of Purbeck and providing much needed employment opportunities on the site.

3. Recommendation

A report be submitted to Council recommending that the land and toilets are transferred to the Lulworth Estate at no cost to the Estate subject to heads of terms being agreed by the Council's Solicitor, the legal transfer incorporating conditions that full public toilet facilities are to be provided and maintained on or very near the site in the lower cove area and that toilet facilities are open to the public on the same or similar basis as currently operated by the Council.

4. Policy issues

4.1 How will this affect the environment, social issues and the local economy?

The Council's public convenience policy states that it will work with third parties to endeavour to ensure that public conveniences are provided in areas where there is a significant demand, including areas of high tourism. The toilets at West Lulworth are very busy especially during peak visitor periods however the facilities are old and difficult to keep clean, resulting in regular complaints. If they are not transferred to a third party they will need to be refurbished at a capital cost of approximately £100,000.

4.2 Implications

4.2.1 Resources

Transferring Assets: The Council has a duty under Section 123 of the Local Government Act 1972 to ensure that in the event that land in its ownership is disposed of, it is for the best consideration reasonably obtainable or else the consent of the Secretary of State will be required. Specific consent is not needed however where the Council can demonstrate the land sale will help to secure the improvement of the economic, social or environmental wellbeing of its area, and that any undervalue is only up to £2m less than market value. The Council must therefore be satisfied that if it transfers the land and buildings at no cost it would allow the best opportunity to significantly improve the toilet facilities in the Cove area whilst providing best value for money for the council tax payer. The Council may also consider the benefits of options that provide employment and improve the economy. The estimated costs to the Council of options 1 - 3 are shown in Appendix 1 to this report.

The running costs in 2016/17 of these toilets, including; NNDR, water, electric, cleaning and routine maintenance was £15,150. Storm damage repairs and resolving

a ground water issue cost an additional £13,952. The asset value of the property is estimated to be £94,500 (District Valuer Services (DVS) Asset Valuation Report March 2015). Were the Council to dispose of the asset a further valuation would be required by the DVS, the cost of the valuation being met within existing resources.

Asset value: Were the Council to decide to transfer the toilets, the asset value would be removed from the Council's balance sheet and shown as a loss on disposal through the Income and Expenditure Account but have no impact on the Council Tax.

4.2.2 Equalities

An equality impact screening assessment has been carried out and is attached as **Appendix 2** to this report. The options being considered result in either refurbishment or new facilities being provided which would be compliant with regulations on accessibility and diversity and therefore after considering each equality group no negative equality impacts have been identified should any of the recommendations of this report be agreed by Council.

5. Main Report

5.1 The public toilets in the lower cove area are currently open 24 hours per day, they are free to use and cleaned three times per day (1st May – 31st August), and once per day at all other times. In considering the possible future provision for toilets in this area, on the same or similar basis to that above, the following options were considered.

5.2 Option 1: Transfer of the toilets to the Lulworth Estate

5.2.1 The Estate has stated that it will redevelop the existing land to provide new facilities. They wish to incorporate into their plan the old pump house adjacent to the current toilet buildings, to provide a bistro style café in addition to public toilet facilities. All costs of this development are to be met by the Estate.

5.2.2 The Estate have instructed a planning consultant (Morgan Carey) and have prepared concept drawings for a variation to their existing planning consent on the site, advising that they have submitted an application to the Council which is currently awaiting registration. They have also consulted with the Parish Council and heard their concerns.

5.2.3 The Parish Council has stated that in principle it is not against the Estate taking responsibility for the toilets (and therefore the land) but they would like written confirmation *“to ensure that the toilets will be open 24 hours daily, sited at the same site and there in perpetuity”*

In response to the Parish Council the Estate has written:

“The purpose of the toilets is to provide a facility for the local community and those visiting the Lulworth Cove; it is in our interests to do this as the Estate has responsibility for keeping the beach and cove area maintained.” “It is not the intention to relocate the public toilets, except possibly during the construction of new toilets if it should prove necessary to provide temporary alternative for public safety reasons”.
“It is our intension [for the toilets] to be open for 24 hours”.

5.2.4 The Estate manages similar toilet facilities at the Heritage Centre and Durdle Door and has arrangements in place to take over the cleaning of the toilets were they to be transferred. The Estate have confirmed that they will operate the lower Cove toilets on the same basis as now until new facilities are built (they are currently open 24 hours a day).

5.2.5 Should the Estate not be successful in obtaining planning permission they have requested a condition in the conveyancing that after a period of 10 years the Estate may hand back the toilets to the Council. This could mean that if the Estate encounter delays in obtaining planning permission the toilets and land could be returned to the Council.

5.3 **Option 2: Transfer the toilets to West Lulworth Parish Council**

5.3.1 West Lulworth Parish Council has advised that they have voted in favour of taking on the responsibility for the toilets if they were offered. Officers have attended meetings with the Parish Council and corresponded to explore this option making them aware that it would be fully responsible for the running costs and repairs as well as organising the cleaning.

5.3.2 In summary the Parish Council has requested the following be considered, were the District Council to transfer the land and buildings to it:

- That the District Council pay to the Parish Council an annual sum equalling 50% of the current running costs of the facilities. (£7,575) in perpetuity.
- To fund the cost of refurbishment of the toilets if a bid for external funding was not successful.
- That the Council considers lifting the restrictive covenant currently on the site.

5.3.3 When the Council previously transferred toilets to other town and parish councils three annual payments based on 75 – 50 – 25% of the annual running costs were agreed to allow a local precept to be raised if required. The West Lulworth Parish Council however have stated that this is not sustainable in their case due to the small size of the parish (291 households). The proposed financial support requested by the Parish Council would therefore be inconsistent with previous agreements made with other town and parish councils. Furthermore, the provision of financial support in perpetuity would seek to fetter the discretion of a future Council and would therefore be unlawful.

5.3.1 The Parish Council has stated that it is minded to apply to the Viridor Large Fund to finance the refurbishment of the toilets. The fund supports community and heritage projects located within 10 miles of licenced landfill sites such as that at Trigon near Wareham. Were this to happen the Council could offer a one off capital grant of £10,000 to facilitate that application. In the event that it was unsuccessful however the Council would need to provide all the capital funding to refurbish the toilets. It is not possible to ascertain the likelihood of a successful application as they are assessed by the Board of Trustees and rely on the quality of the application, eligibility of the applicant and on other competing priorities for the fund. The Council would need to set aside a total sum of up to £100,000 in its unapproved capital budget for 2017/18 should a bid be unsuccessful.

5.3.2 The land was conveyed to Wareham and Purbeck Rural District Council by the Estate on 29 March 1974. When the land was conveyed to the Council a restrictive covenant was placed on the land as follows:

“To use the property...only for the purposes of public lavatories and further so far as the Council can ensure this the property...shall be regularly cleaned and shall not be permitted to be a nuisance to the Trustees or the tenants or those present on the [Trustees’] land with their permission.”

Lifting the restrictive covenant without the agreement of the Estate, as requested would not be possible. The agreement of the Estate would be required before the transfer of the land to the Parish Council. Undoubtedly there would be a cost to the Council if it were to seek to either lift or modify the covenant.

5.3.3 Should Council be minded to consider transferring the facilities to the Parish Council, clearly further consideration of the financial and legal arrangements would be required to ensure this option was lawful, consistent with the arrangements with other parish and town councils and sustainable in the long term.

5.4 **Option 3: Purbeck District Council continues to own and operate the toilets**

5.4.1 The Council could continue running the facilities. At the present time the toilets are managed through existing staff resources and running costs met within existing budgets. Changes to the business rates regime in 2018/19 will reduce the running costs of all public toilets, through the provision of business rates relief, in accordance with legislative changes made by Government. The toilets require urgent refurbishment and therefore a sum of £100,000 has been included in the Council’s unapproved capital budget for 2017/18 should this eventuality arise.

Appendices:

1 - Financial Considerations

2 - Equality Impact Screening Assessment

Background papers:

- Council Report 13.12.11 West Lulworth public toilets – transfer of ownership
- Public Convenience Policy
- Council Report 9.8.16 Future of West Lulworth Toilets
- Viridor Large Grants Scheme: (web link) <http://www.viridor-credits.co.uk/apply-for-funding/large-grants-scheme/>

For further information contact:-

Richard Conway, Environment Manager

Table 1. Year 1 Revenue and Capital expenditure

Option	Revenue (+) = cost (-) = saving	Capital Refurbishment costs
1 Transfer to the Lulworth Estate	-£15,150 (Running costs saved based on 2016/17 costs)	£0 (All development costs paid by the Lulworth Estate)
2 Transfer to the Parish Council	+£7,575 (Based on 50% of 2016/17 running costs) Note – Payment inperpituity would be unlawful.	+£10,000 payable to facilitate a bid to the Viridor Large fund or +£100,000* To facilitate a refurbishment if bid is unsuccessful.
3 No Change	+£15,150 (Based on 2016/17 running costs)	+£100,000 (Refurbishment costs)

(-) denotes an estimated saving to the Council

* Refurbishment Costs of £100,000 is an estimate and would be subject to a tender procedure

Table 2 Estimated total cost of each option after 1, 5 and 10 years

Option	Year 1 Costs	Cumulative after 5 Yrs.	Cumulative after 10 Yrs.	Notes
1 Transfer to the Lulworth Estate	-£115,150	-£180,400	-£269,200	Running and refurbishment costs both saved.
2a Transfer to the Parish Council <u>Refurbishment bid successful</u>	+£7,575 + +£10,000	+£50,200	+£94,600	Payment to Parish Council (50% of running costs & assumes 2% CPI/yr + grant to facilitate Viridor Fund bid.
2b Transfer to the Parish Council <u>Refurbishment bid not successful</u>	+£7,575 + £100,000	+£140,200	+£184,600	Payment to Parish Council If bid for funds from Viridor Fund are unsuccessful
1.No Change	+£15,150 + +£100,000*	+£180,400	+£269,200	Running cost (assumes 2% inflation per year) + refurbishment costs

(-) denotes an estimated saving (+) denotes an estimated cost

All future costs for Yrs. 5 & 10 are estimates based on 2016/17 running costs, rounded to the nearest £100 and assume 2% inflation/yr.

PURBECK DISTRICT COUNCIL
EQUALITY IMPACT ASSESSMENT SCREENING RECORD

Service	Public Health and Housing Services
Title of service/policy/project	Replacement and / or refurbishment of West Lulworth Public Toilets
Date of Assessment.	9 th March 2017
Officer(s) involved in the screening	Richard Conway
<p>What are you impact assessing? Result of policy decision will result in either</p> <ol style="list-style-type: none"> 1. Transfer of Land to Lulworth Estate Or 2. Transfer to the West Lulworth Parish Council Or 3. refurbish the toilets meeting modern diversity requirements, meeting British Standards on Accessible Public Toilets. <p>All options will bring about a significant improvement to the state / condition of the public toilet facilities provided on the site.</p>	
	<p>Existing: The current facilities are in a very poor state, last refurbished many years ago. The existing buildings were designed and built many years ago and are not currently Disability Discrimination Act 1995 (DDA) compliant. (there are no individual disabled toilets and the cubicles were not designed to allow wheelchair access. Any refurbishment or redevelopment of the facilities would therefore need to ensure DDA compliance.</p>
	<p>New/ Proposed New or refurbished facilities to meet British Standards and be DDA compliant.</p>
	<p>Changing/Update/Revision N/A</p>
	<p>Other (please list) N/A</p>

<p>Q2. What are the aims and objectives of the service/policy/project</p> <p>Proposed Changes to comply with the Council's Public Convenience Provision Policy. The aims of the project is to bring about the improvement / refurbishment or replacement of the current public toilets at the lower Cove area of West Lulworth. The current facilities are very old, are not DDA compliant but are located in a popular site with visitors. They are difficult to maintain, block regularly and difficult to clean. As a result they are subject to regular complaints by the public. Under normal operation they are intended to be free to enter, left open on the same basis as the Council currently runs the facilities i.e. 24 hours a day unless there are temporary</p>
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reasons for closing earlier (antisocial behaviour, drug abuse or vandalism). In this case advice would be sought by the appropriate law enforcement agency prior to making any decision on opening hours. To date this has never been necessary.
New facilities will inevitably be more environmentally friendly for example sensor operated toilets, taps, LED lighting and be DDA compliant.
The Estate have stated that it is their intention that the new facilities will be more in keeping and compliment the visitor experience of visiting this iconic status of the destination on the Jurassic coast.

Q3. Who is the service/policy/project going to benefit?

The project will benefit:
1. Visitors to the lower Cove
2. Local businesses in the Cove area
3. Local People living in the vicinity of the lower Cover area.

Q4. For each equality group, does or could the policy, project or service have a negative impact?

Group	Negative	Positive/No impact	Do not know
Age		✓	
Disability		✓	
Race & Ethnicity		✓	
Sex		✓	
Gender Reassignment		✓	
Sexual Orientation		✓	
Faith or Belief		✓	
Relationships between groups		✓	
Marriage & Civil Partnerships		✓	
Pregnancy & Maternity		✓	
Other socially excluded groups*		✓	

IF THE ANSWER IS 'NEGATIVE' OR 'DO NOT KNOW' – DO A FULL EQUALITY IMPACT ASSESSMENT

Q5. Does or could the area being looked at help promote equality?

Group	Negative	Positive/No impact	Do not know
Age		✓	
Disability		✓	
Race & Ethnicity		✓	
Sex		✓	
Gender Reassignment		✓	
Sexual Orientation		✓	
Faith or Belief		✓	
Relationships between groups		✓	
Marriage & Civil Partnerships		✓	
Pregnancy & Maternity		✓	

Other socially excluded groups*		✓	
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IF THE ANSWER IS ‘NEGATIVE’ OR ‘DO NOT KNOW’ – CONSIDER DOING A FULL EQUALITY IMPACT ASSESSMENT

Q6. Do you have any feedback from equality groups that influence, affect or shape this policy, project or service?			
Group	Negative	Positive/No impact	Do not know
Age		✓	
Disability		✓	
Race & Ethnicity		✓	
Sex		✓	
Gender Reassignment		✓	
Sexual Orientation		✓	
Faith or Belief		✓	
Relationships between groups		✓	
Marriage & Civil Partnerships		✓	
Pregnancy & Maternity		✓	
Other socially excluded groups*		✓	

IF THE ANSWER IS ‘NEGATIVE’ OR ‘DO NOT KNOW’ – CONSIDER DOING A FULL EQUALITY IMPACT ASSESSMENT

Q7. If the answers to Q4, 5 or 6 are ‘negative’ or ‘do not know’ and you do not intend to carry out a full Equality Impact Assessment, please explain why?
N/A

* Other socially excluded groups include those with health issues, living on low income, single parents, gypsies and travellers, carers, or looked after children.