

## Rother District Council

**Report to:** Cabinet

**Date:** 25 July 2022

**Title:** Devolution of Public Conveniences in Bexhill

**Report of:** Lorna Ford (Deputy Chief Executive)

**Cabinet Member:** Councillors Dixon and Prochak

**Ward(s):** All Bexhill Wards

**Purpose of Report:** The purpose of this report is to seek agreement to the devolution of public conveniences in Bexhill from Rother District Council (RDC) to Bexhill on Sea Town Council (BoSTC) for transfer by April 2023. The report also seeks approval to allocate Community Infrastructure Levy (CIL) funds collected in Bexhill, prior to the Town Council being established, to be used by BoSTC and community organisations to make improvements to the facilities.

**Decision Type:** Key

### Officer

**Recommendation(s):** **Recommendation to COUNCIL:** That:

- 1) the principle to transfer public conveniences in Bexhill to BoSTC on long-term leases by April 2023, be approved;
- 2) up to £218,000 of local CIL funds be made available to BoSTC and other community organisations to enable the refurbishment of public conveniences; and
- 3) the Deputy Chief Executive be granted delegated authority to facilitate the devolvement and transfer of public conveniences and enter into leases, when terms are agreed, with BoSTC, and community groups, in consultation with the Leader and Portfolio Holders.

### Reasons for

**Recommendations:** The devolution of public conveniences in Bexhill to the Town Council will ensure the future delivery and improvement of important community facilities for the benefit of local people and visitors to Bexhill.

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## Introduction

1. The town of Bexhill has 14 public conveniences provided RDC, much higher than other towns of its size. A recent survey, undertaken by BoSTC, confirmed residents see the improvement of the toilets in the town as a

priority. The devolution of public conveniences empowers local people to inform what services they want and how they are provided.

2. One of the priority objectives in Rother District Council's Corporate Plan (2020-2027) was the establishment of a Town Council for Bexhill. Following the elections in May 2021, Rother District Council has been working with the Town Council to identify and agree which assets and services will be transferred from RDC to BoSTC.
3. Achieving financial stability is another key objective of Rother's Corporate Plan. The Financial Stability Programme was adopted by the Council on 29 March 2021 (Minute CB20/120 refers). Part of the Council's approach involves the transferring of community assets in order to support the delivery of discretionary services. The Protecting Discretionary Services Strategy was approved and adopted on 28 June 2021 (Minute CB21/14 refers).
4. On 28 March 2022 it was agreed that the Financial Stability Programme and the Protecting Discretionary Services Strategy should be merged into a single project (Minute CB21/98 refers). The following approach was approved:

Public Conveniences, to either/or:

Devolve to town and parish councils, including further options to refurbish by RDC before devolving;

- i. Devolve to town and parish councils providing town and parish councils with funding to refurbish maybe through CIL funds
- ii. Retain, refurbish and introduce charges
- iii. If the parish or town council and the community agree that the facility is not required, then redevelop or demolish.

Car Parks that are a net cost to the Council, to either/or:

- i. Devolve to town and parish councils, or other suitable groups
- ii. Retain and investigate introducing charging in sites that are currently free to use;
- iii. Re-purpose if the facility is not needed by the community

Grounds Maintenance to either/or:

- i. agree a programme of devolvement with Bexhill, Battle and Rye Town Councils;
- ii. continue with a service contract managed by RDC, but with a minimum specification at lowest cost

5. The proposals in this report, relating to public conveniences, fall under option (i); to devolve to the Town Council providing funding to refurbish through CIL funds.
6. On 6 April, BoSTC Full Council resolved to commence negotiations with RDC regarding the transfer of public conveniences.

**Protecting Discretionary Services – devolution of assets and service project**

7. The Council has embarked on a programme of work to deliver financial stability to the Council. This ambition is described in the Council's Corporate Plan and part of this programme is to seek the transfer of certain community

assets to organisations better able to protect the asset and secure the use into the future.

8. The devolvement of public conveniences in Bexhill forms part of a larger project to work with Local Councils and community organisations across the district to identify and agree discretionary assets and services to be transferred. The desired outcomes of this project are to protect discretionary services for future use by the community and to reduce the Council's net spend on discretionary services by 2025/26. The discretionary services and assets in the scope of the project are as follows:
  - Public Conveniences
  - Parks and Open Spaces
  - Museum buildings
  - Bus Shelters
  - Christmas special lighting
  - Off-street public parking places which are currently free to use
9. The devolution of assets and services project has two phases. Phase one focusses on public conveniences in Bexhill to be transferred to BoSTC by April 2023. The second phase covers the devolution of assets/services for all other Local Councils for handover by April 2024. Discussions are already underway with Rye and Battle Town Councils and discussions have begun with BoSTC about other assets and services that could be devolved. Engagement will begin with all other Parish Councils over the coming months.

### **Devolution of public conveniences in Bexhill**

10. There are 14 public conveniences in the Bexhill area that could potentially be devolved, these are listed in Appendix A. The Town Council has indicated its interest in taking on all public conveniences, however, there are ongoing discussions with other organisations regarding the future management arrangements of public conveniences. These include the Polegrove Bowls Club regarding the Polegrove Bowls area toilets and Bexhill Old Town Preservation Society in respect of Manor Gardens toilets.
11. Condition surveys have been commissioned for all public conveniences in Bexhill to inform the negotiations. BoSTC, and other organisations, need to be aware of the level of potential works required to make an informed decision on which public conveniences will be transferred.
12. It is recognised that the condition of the public conveniences in Bexhill are in need of improvement and are needed to support the development of the area. A residents' survey undertaken by BoSTC in 2021 confirmed that it is a key priority of local residents to see improvements to public toilets. In order to support this refurbishment, it is proposed that up to £218,000 of local CIL funds are made available to enable a programme of works to be undertaken.

### **Options**

Other options include:

13. Retain, refurbish and introduce charges - In Bexhill this is only viable for three public conveniences with the highest footfall (Channel View East, East Parade and West Parade). It is not proposed that the potentially income generating facilities are excluded from the package of public conveniences to be devolved.
14. Redevelop or demolish - If the Town Council and the community agree that a facility is not required, then it will be redeveloped or demolished. The Protecting Discretionary Services Strategy objective is to fully investigate options that protect services before resolving to redevelopment or demolition. This option will only be considered for public conveniences that are not devolved to BoSTC or other interested community groups.
15. Do nothing - this position would not be financially sustainable.

## **Conclusion**

16. The devolution provides an opportunity to protect local services and improve the quality of assets for residents and visitors. It will also strengthen local communities by empowering Local Councils and community organisations to develop facilities based on local need and preference.
17. There will be ongoing savings to RDC which will contribute to the overall savings target set out in the Financial Stability Programme. The transfer of assets will also increase the capacity of the Estates Team and Neighbourhood services.

## **Financial Implications**

18. Rother District Council currently balances its revenue budget by using Reserves but this is not a sustainable option. Savings and efficiencies need to be identified and if this situation were to continue unchecked, the Council would have to take drastic action to reduce its expenditure, including the cessation of several discretionary services.
19. The amount of revenue saving is dependent on the number of facilities transferred. If 12 public conveniences were transferred to BoSTC, the revenue savings per year would be £123,771.10. If the remaining two facilities (Manor Barn toilets and Polegrove Bowls area toilets) were transferred to community organisations, it would save an additional £13,722.89. The total potential saving, if all 14 facilities were transferred, is £137,493.99 per annum. These figures are based on 22/23 expenditure on contract cleaning and 21/22 expenditure on utilities, grounds maintenance, hired and contract services, insurance and repairs. They do not however include support administration costs or costs that are aggregated with all other public conveniences in the district.
20. Up to £218,000 of local CIL funding collected for Bexhill between 2016 and May 2021 (prior to BoSTC being established) will be made available to BoSTC and other community organisations to enable a programme of refurbishment to be undertaken.

21. A one-off cost of £20,000 has been earmarked from the Invest to Save fund, set up to enable the delivery of the Financial Stability Programme, to carry out the condition surveys for Bexhill public conveniences.

### **Legal Implications**

22. The Localism Act 2011 introduced the concept of local communities taking more control of assets in their area.
23. Work is underway to develop a standard lease that can be used as the basis for all future asset transfers.
24. Public conveniences conditions surveys will need to adhere with procurement procedural rules under Public Contracts Regulations 2015.
25. Local Government Act 1972 s123 sets out that local authorities must obtain “best consideration” for all disposals.
26. Local Government Act 1972: General Disposal Consent 2003 (“General Consent Order”) - gives permission for Councils to disposal at less than best consideration provided the value forgone is less than £2m (in capital terms) and the transaction benefits the economic, social or environmental well-being of the area. If the value forgone is greater than £2m approval from the Secretary of State is required.
27. In accordance with CIL guidance, charging authorities (i.e. RDC) should use existing community consultation and engagement processes to understand community priorities. The guidance does not prescribe a specific process for agreeing how the local proportion should be spent other than ‘to support the development of the area’ (Regulation 59C). RDC can pass Local CIL directly to BoSTC and community organisations in Bexhill for a specific project. BoSTC and community organisations who receive CIL will need to record how they have spent this funding (Regulation 121B) and publish it on their website.

### **Human Resources Implications**

28. There are no TUPE implications arising from the transfer of Public Conveniences.

### **Environmental**

29. There is an opportunity to minimise the carbon footprint of services by ensuring supply chains for operational costs are as local as possible.

### **Risk Management**

30. A risk assessment has been undertaken and mitigating actions identified to reduce or eliminate the risks. These risks include resourcing the project adequately and time-consuming negotiation which could delay progress.

### **External Consultation**

31. In 2021, BoSTC conducted “The Big Survey” which sought the views of Bexhill residents on range of issues. Over 2,000 people submitted their views. Improving public toilets was a primary concern amongst residents with 36% wanting to see improvements.
32. In terms of future engagement, a communication and consultation plan has been developed which considers the key messages for stakeholder including Local Councils, residents and community groups.

<b>Other Implications</b>	<b>Applies?</b>	<b>Other Implications</b>	<b>Applies?</b>
Human Rights	No	Equalities and Diversity	No
Crime and Disorder	No	External Consultation	Yes
Environmental	Yes	Access to Information	No
Risk Management	Yes	Exempt from publication	No

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Appendices:	A List of Public Conveniences in Bexhill
Relevant Previous Minutes:	CB20/120, CB21/14, CB21/98
Background Papers:	
Reference Documents:	

**Bexhill Public Conveniences**

<b>Location</b>	<b>Site</b>	<b>Interested Party</b>	<b>Comments</b>
<b>Bexhill Cemetery</b>	In cemetery	Bexhill Town Council	
<b>Channel View East</b>	Bexhill promenade	Bexhill Town Council	
<b>Cooden Sea Road</b>	Stand alone	Bexhill Town Council	
<b>Devonshire Square</b>	Stand alone	Bexhill Town Council	
<b>East Parade</b>	Bexhill promenade	Bexhill Town Council	
<b>Egerton Park</b>	In park	Bexhill Town Council	
<b>Little Common Rec</b>	Adjacent to car park	Bexhill Town Council	
<b>Little Common Roundabout</b>	Stand alone	Bexhill Town Council	
<b>Normans Bay</b>	Stand alone	Bexhill Town Council	
<b>Sidley</b>	Stand alone	Bexhill Town Council	
<b>West Parade</b>	Bexhill promenade	Bexhill Town Council	Site is subject to undecided planning application RR/2022/1325/P including disabled public convenience refurbishment.
<b>Polegrove Grandstand</b>	Part of grandstand	Bexhill Town Council	
<b>Manor Barn Car Park</b>	In car park	Bexhill Old Town Preservation Society	Subject to Trustee discussion with expression of interest due August 2022.
<b>Polegrove Bowls Area</b>	In grounds	Polegrove Bowls Club	Subject to CIC incorporation.