

**TONBRIDGE & MALLING BOROUGH COUNCIL**  
**FINANCE, INNOVATION and PROPERTY ADVISORY BOARD**

**06 January 2021**

**Report of the Director of Central Services & Deputy Chief Executive**

**Part 2- Private**

Reasons - LGA 1972 - Sch 12A Paragraph 3 – Financial or business affairs of any particular person

**Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)**

**1 PROPOSED TRANSFER OF PUBLIC CONVENIENCES**

**Summary**

**This report sets out the proposed terms of the freehold disposal of public conveniences to Parish and Town Councils.**

**1.1 Background**

1.1.1 In October 2018 a report on the provision of public conveniences was reported to the Overview & Scrutiny Committee, a copy of the report can be found at **Annex 1**. A subsequent report was presented to the Street Scene and Environment Services Advisory Board on 30 October 2019, a copy of that report can be found at **Annex 2**.

1.1.2 Cabinet approved the recommendations set out in the Street Scene and Environment Services Advisory Board report, including that Property Services progress the transfer of public conveniences to the relevant Parish/Town Council, in liaison with the Finance, Innovation and Property Advisory Board.

1.1.3 It is intended that freehold transfers of the public conveniences take place prior to 1<sup>st</sup> April 2021.

1.1.4 Officers from Property Services and Waste Services have undertaken site inspections to identify any works which may be required so that the facilities can be transferred in an acceptable standard. The cost of these works are to be funded from the Council's Building Repairs Budget.

**1.2 Proposed Terms**

1.2.1 Over recent months discussions have been continuing with the relevant Parish/Town Councils regarding the terms of the transfers, following their previous in principle agreement. Below is an updated position of these discussions along with the proposed terms of the freehold disposals.

East Peckham Parish Council

1.2.2 Legal Services have been instructed to draft the transfer documentation on the following terms:

- Use – site to be used as public conveniences only
- Consideration - £1 (which reflects the public convenience use restriction)
- Costs – each side to meet their own surveyor and legal costs
- Area to be transferred – existing toilet block and surrounding area of hard landscaping, as shown at **Annex 3**

Borough Green Parish Council

1.2.3 Legal Services have been instructed to draft the transfer documentation on the following terms:

- Use – site to be used as public conveniences only
- Consideration - £1 (which reflects the public convenience use restriction)
- Costs – each side to meet their own surveyor and legal costs
- Area to be transferred – existing toilet block, as shown at **Annex 4**

1.2.4 The Parish Council have requested that the Borough Council transfers to them an area of public space at Crowhill in Borough Green (an area measuring approximately 1.2 hectares / 3.0 acres) prior to any transfer of the public conveniences taking place. A response has been sent to the Parish Council stating the Borough Council would be willing to investigate the matter, however the two matters will be treated separately.

1.2.5 Should further investigation reveal a transfer of the land may be appropriate, it would be the subject of a future report to this board.

West Malling Parish Council

1.2.6 Legal Services have been instructed to draft the transfer documentation on the following terms:

- Use – site to be used as public conveniences only
- Consideration - £1 (which reflects the public convenience use restriction)

- Costs – each side to meet their own surveyor and legal costs
- Area to be transferred – existing toilet block, as shown at **Annex 5**

#### East Malling and Larkfield Parish Council

1.2.7 Legal Services have been instructed to draft the transfer documentation on the following terms:

- Use – site to be used as public conveniences only
- Consideration - £1 (which reflects the public convenience use restriction)
- Costs – each side to meet their own surveyor and legal costs
- Area to be transferred – existing toilet block, as shown at **Annex 6**

#### Snodland Town Council

1.2.8 Although the Town Council had previously indicated they would be willing to take a transfer of the public conveniences, they have subsequently written to the Borough Council formally declining the offer of transfer. Therefore, on 1<sup>st</sup> April 2021 the facilities will be closed.

1.2.9 In the meantime, options for future use of the area will be considered. This will include the feasibility of demolishing the existing structure and providing additional car parking spaces as well as whether the area could be sold. If the latter option is progressed, the matter will be the subject of a further report to this board.

#### Aylesford Parish Council

1.2.10 The site of the public conveniences in Aylesford is leased by the Borough Council, from the Parish Council, upon which the Borough Council constructed and thereafter operated the facilities. The lease commenced in May 1972 and is due to expire in May 2021.

1.2.11 The lease states that at the end of the term, if the Parish Council requires us to do so, the Borough Council will be required to demolish the building and restore the land to its former condition.

1.2.12 At the present time instruction is awaited from the Parish Council as to whether they will require the site to be reinstated prior to handover, or whether they will continue to operate the site as public conveniences.

#### Wrotham Parish Council

1.2.13 The public conveniences in Wrotham are owned by the Parish Council and are licenced to the Borough Council to maintain and operate. Either party can determine the agreement upon the serving of 12 months written notice.

- 1.2.14 The facility was damaged by a fire some time ago and has not been in use since. The Borough Council has asked the Parish Council to confirm whether it is their intention to continue to operate the toilets as this will determine whether the facility is reinstated via an insurance claim, or not.
- 1.2.15 Either way, the Borough Council has now served notice on the Parish to terminate the existing agreement in 12 months' time.

#### Hadlow Parish Council

- 1.2.16 The Parish Council has formally declined the offer of transfer and therefore Property Services will explore options for the disposal of this site, which will be the subject of a future report to this board.

### **1.3 Legal Implications**

- 1.3.1 Legal Services have been instructed to draft the conveyance documents to ensure all relevant clauses are included. Should Members approve the recommendations in this report, they will be instructed to complete the transfers prior to 1<sup>st</sup> April 2021 where possible.

### **1.4 Financial and Value for Money Considerations**

- 1.4.1 The Council is required to ensure best value be obtained in any disposal of land or property. By including a covenant which restricts the use of the property being transferred to that of a public convenience, it means there is little or no monetary value therefore the proposed consideration is £1.
- 1.4.2 If, in the future, a Parish/Town Council wanted to close a facility and put the building or site to an alternative use then they would need to request that we lift the covenant. At that time consideration would be given to the specific proposals and whether a financial payment would be required if the alternative use would result in a capital receipt or revenue generation.

### **1.5 Risk Assessment**

- 1.5.1 There are no perceived risks associated with the transfers.

### **1.6 Equality Impact Assessment**

- 1.6.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act.
- 1.6.2 Members will note from the Street Scene and Environment Services Advisory Board in October 2019 that an Equality Impact Assessment was completed in respect of the review of public conveniences.

## **1.7 Policy Considerations**

1.7.1 Asset Management

## **1.8 Recommendations**

1.8.1 It is **RECOMMENDED** to Cabinet that:

1.8.2 The public conveniences at East Peckham, Borough Green, West Malling and East Malling & Larkfield be transferred to the respective Parish Councils in line with the terms outlined in the report;

1.8.3 Borough Green Parish Council's request to purchase land at Crowhill in Borough Green be investigated, and;

1.8.4 Options be investigated for the disposal/alternative use of any public convenience sites not transferred to Parish/Town Councils

The Director of Central Services confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

contact: Stuart Edwards

Nil

Adrian Stanfield

Director of Central Services & Deputy Chief Executive