

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

15 September 2021

Report of the Management Team

Part 1- Public

Matters for Recommendation to Cabinet - Council Decision

1 SPECIAL EXPENSES CONSULTATION

The Council launched a consultation on 22 June for a four week period regarding potential adjustments to the Special Expenses Policy.

This report provides details of the responses to the consultation and seeks Members' recommendations on whether (or not) the cost of the non-strategic Public Conveniences in Tonbridge should be included within the Special Expenses policy; and also whether (or not) the cost of Christmas lights should be included within the Special Expenses policy.

1.1 Introduction

1.1.1 The Council's current Special Expenses policy came into effect on 1 April 2017 and is attached at **[Annex 1]** for background information.

1.1.2 At the meeting of this Advisory Board in May, Members noted that a consultation exercise was to be launched to hear the public's views about the potential inclusion of (non-strategic) public conveniences and Christmas lighting in the Council's Special Expenses policy.

1.1.3 In accordance with the Advisory Board's recommendations to Cabinet following the May meeting, and Cabinet's subsequent endorsement, the public consultation opened on 22 June 2021 on the Council's website.

1.1.4 The detail of the information that appeared on the website is set out at **[Annex 2]**.

1.1.5 In simple terms the questions posed were either **Agree or Disagree** to the following statements:

- Public toilets should be paid for by the local communities where they are provided through council tax bills (**Statement 1**)
- Public toilets should be paid for by all council taxpayers in the borough (**Statement 2**)

- Christmas lights should be paid for by the local communities where they are provided through council tax bills (**Statement 3**)
- Christmas lights should be paid for by all council tax payers in the borough (**Statement 4**)

1.1.6 The consultation was open for 4 weeks and subsequently closed on 20 July.

1.1.7 Residents were encouraged to respond to the consultation via a range of publicity activities. This included messages on the website homepage, a news release which was reported by the local media and social media posts throughout June and July.

1.1.8 In total there were 170 responses to the questions posed via the website, plus one 'free form' written submission. The responses received are summarised at **[Annex 3]** for Members' consideration. In addition, **[Annex 4]** sets out some of the free-form comments received. It should be recognised that some of the comments relate to matters outside the scope of the consultation.

1.1.9 It is for Members to decide whether either, both or neither of the concurrent functions should be added to the Special Expenses policy. Each function needs to be considered on its own merits and recommendations made accordingly.

1.1.10 The role of this Advisory Board is to review the responses alongside the earlier 'reasoning' which led to the potential inclusion of these concurrent functions in the Special Expenses policy, and thereafter make recommendations to Cabinet.

1.1.11 A report will similarly be presented to the Overview and Scrutiny Committee at its meeting on 7 October 2021. The Committee will be advised of this Board's recommendations.

1.1.12 To assist deliberation, each function is considered separately in the following paragraphs. However, to set the 'scene', the overall **headline results** which are not broken down by area of the borough are as follows:

	AGREE number	AGREE %	DISAGREE number	DISAGREE %
Statement 1 (Pub Cons, paid by local communities)	55	32%	115	68%
Statement 2 (Pub Cons, paid by all taxpayers)	126	74%	44	26%
Statement 3 (Christmas Lights, paid by local communities)	85	50%	85	50%

Statement 4 (Christmas Lights, paid by all taxpayers)	83	49%	87	51%
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1.1.13 Members will of course appreciate that the responses may vary dependent upon where in the borough a respondent resides. At Annex 2, Members will have noted that residents in Tonbridge (due to the incidence of cost for both non-strategic public conveniences and Christmas lights) and West Malling (due to the incidence of cost of Christmas lights) would have to pay slightly more through council tax and residents in other parts of the borough slightly less.

1.1.14 Of the 170 web respondents, the breakdown by area of the borough is as follows:

Aylesford	11
Borough Green	4
Burham & Eccles	2
Ditton	2
East Malling & Larkfield	22
East Peckham	1
Hadlow	9
Hildenborough	3
Ightham	1
Kings Hill	5
Leybourne	1
Mereworth	1
Offham	1
Platt	2
Plaxtol	1
Snodland	3
Tonbridge	78
Trottscliffe	1
West Malling	14
West Peckham	1
Wouldham	5
Outside Borough	2

1.1.15 **Members will appreciate that the number (170) of web respondents relative to the population of the borough is very small (amounting to only a fraction**

of a percentage). Therefore Members may wish to bear this in mind when weighing up the way forward.

1.2 Public Conveniences

- 1.2.1 Members are reminded that at its meeting on 30 October 2019, the Street Scene and Environment Services Advisory Board recommended to Cabinet (minute SSE19/26) a pathway in respect regarding the provision of the Council's existing Public Conveniences.
- 1.2.2 The SSES Advisory Board recommended that the transfer of the public conveniences to the relevant Parish/Town Council be progressed; and in relation to the (non-strategic) public conveniences situated in the non-parished area of Tonbridge, a consultation be undertaken during 2021/22 with a view to **updating the Special Expenses Policy to reflect the new arrangements for the provision of public conveniences as a concurrent function**. Cabinet subsequently endorsed these recommendations.
- 1.2.3 In terms of the responses to the questions posed though the consultation, Members will note from paragraph 1.1.12 that overall the majority of respondents (68%) disagreed that public conveniences should be paid for by local communities; and 74% felt that they should be paid for by all taxpayers across the borough.
- 1.2.4 When breaking these responses down to the parished and non-parished (Tonbridge) areas of the borough, the results are a little more skewed:

<i>Public toilets should be paid for by the local communities where they are provided through council tax bills</i>		
	Agree	Disagree
Tonbridge	22%	78%
Other	41%	59%

<i>Public toilets should be paid for by all council taxpayers in the borough</i>		
	Agree	Disagree
Tonbridge	85%	15%
Other	65%	35%

Nevertheless, the balance of opinion from those who have responded seems to be that public conveniences should be paid for by all taxpayers, and therefore should not be included in Special Expenses.

- 1.2.5 Whilst not part of the consultation itself, Members will note from some of the free-form comments made that residents generally feel that (in no particular order):
- Public conveniences should not be closed anywhere (31 occurrences)
 - Public conveniences in Tonbridge should be improved (7 occurrences)
 - The effect on the bill is trivial (4 occurrences)
 - Public amenities benefit visitors as well as residents (50 occurrences)
 - Public conveniences should be pay to use (9 occurrences)
- 1.2.6 **What is not clear is whether respondents believe that the responses made to the very specific questions on this consultation will enable Members to reverse existing decisions, or make different decisions about service provision.**
- 1.2.7 As mentioned at paragraph 1.1.15, ***Members should also bear in mind that the number of responses is low.***
- 1.2.8 For the avoidance of any doubt, it has not been the purpose of this consultation to consider the above issues but instead to weigh up whether or not the non-strategic public conveniences in Tonbridge should be included in the Special Expenses policy given that earlier Member decisions have meant that facilities in parished areas have either been transferred to parish councils (for these bodies to operate and fund in future) or closed.
- 1.2.9 It is important to remember that from 2022/23, the public conveniences that have been transferred to 3 parish councils (East Malling & Larkfield, East Peckham and Borough Green) will be paid for through parish precepts. These costs will therefore fall firmly on those local communities. In other parished areas, decisions previously taken by Members mean that facilities have been closed. When Members of the SSES Advisory Board and subsequently Cabinet agreed the 'pathway' in respect of the provision of public conveniences, the principle of 'fairer charging' was a consideration.
- 1.2.10 Members of this Advisory Board are **asked** to reflect on the results of the consultation from the limited number of responses received alongside the original 'pathway' set out by SSES Advisory Board, and recommend to Cabinet whether or not the cost of the non-strategic Public Conveniences in Tonbridge should be included within the Special Expenses policy under the 'fairer charging' principle.

1.3 Christmas Lighting

- 1.3.1 Some Members may recall that the provision of Christmas lighting was included in the original consultation in 2016, but following feedback from residents, Council

agreed that it should not be included within the Policy at that time. Instead, Cabinet recommended that a review be undertaken by the Overview and Scrutiny Committee into the future funding of Christmas Lighting.

1.3.2 Members are reminded that in Tonbridge, the Borough Council directly pays for **all** costs relating to Christmas lighting. No contributions are routinely made by other parties or traders.

1.3.3 In the parished areas of the borough, the Borough Council gives small grants to relevant trading areas as a contribution towards the lighting displays (this being based on the number of trading units etc). The remainder of the funding comes from relevant parish councils, local traders or public donations. In some areas, it is the parish council that takes responsibility for operating the lighting schemes; hence why Christmas lighting is a 'concurrent function'. West Malling receives the largest of those grants given that it is the largest trading area outside of Tonbridge.

1.3.4 For context, the direct costs Christmas lighting budget for 2021/22 is as follows:

	Budget per Book £	Direct Expenses £
Tonbridge Town Centre	32,950	23,650
Borough Christmas Lighting	13,750	12,800

Notes:

- For Tonbridge Town Centre, the difference between the 2 columns is central administration recharges. Direct expenses includes depreciation for the lights which need to be replaced periodically.
- For Borough Christmas lighting (covering all parts of the Borough excluding Tonbridge), the difference between the 2 columns is simply a small amount of central administration recharges.

1.3.5 Borough Christmas Lighting Direct Expenses included in the overall budget is based upon the Scrutiny review which was last undertaken in 2017. This review concluded the following broad allocations to the trading areas outside Tonbridge:

Parish	Maximum Award £
Aylesford	880
Borough Green	1,840
East Malling and Larkfield (Martins Sq)	1,290
East Peckham	490
Hadlow #	960
Snodland	2,460
West Malling	5,210
Wrotham	620

However, as Hadlow has not claimed for a number of years, the actual budget book provision does not include the £960 allocated by Overview & Scrutiny.

- 1.3.6 As alluded to in paragraph 1.3.1, the Overview and Scrutiny Committee did carry out a review into the future funding of Christmas lighting, and in January 2017 at minute OS 17/5 recommended to Cabinet that “*alternative funding options for Tonbridge Christmas lights and hanging baskets be explored for 2017/18. If these options are found not to be viable, Council, as a last resort, be recommended to review the listed functions within the Council’s adopted Special Expenses Scheme with a view to including the functions within that scheme from 2018/19*”. This was endorsed by Cabinet through a decision notice on 31 January 2017 (minute CB 17/10 refers).
- 1.3.7 Workable alternative funding options had not been found for the Tonbridge Christmas lights and, therefore, in accordance with the minute from Overview and Scrutiny Committee above, the public consultation went ahead.
- 1.3.8 In terms of the responses to the questions posed through the consultation, Members will note from paragraph 1.1.12 that, **overall**, responses received from residents are split almost ‘50:50’ as to how Christmas lighting should be paid for. This is not dissimilar to the original consultation back in 2016.
- 1.3.9 When breaking these responses down to the parished and non-parished (Tonbridge) areas of the borough, the results are more skewed:

<i>Christmas lights should be paid for by the local communities where they are provided through council tax bills</i>		
	Agree	Disagree
Tonbridge	33%	67%
Other	64%	36%

<i>Christmas lights should be paid for by all council taxpayers in the borough</i>		
	Agree	Disagree
Tonbridge	60%	40%
Other	39%	61%

- 1.3.10 Members will note from some of the **free-form comments (Annex 4)** that residents generally feel that (in no particular order):

- Christmas lights should not be paid for by Council Tax (17 occurrences)
- The effect on the bill is trivial (4 occurrences)

- 1.3.11 As mentioned at paragraph 1.1.15, **Members should also bear in mind that the number of responses is low.**

- 1.3.12 In terms of some of the parished areas, traders and residents do already make contributions towards the costs of Christmas lighting. The Overview & Scrutiny Committee has considered how this principle could be adopted in the non-parished area (Tonbridge) but no solution had been found to date. Whilst not part of this report, Members may decide they wish to revisit this again, perhaps with the Town Team, given some of the comments made.
- 1.3.13 One proposal made by West Malling Parish Council was that if the cost of Christmas lighting were to be included in Special Expenses, then the additional cost be spread over the neighbouring Malling parishes (with the exception of those parishes which will also be funding their own Christmas lights). Members are advised that unfortunately this would not be permissible within the legislation governing Special Expenses.
- 1.3.14 Members of this Advisory Board are **asked** to reflect on the results of the consultation from the limited number of respondents from across the borough, and recommend to Cabinet whether or not the cost of Christmas lighting should be included within the Special Expenses policy under the 'fairer charging' principle.

1.4 Timetable

- 1.4.1 **If** the special Expenses policy is to be updated to include one or other of these functions, this will require a Full Council decision.
- 1.4.2 The timetable will be:

7 October 2021	Consideration by O&S Committee, with the committee making its own recommendations to Cabinet
13 October 2021	Consideration by Cabinet and recommendations to Full Council as appropriate
26 October 2021	If appropriate, decision to update Special Expenses policy w.e.f. 1 April 2022

- 1.4.3 Members should note that if any update to the Special Expenses Policy were to be approved, it would not take effect until 1 April 2022.

1.5 Legal Implications

- 1.5.1 Provisions relating to special expenses are contained in the Local Government Finance Act 1992 at sections 34 and 35. These sections allow different amounts of council tax to be calculated for different parts of the district, depending on what, if any, special items relate to those parts.

1.6 Financial and Value for Money Considerations

- 1.6.1 This consultation is about how the **incidence of cost** is borne by residents in different parts of the borough. It does not in itself generate savings.

- 1.6.2 As Members will recall from the original Fairer Charging consultation, the incidence of cost was shifted creating greater equity for residents across the borough. The greatest shift at that time was towards residents in Tonbridge.
- 1.6.3 If in due course it were to be agreed that public conveniences should be deemed a concurrent function for the purposes of Special Expenses, the incidence of cost would move to residents in Tonbridge given that conveniences in other parts of the borough have either been closed or taken over by a relevant parish council. Therefore the special expense levy in Tonbridge would increase.
- 1.6.4 If it were decided that public conveniences were not to be included in the Special Expenses policy, the cost of those facilities in Tonbridge would be shared across the entire borough. Members should note therefore that those residents living in the three parished areas where public conveniences have been transferred to the parish councils would effectively pay for their local facilities through parish precept, and also pay a share of the provision in Tonbridge through the Borough Council levy.
- 1.6.5 Similarly, if Christmas lighting was to be included in the Special Expenses policy, the local costs would fall on the local residents increasing any special expense levy.

1.7 Risk Assessment

- 1.7.1 The current Special Expenses policy established 'equity' across the borough in terms of council tax paid towards the cost of local services. This further consultation was designed to test the public's views about the inclusion or otherwise of additional concurrent functions.
- 1.7.2 If decisions are not made within the timescales set out, the Council may not be able to implement the changes (if any) in readiness for 2022/23.
- 1.7.3 The number of responses (170) is very small in the context of the population of the borough. Members need to bear this in mind when weighing up the options given that the vast majority of our residents have not offered an opinion either way.

1.8 Equality Impact Assessment

- 1.8.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.9 Policy Considerations

1.9.1 Community

1.9.2 Communications

1.10 Recommendations

1.10.1 A report will similarly be presented to the Overview and Scrutiny Committee at its meeting on 7 October 2021. The Committee will be advised of this Board's recommendations.

1.10.2 Members are asked to **RECOMMEND** to Cabinet whether or not the Special Expenses Policy should be updated to include

- 1) non-strategic public conveniences which are located in Tonbridge; and
- 2) Christmas lighting.

Background papers:

Nil

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