

Report to: Asset Management Forum



Date of Meeting 4th March 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Public Toilets Review Update

Report summary:

This report provides a high level update on current activities associated with this key project and next steps. This report follows on from the Overview report of 9th November 2023 and Cabinet report of 3rd January 2024.

This is a high level summary of the project generally, rather than focussing specifically on the costs of delivering the investment programme of the Category A sites. The subject of costs will be considered by a cross party Working Group comprising 7 members chaired by the Portfolio Holder for Finance & Assets. That said, current estimated delivery costs for Phase 1 of the Category A investment works are higher, but due to larger footprints now being planned and which reflect feedback through the 2021 consultation. In 2021 we had an estimate of £7,894 per sq m (average), which now for those same sites equates to £7,869 per sq m even with significant inflation since – per sq m despite considerable inflation, the cost has actually marginally reduced. A Part B Briefing Note will be issued to this group who we hope will meet in the coming weeks and with a decision thereafter being made by the Portfolio Holder having listened to the debate of the Working Group on whether to proceed as planned and which is in accordance with earlier Cabinet decisions.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That the Forum notes the content of this report

Reason for recommendation:

To provide the Forum with an update on this key project.

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Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Communications and Democracy
- Economy

- Finance and Assets
- Strategic Planning
- Sustainable Homes and Communities
- Culture, Leisure, Sport and Tourism

Equalities impact Low Impact

Climate change Low Impact

Risk: ; Low

Links to background information n/a

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

Report in full

1.0 Category A Investment Works

- 1.1 A politically balanced Finance Portfolio Holders working group comprising 7 members to be Chaired by Portfolio Holder for Finance & Assets is being arranged in response to the motion to Council on 6th December 2023. Democratic Services have contacted Group Leaders to submit their nominations and it is hoped the group will convene in next few weeks. Cllr Barlow will be one such member. A Confidential Briefing Note is to be provided to the Working Group in advance of meeting. The Working Group will meet to consider the Briefing Note and ask questions. Portfolio Holder then to make a decision on whether to proceed / not proceed having observed the debate and taking into consideration the content of the report and views of others. The approach taken is entirely consistent with the content and recommendations from the May 2021 Cabinet report, along with the adopted principles that steered the toilet review itself and the background documents contained. In December 2021 and following the consultation, Cabinet upheld the Category A recommendations and therefore investment. The condition, but equally the design of the toilets is such that Cabinet was supportive of a fundamental investment programme to provide something fit-for-purpose and consistent with best practice and what users reasonably require. Costs have increased and hence additional capital budget will be required to deliver Phase 2, but this is due to a combination of significant build cost inflation since these costings were prepared back in late 2020 but also to reflect that the proposed buildings are larger in footprint to better reflect the feedback received through the 2021 consultation. The cost per sq m of those Phase 1 sites was estimated at £7,894 per sq m, but is now £7,869 per sq m so there is a marginal reduction. The cost projections prepared by our consultants was shared with the Portfolio Holder in January and will be shared confidentially with the working group once set up. The suggestion through the Council Motion in December therefore that we look at something much less extensive, merely refurbishing what we already have, is at direct odds to the earlier decisions, and more importantly the rationale that led to those decisions and the adopted principles that steered that review. That said, the Working Group will provide a useful opportunity to sense check before we proceed further.

- 1.2 DLUHC Changing Places funding – This funding to the sum of £242K towards the wider project carries the risk in that EDDC must deliver completed projects within DLUHC’s timescale. Officers have provided quarterly updates to DLUHC throughout to ensure DLUHC are satisfied with progress but like other local authorities have issued a Formal Change Request seeking an extension to the timeline. This has been supported by a letter from our Finance Director (also Shared Acting Chief Executive Officer) confirming the Council’s commitment to deliver these projects. As a risk it is reflected on our Corporate Strategic Risks Register. Cabinet are also provided with regular updates and Officers are seeking assurances from DLUHC prior to award of contracts. Officers received an update from DLUHC on 26th February advising that our extension request had been approved and we are awaiting a formal variation to contract.
- 1.3 Exmouth Foxholes – planning approved.
- 1.4 Sidmouth Ham Pool site – Working with planning colleagues and taking on board informal feedback from Sidmouth Town Council, scheme has been redesigned. Revised scheme details now shared with Town Council and LED and a variation to the current application submitted and will be re-consulted on.
- 1.5 Budleigh Salterton, Honiton and Seaton sites planning applications still to be determined.
- 1.6 Build-out of phase 1 schemes assuming DLUHC funding maintained, will likely be April – July – enabling works, soft strip out, mobilisation, site preparation etc from late March. Timescales are dictated by DLUHC funding but we need to acknowledge that this will impact on summer demand which in the coastal locations, will be of concern. That said, delivering build projects on seafront locations, of which 3 of these 5 are, during the winter season would have been challenging and carry additional risk due to weather conditions. Through the phasing approach, facilities will still be available nearby, but nevertheless officers are exploring solutions for providing temporary facilities during the build but also signposting users to other facilities.
- 1.7 We anticipate being in a position to tender before the end of February and with award of contracts later in March once the working group has met and the uncertainties with DLUHC resolved.
- 1.8 The amount of work for the Property & FM Team in taking this forward has been considerable and is impacting on delivery of other projects. Once contracts are awarded it is expected that the workload will reduce.

2.0 Category B & C Transfers

- 2.1 Following the recommendations from January 3rd Cabinet, Officers have reviewed and as appropriate amended the heads of terms templates for transfers. Transfers to Parish and Town Councils allow for:
 1. Freehold
 2. Purchase price £1
 3. For 1st 10 years there must be a publicly accessible toilet provision in at least part – the form of this provision to be agreed prior to transfer
 4. Prohibition by way of overage on sale of freehold for 1st 10 years. A lease can be granted but if it includes the public toilet part, that lessee must enter into direct covenant with EDDC
 5. For 1st 10 years cannot charge users more for public toilets than EDDC are charging

6. For 1st 10 years, toilets must be open 7 days a week at agreed times, not less than other EDDC sites in that Town (note – we'll be flexible here on a site by site basis to ensure that what we ask is reasonable bearing in mind current arrangements).
 7. After that 1st 10 years they can use the building as they choose, with or without public toilet, charge what they like and choose their opening hours
 8. Overage – In reality this would only likely apply after 10 years. EDDC would be entitled to 50% of the gross increase in market value following a disposal. A leasehold disposal less than x years (dependant on site) would be excluded from this provision
 9. Option for EDDC to purchase site back if the public toilets form part of a future development site. Either the public toilets then to be re-provided elsewhere by EDDC or fair compensation given
- 2.2 Officers and Members have met with Budleigh Town Council and with Honiton Town Council, provided site specific Heads of Terms and subsequently furnished them with the information needed to help them make informed decisions. Officers have engaged with Colyton Parish Council via email (bearing in mind they have already resolved to proceed) and with Exmouth Town Council. The Town Council have informed EDDC that it does not wish to take on either the Maer or Imperial Road sites but we are continuing discussions in respect of the Station toilets. We await formal decisions by end of March as per the timeline approved by Cabinet in January.
- 2.3 Officers are advancing possible transactions in respect of Exmouth Orcombe Point, Seaton Harbour Road and Seaton Marsh Road sites with parties who were already moving forward positively prior to the January Cabinet recommendations.

3.0 Timescales Generally

- 3.1 With decisions made in late 2021 and budgets approved in 2022 it is frustrating that through lack of officer resource we could not make progress more quickly. The focus in 2022 and in to early 2023 had been on transfer of Category B and C sites to Parish and Town Councils along with those other sites being commercially let. That work progressed but interest by others had been very limited and this was reported initially to Cabinet, then to All Councillors in March 2023 and ultimately led to an interim arrangement whereby a revenue budget was secured to keep these sites open for a further 12 months. This then further informed the report to Overview Committee in November 2023 and subsequently the revenue budget was extended again, through to 31st March 2025 but with a clear timetable / gateway approach approved by Cabinet to ensure progress is made and certainty is achieved. Our interim agency resource who was leading on Category B & C transfers had left EDDC in early 2023 but with the decisions in early 2024 we have now secured further interim agency support (and budget) dedicated to delivery of Category B and C transfers by 31st March 2025.
- 3.2 The scale of the Category A investment project is such that in early 2023 we concluded that we needed to procure through framework contract a dedicated project manager / design/ delivery support etc through Kendall Kingscott Ltd working alongside Healthmatic and others, with consultancy costs coming from the capital budget. Kendall Kingscott have been supporting EDDC since summer 2023 and good progress has been made. In 2022 itself we needed to priority other health & safety driven capital projects.

Financial implications:

This is an update report with no recommendation that has any direct financial implication.

Legal implications:

There is no direct comment to be made in relation to this update report, Legal Services will continue to work closely with colleagues; any individual issues identified will be considered as they arise.