

BINGLEY TOWN COUNCIL

Bingley Town Council, Myrtle Place, Bingley, BD16 2LF



The Case for a Changing Places Toilet

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Executive Summary

At the meeting of the Full Council held on 24th November 2020 Bingley Town Council resolved to create a formal working group which reported directly to the Full Council tasked with delivering a compliant CP Toilet. This resolution effectively legitimised an informal working group working under the auspices of the F&GP over the previous two years.

The resolution provided a choice of either building an extension to the Hub for a Changing Places facility or for installing a modular Changing Places facility. NB A later meeting of the Working Group has amended the referencing of the facility to be a toilet to avoid the confusion associated with a larger facility.

This paper sets out the history of this decision and the pathways of the project that lead to this point in time where the Changing Places Working Group is recommending procurement of a workable fully costed and budgeted solution to the Full Council in December 2021.

The Story So Far

2018

At the Full Council meeting held on 23rd January a member of the public spoke about the public toilet consultation. He/she informed the Council that Changing Places toilets are facilities with an adult-sized changing bench, hoist and curtain, a clean and safe environment with a non-slip floor. There are only 1,000 Changing Places facilities currently in the UK. Alternative options are unhygienic and unacceptable. The member of the public read out letters of support from Chellow Heights and Hazelbeck school head teachers. A letter of support from a pupil with special needs was also read out. The request was made by the member of the public for Bingley Town Council to seriously consider refiguring the current toilet space to include a Changing Places facility. Mention was made of the Equalities Act 2010 and the Public Sector Equality duty. He/she noted that Bingley needs to celebrate inclusion and Changing Place facilities change lives. A copy of the presentation was attached to the minutes.

Another resident noted that the Town Council is potentially spending a lot of money on converting the toilets; a Changing Place facility would be good for Bingley. The resident distributed an amended plan showing one potential option incorporating the Changing Place facility into the toilet site. 1718/189

At that same Full Council meeting of 23rd January 2018 it was resolved that the Town Council will pursue the toilet/office project by means of a Community Asset Transfer from Bradford Council to Bingley Town Council with a view to including a Changing Places facility, to get the necessary information from DCLG and Bradford Council about the impacts of any alterations to the plan consulted upon in December, that another plan including a Changing Places facility is requested from the architect and to allocate up to £2,000 from the office space budget to cover any architectural costs, that the Town Council will consider the budget with the toilet/office option at item 1718/192.

We also benefit from these minutes as they were recorded more as notes rather than a record of resolutions. Therefore we can see that historically this Council knew in January 2018 that *'Bradford Council's Equality Impact Assessment detailed the impact of the closure of public toilets and mitigated the effect the closure had on vulnerable groups by offering the toilets to local councils by way of a Community Asset Transfer.'* as this statement is recorded in these minutes.

In addition, the following statement, extracted from this Council's response to a request for a Reasonable Adjustment issued in 2018, contains *'In addition in CBMDC's own Equality Impact Assessment in relation to the closure of Bingley's toilets stated "In terms of the closure of the toilets there is likely to be a disproportionate impact on older people, pregnant women, parents requiring access to baby changing facilities, young children, the transgender community, disabled people, particularly those with complex needs, and people who, because of a physical condition, may need to visit the toilet with increased regularity."*

CBMDC's EIA also asked how the disproportionate negative impacts could be mitigated or eliminated, and their answer was 'Ascertain whether parish / town council's community or other voluntary groups could take over the running of those blocks proposed for closure.' By taking over the running of the toilet block we are meeting this EIA need.'

At the Full Council meeting held on 27th March 2018 the Council resolved that the Town Centre and Regeneration sub-committee (and councillors who have expressed interest) is tasked with research and analysis of the office/toilet project, the Magistrates Court project and the Changing Places project. It also resolved to pursue provision of a new Changing Places facility at Bingley Pool, getting more details about maintenance and insurance. Acknowledge the petition for a Changing Places facility and invite representatives from Bingley Changing Places to

input their views. Continue to take advice from the CP Consortium and other professionals and experts as required. 1718/245 NB This petition has been referenced in Bradford councils bid for a share of the £30m government funding.

At the Full Council meeting held on 26th June 2018 (1819/34) it was resolved that Bingley Town Council commit in principle to providing a Changing Places facility within the community.

Various other meetings in 2018 especially those of the Town Centre and Regeneration sub-committee refer to resolutions about placing the CP toilet in the Pool building but it is clear from the various minutes that there were genuine issues with this proposal and yet the Full Council do not appear to have taken due regard of this and applied appropriate due diligence to the proposal nor budgeted for alternative provision in the subsequent years.

2019

In the meeting of the Town Centre and Regeneration sub-committee held on 17th January 2019 it is noted that Bingley Town Council have been informed by Bradford Council that it will not be possible to install a Changing Places facility in Bingley Pool due to the state of the electrics at the pool. (1819/38). NB These are the last minutes of that particular sub-committee on record despite a reference to the sub-committee in February's Full Council minutes.

It is perhaps of note that the minutes of the Full Council held later that month on 22nd January 2019 do not mention CP toilets nor do they reflect that the Full Council were even aware of this update at the time.

In the meeting of the Full Council held on 26th February 2019 it is recorded that the delegation of investigation of further enquiries on Changing Places to the Town Centre and Regeneration subcommittee (1819/242) but as there are no further minutes on record of this sub-committee it is difficult to track this action further. The minutes of the meeting do record that the email from CBMDC advising that there will be a potential extra cost of £220k to upgrade the electrics to enable the installation of any new piece of electrical equipment to be installed in Bingley Pool was noted. It was resolved to delegate further enquiries about options for the Changing Places facility to the Finance and General Purposes committee.

In the meeting of the F&GP committee held on 13th March 2019 there was discussion about the electrical works that CBMDC advise are needed before any new electrical feature could be installed. The quoted cost of £220k was considered prohibitive. An update report on the Changing Places facility and the toilets had been circulated prior to the meeting and was noted. There was discussion about the possibility of

the campaigners setting up a Changing Places group. The meeting resolved that Councillors Dearden and Simpson will work with Mrs Watkins and Mrs Dunne to explore options for a Changing Place facility in Bingley. 1819/142 [This was the creation of the informal working group noted in the papers presented to Full Council in November 2020 but Marcus Dearden didn't stand for a Council seat in the elections that year and there is no further mention of this subject until September of that year. It could be viewed that the subject was kicked into the long grass by way of an unofficial un-minuted group and the members of the CPWG advise against this behaviour in the future. QV]

In the meeting of the Full Council held on 30th April 2019 it was that resolved that Bingley Town Council commits in principle to installing and maintaining a Changing Place facility, pursuing Bingley Pool in the first instance and investigating other options. (1819/275) Why this was resolved is unclear when set against the backdrop of information received in January 2019 from CBDMC advising that that it will not be possible to install a Changing Places facility in Bingley Pool. It is unclear what these other options might have been from these minutes.

In the meeting of the Full Council held on 25th June 2019 it was resolved that Councillor Simpson arrange a meeting with the Friends of Bingley Pool to further discuss the installation of the Changing Places facility into Bingley Pool (due to obtaining an alternative estimate from CBDMC for the electrical work at £23k) and for a progress report on the CAT. (1920/48)

In the meeting of the Full Council held on 30th July 2019 it was noted that a meeting had been held with a supplier of a modular Changing Places facility as a possible option, should the site at Bingley pool prove unsuccessful. The reports of the meetings with Friends of Bingley pool and Changing Places were noted. It was resolved that investigations will continue into possible funding opportunities for a Changing Place facility. (1920/64)

2020

In the meeting of the Full Council held on 25th August 2020 it was resolved to investigate options for a modular solution and to approach Network Rail about putting a CP toilet in Bingley Station. (2021/84). [What is interesting here is the silence between July 2019 and August 2020.]

In the meeting of the F&GP committee held on 9th September 2020 a discussion was held. Councillors suggested including amounts in the budget for the progression of the Changing Places facility, Green and Clean initiatives, town centre planning and car parking. Councillors were encouraged to put proposals together based on priorities and other items which could be included in the budget. 2021/53

In the meeting of the Full Council held on 29th September 2020 it was resolved that up to £5,000 be allocated for professional advice and assistance to appraise the options for a Changing Places facility, and provide one or more specifications so that full costs can be obtained, to include the cost of management and maintenance. It was suggested that this money could be vired from the 'new staff' or 'toilet running costs' budget headings as these funds may not be required. (2021/123) NB. There is no evidence of this activity being pursued.

In the meeting of the F&GP committee held on 14th October 2020 under the discussion of the next year's draft budget the following idea (amongst others was put forward 'Add an additional £8k to the existing £12k budget for Changing Places, making a total of £20k, to be set aside as a reserve (designated fund)'. It was noted that the budget will need further discussion at the November F&GP meeting.2021/67

In the meeting of the F&GP committee held on 17th November 2020 under the discussion of the next year's draft budget it was resolved to increase the Changing Places reserve by £18,000 and resolved to recommend that draft budget to the full council for its consideration. (2021/91)The funding of the CP toilet was commenced in the budget of 2019/20 with £12k allocated from that year's revenue budget. This appears to have been added to in 2020/21 with an additional £12k being added from that year's revenue budget too. This is being queried as a matter of urgency with the Town Clerk as RFO. In 2021/22 the revenue budget sets aside a further £28k in an earmarked Reserve which does not show the 2 x £12k entries as a reserve but has them both in the prior years' revenues. It would appear the CP toilet funding might stand at £52k not £40k.

In the meeting of the Full Council held on 24th November 2020 it was resolved approve the indicative risk and resource assessments for a built option and a modular option, and to create a reserve for the purpose of either building an extension to the Hub for a Changing Places facility or for installing a modular Changing Places facility, and to establish a project delivery group of Councillors Malik, Taylor and Williams, along with three residents/stakeholders/experts. (2021/181)

2021

The Changing Places Working Group was established in February 2021 and has to date:

- Reviewed the provisions of the Equality Act:2010 and produced a report which was noted by the Full Council.
- Reviewed the need to undertake an Equality Impact Assessment (EIA) as the Council did not conduct an EIA at the time of adopting the toilets via a CAT to record how the then toilet conversion project was meeting the requirements of the Act. It should be noted that an EIA is not a specific requirement of the Act. The Public Service Equality Duty within the Act says that the Council need to 'pay due

regard to the requirements of the Act' and the guidance documents (of the Act) indicate that an EIA is just one way of recording that this was done (but it is a recommendation). As noted above in the Options section this requirement of paying due regard to the Act has been met by creating the Working Group and pursuing the project from late 2020 to date. NB. The Council does not have an option to discontinue this project and still 'pay due regard' to the requirements of the Equality Act as they are mutually exclusive actions and therefore the Council should act and budget accordingly.

- Commissioned and agreed a set of drawings to facilitate the application for Planning Permission from the authority.
- Applied for and gained Planning Permission from the Local Authority.
- Applied unsuccessfully for grant funding from the National Lottery Fund.
- Applied for grant funding from local businesses and received some funding.
- Applied unsuccessfully for grant funding from national businesses operating locally.
- Produced a Customer Requirements document on the assumption that a contract will be of the Design and Build type, and any modular unit will also be required to meet the required specification of Customer Requirements.
- Asked for comments from the community involved in the use of the toilets and integrated these into the specification of Customer Requirements.
- Approached the market to obtain quotation prices and made recommendation to the Full Council on its preferred options.
- Updated the Full Council by way of reports and project plans each month, seeking approval for proposed actions where necessary. (See various minutes)
- Produced this paper for approval by the Full Council.

NB. Council Taylor resigned from the Council but contributed heavily to the work of the Group and his input was valued and acknowledged. His seat on the Group was taken by Cllr Mark Truelove. Subsequently, Lewis Kirdale was elected as a Councillor and retained his seat on the working group reducing the number of members of the public on the Group to two. All members have contributed to this document.

In the Full Council meeting held on 23rd February 2021 the Council agreed a response to a Request for a Reasonable Adjustment under the Equality Act:2010 from a member of the public who requested "an auxiliary aid of a full-sized changing bench, hoist and associated hygiene

facilities to be fitted to within the Bingley Town Council's provision of Town Centre Toilets, or a reasonable alternative method". The Council response included the following paragraph:

'This new working group will report to Full Council (indicating the relative importance of its subject matter) and it is anticipated that this group will quickly go about their task and produce more detail of the two options to set before the Council for approval regarding the provision of a Changing Places facility.' (2021/253)

In the Full Council meeting held on 21st September 2021 it was resolved to evaluate the information provided to Bingley Town Council (by Bradford Council) with regards to the potential Government funding bid of £20,000 for the Changing Places project, and to agree to put on hold beginning any building work on the Changing Places toilet facility until further information is received on the funding, in order to be included in the bid; to also agree that the Changing Places Working Group should continue to meet to discuss plans. (2122/95)

Consultations

Over the last four years Bingley Town Council have consulted Bingley residents / users in reference to changing places toilets three times. CPWG consider that the consultations undertaken by Bingley Town Council were not in full accordance with the Gunning principles of public consultations. For information these four principles are set out below and were established by Gunning vs The London Borough of Brent. These principles are:

1. Proposals are still at a formative stage.

A final decision has not yet been made, or predetermined, by the decision makers.

2. There is sufficient information to give 'intelligent consideration'.

The information provided must relate to the consultation and must be available, accessible, and easily interpretable for consultees to provide an informed response.

3. There is adequate time for consideration and response.

There must be sufficient opportunity for consultees to participate in the consultation. There is no set timeframe for consultation, despite the widely accepted twelve-week consultation period, as the length of time given for consultee to respond can vary depending on the subject and extent of impact of the consultation.

4. 'Conscientious consideration' must be given to the consultation responses before a decision is made.

Decision-makers should be able to provide evidence that they took consultation responses into account.

It is the recommendation of the CPWG that Bingley Town Council ensure that future public consultations are in accordance with the Gunning principles and avoid there being already predetermined results wanted, insufficient information provided and a lack of conscientious evaluation of results.

Options for a CP toilet that have been considered

Option 1 - "Do nothing"

The Equality Act of 2010 makes it clear that service providers need to make sure that they can offer the same services at the same level of quality for all kinds of users. That means that whatever you offer to enabled people should also be on offer to people with disabilities.

One very basic and key facility that should be equal between users is an accessible, fully functioning toilet/bathroom facility. This means a Changing Place Toilet in cases where the Public Sector Equality Duty enshrined in the Equality Act: 2010 indicates that such a facility is required.

BS 8300-2:2018 Design of an Accessible and Inclusive Built Environment. Buildings - Code of Practice makes it very clear that Changing Places toilets should be readily available in larger buildings and it sets the precedence that accessible building design should be embraced in any new developments.

Following a review of the Equality Act:2010 by the Working Group carried out in February 2021 and submitted to the Full Council for their noting it was again noted that the Equality Act: 2010 requires a Public Sector Service Provider to 'pay due regard to (the provisions of the Act) in the provision of its services. Given the information available to the Council on the subject and discussions and resolutions passed by the

Council it has committed to meeting its obligations to the Equality Act: 2010 by way of resolving in November 2020 (Resolution 2021/181) to create the reserve and the Working Group to deliver this facility. The precise wording of the Equality Act is as follows:

A public authority must, in the exercise of its functions, have due regard to the need to—

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;***
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;***
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.***

The Council is asked to note that case law sets out broad principles about what public authorities need to do to have due regard to the aims set out in the general equality duties. These are sometimes referred to as the 'Brown principles' and set out how courts interpret the duties. They are not additional legal requirements but form part of the Public Sector Equality Duty as contained in section 149 of the Equality Act:2010.

In summary, the Brown principles say that:

- Decision-makers must be made aware of their duty to have 'due regard' and to the aims of the duty.
- Due regard is fulfilled before and at the time a particular policy that will or might affect people with protected characteristics is under consideration, as well as at the time a decision is taken.
- Due regard involves a conscious approach and state of mind. A body subject to the duty cannot satisfy the duty by justifying a decision after it has been taken. Attempts to justify a decision as being consistent with the exercise of the duty, when it was not considered before the decision, are not enough to discharge the duty. General regard to the issue of equality is not enough to comply with the duty.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- The duty has to be integrated within the discharge of the public functions of the body subject to the duty. It is not a question of 'ticking boxes'.
- The duty cannot be delegated and will always remain on the body subject to it.

- It is good practice for those exercising public functions to keep an accurate record showing that they had actually considered the general equality duty and pondered relevant questions. If records are not kept it may make it more difficult, evidentially, for a public authority to persuade a court that it has fulfilled the duty imposed by the equality duties.

Therefore, not providing a CP Toilet would mean that Bingley Town Council would not be meeting its obligations under the Equality Act: 2010. Doing nothing was then discarded as an option.

Option 2 - “Do the minimal”

It could be argued that in providing toilets accessible to the disabled that Bingley Town Council had met its obligations, however, this argument does not bear scrutiny when considering the legislation. The current facilities fall short of meeting the needs of sections of the community (children, adolescents and adults) who might require use of the facility. The current disabled facilities are not of the correct size, do not have the lifting equipment needed and are not equipped with a suitable changing bench. The Council has therefore already resolved that doing the minimal was not an option and this determined the agreed project to put in place a Changing Places Toilet compliant with BS 8300-2:2018 Design of an Accessible and Inclusive Built Environment. Buildings - Code of Practice and the nationally agreed guide (CP Toilets – A Practical Guide).

Option 3 - “Do something”

Having resolved to provide a compliant CP Toilet adjacent to the existing facilities, Bingley Town Council looked for options which would meet this requirement. The choice was narrowed down to two fundamental options: a built extension or a modular facility. There are supplier choices associated with both options and this case examines those choices and makes recommendations for contract placement and project funding.

Expected Benefits

The new Changing Places Toilet will:

- Bring Bingley Town Council into compliance with the Equality Act 2010, specifically the Public Sector Equality Duty imposed on it by the Act.

- Potentially bring additional visitors to Bingley Town Centre.
- Potentially bring additional business to the town and its vendors.
- Improve the quality of the lives of families who are reliant upon such a facility to give them the option to visit the town centre.
- Enhance Bingley's reputation as a forward-looking modern town.
- Improve Bingley Town Council's reputation for delivery in the eyes of all residents – not just the direct beneficiaries of a Changing Places facility

Expected Dis-benefits

- Potential additional works to the newly constructed Office/Toilet Hub.
- Short term closure of the existing toilets during the construction phase.
- The need for Bingley Town Council to set aside a suitable budget for the project.
- Additional resources to be provided by Bingley Town Council to undertake the project.
- If the project does not proceed damage to Bingley Town Council reputation.

Timescale

The CP Toilet Working Group developed a project plan which was considered at its first meeting held on 16th February 2021 and has continued to update this plan and, via it, the Full Council.

The original plan highlighted that the project could be completed within 56 weeks although the programme assumed availability of sufficient funding, the source of which was not fully identified at project commencement (but is now). The plan has continued to evolve and is acknowledged as more a historical record of activities than a future projection of timescales.

The timeline from now is as follows:

Government decision on their central funding via BDMC was scheduled end of November 2021.

Detailed discussions and contractual agreement will take us to the beginning of January (estimate)

The 8-10 week lead time for delivery of the facility (post contractual agreement) puts the opening date about w/c 1st March 2022.

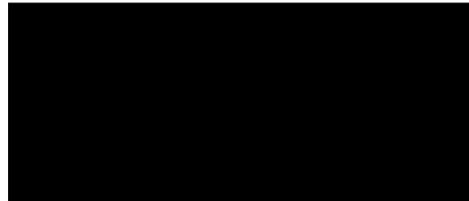
Costs

The costs associated with the recommended supplier are as follows:

CP toilet including new cleaner's store

Project contingency

Total



The Purple Pound

The financial business case for a CP toilet is not straightforward in financial terms as it does not have a visible and immediate income stream to ever pay back the investment made by Bingley Town Council directly to Bingley Town Council. This is inherent in the nature of public service projects. However, financial benefits that could follow the installation of a Changing Place toilet are particularly appealing and benefit the whole town directly and indirectly. Having a CP toilet in the town will make Bingley a welcoming place to visit and live in as an inclusive society.

The 'Purple Pound' represents the spending power of the disabled community within the UK and it's currently estimated to be worth around £212 billion. This accounts for around 12.2 million people with disabilities living in the UK.

Visit England undertook a study in 2018 that showed that almost half a million adults with an impairment did not go on holiday within the UK over a 12-month period because there was a lack of accessible facilities for them to use. This could be at places like hotels, motorway services, train stations but it could relate to towns too.

One key item that could change this situation and make a major positive impact on people’s lives is a Changing Place facility. The same study concluded that there would be an extra £116.7 million of financial opportunity to be had if the right facilities are put in place.

The issues of accessibility translates across different industries and markets rather than just tourism; sports arenas, parks, shopping centres, High Streets and any other public building could have considerable financial gain from installing a Changing Places facility. This is one reason that the UK Government has set aside a fund of £30m to build CP toilets across the UK.

Risk and Issue Analysis

Risks are measured in terms of impact – i.e. the extent of the consequence were they to manifest and likelihood – i.e. the probability of this request manifesting. Numbers 1-5 will be ascribed to each. A ‘1’ likelihood is an event that is unlikely to manifest whilst a ‘5’ a near-certainty to become an issue. A ‘1’ impact is something that isn’t significant whereas a ‘5’ has consequences that will impact multiple people very significantly indeed.

These numbers are multiplied together to create a risk score. For reference, organisations typically set their own risk appetite, though given time constraints the CPWG is recycling the risk appetite used at Airedale NHS Foundation Trust where 1-3 is considered low risk; 4-9 is considered medium risk and 10+ is considered high risk.

These risk scores factor in the mitigation(s).

Risks of proceeding and not proceeding are listed. Initially, these are the risks of proceeding:

Risk ID	Risk Title	Risk Type & Description	Likelihood	Impact	Risk Score	Mitigation
A1	Not receiving Central Gov’t funding	Financial. Proceeding before confirmation of receipt of central governmental funding. BDMC advised that BTC should not increase precept nor commence building until Central Gov’t funding	3	2	6	1/ The case paper details the solution to this issue

		announced. The issue is how long does BTC wait?				
A2	Unknown Process	The process going forward after the EoI submission is unknown and timeless.	2	2	4	BDMC Project manager reports that they are unlikely to seek involvement in the project and will likely just transfer the funding to BTC.
A3	Inclement weather in the build phase	Project. Bad weather during the build may complicate costs and timescales.	1	2	2	1/ Project plan to have in-built contingency 2/ Financial contingency to be in-built

Issues are current problems rather than risks which predict future potential problems. Below are the current issues facing the project:

Issue ID	Issue Title	Issue Description	Issue Score	Mitigation
B1	Insufficient funding	It is anticipated that the cost of the build will exceed the funds BTC has set aside in Allocated Reserves	High	1/ The case paper details the solution to this issue
B2	Not receiving Central Gov't funding	Government funds would not be able to be applied retrospectively if the project proceeds before this is announced. This means that the hole in BTC's reserves is not fixed by Central Government.	High	1/ The case paper details the solution to this issue
B4	Uncertainty on BTC commitment	Though BTC has approved the working group and the building of the facility, what isn't clear when that funding will be made available?	High	1/ Clarity on funding timescales required from BTC. Motions put before Full Council on 7 th Dec 2021.
B3	Time sensitivity of builder's quotes	Various factors have dictated that the construction materials market is extremely volatile. This means that quotes are susceptible to change. The Preferred Contractor's quote is valid to the end of Feb 2022.	Medium	1/ BTC to agree detail with Preferred Supplier in good time to enable BTC to place contract before the end of Feb 2022.

Conversely, these are the risks of not proceeding at all:

Risk ID	Risk Title	Risk Type & Description	Likelihood	Impact	Risk Score	Mitigation
C4	Those with complex needs unable to visit our town centre	Accessibility. Without a CP facility, families of and those with complex needs are unable to visit central Bingley. Key personnel affected by the lack of a CP toilet organise Park Run and may not deliver as Service Providers over the winter months.	5	5	25	1/ Hire a temporary CP facility – though the costs of this are known and higher than a permanent CP toilet.
C1	Referral to the Equality Commissioner	Legal. Continuing to be open to challenge under the Equality Act 2010 leaves the council open to litigation.	4	5	20	None. Given that the CPWG has completed its task and made recommendations to Full Council.
C5	Those with complex needs unable to visit our town centre	Financial. Without a CP facility, families of and those with complex needs are unable to spend in central Bingley. This is a loss of opportunity for local businesses and to make Bingley a destination for the purple pound.	5	3	15	1/ Hire a temporary CP facility – though the costs of this are known and higher than a permanent CP toilet.
C7	BTC subject to a referendum	The community can call a referendum on the performance of BTC. Relatively few votes are needed and members of the community have referenced the perceived obstructiveness of BTC as an example of poor performance.	3	5	15	BTC deliver a CP toilet
C6	Not providing a temporary solution	Without a CP facility, families of and those with complex needs are unable to visit central Bingley.	3	5	15	BTC to provide a temporary solution whilst awaiting funding release.
C3	Cause friction with the local community	Reputational. By the council electing not to provide for all in our society, the council would be open to accusations of discriminatory behaviour.	3	4	12	None. Given that the CPWG has completed its task and made recommendations to Full Council.

C8	Wealth Generation	CP users and their carers bring wealth to Bingley. BTC won't necessarily see the benefits of it directly but the retailers experience it. Aldi put on more staff during Park Run events to support the increased numbers of shoppers. This wealth will be lost,	3	2	6	
C2	Cause friction with the local community.	Reputational. Given the public have been consulted with on numerous occasions, continued inaction could cause the public to lose faith in the council to deliver	3	2	6	None. Given that the CPWG has completed its task and made recommendations to Full Council.

Finally, here are the risks of deferring the project until the eventual outcome of the request for central government funding. Please note that all risks from the above section apply below though may have a different risk score based on the presumption of the application eventually being successful:

Risk ID	Risk Title	Risk Type & Description	Likelihood	Impact	Risk Score	Mitigation
D7	Those with complex needs less likely to visit our town centre	Accessibility. Without a CP facility, families of and those with complex needs are unable to visit central Bingley. Key personnel affected by the lack of a CP toilet organise Park Run and may not deliver as Service Providers over the winter months.	5	4	20	1/ Hire a temporary CP facility – though the costs of this are known and higher than a permanent CP toilet.
D4	Referral to the Equality Commissioner	Legal. Continuing to be open to challenge under the Equality Act 2010 leaves the council open to litigation	3	5	15	None.

D1	No guarantee of receiving funding	Project. Applying for central funding is not a guarantee of receiving it, irrespective of the strength of the application	3	5	15	1/ The strongest possible case has been made to obtain funding. But central Gov't is not obligated to issue decisions as advertised.
D2	No timescales committed to for Gov't response	Project. Central Gov't have provided an indicative timescale relating to responses to applicants of the Autumn 2021 but have added the caveat 'subject to Ministerial approval'. This means that timescales may be impacted and that commitments from builders to provide quotes will expire.	4	3	12	Members of the CPWG have emailed our MP for clarity. The MP has assigned a case officer to follow this up, but no responses have been forthcoming as yet.
D8	Those with complex needs less likely to visit our town centre	Financial. Without a CP facility families of and those with complex needs are unable to spend in central Bingley. This is a loss of opportunity for local businesses and to make Bingley a destination for the purple pound.	5	2	10	1/ Hire a temporary CP facility – though the costs of this are known and higher than a permanent CP toilet.
D3	Unknown Process	The process going forward after the EoI submission is unknown and timeless.	5	2	10	None The question remains 'how long does BTC wait for a decision (positive or negative)'?
D5	Cause friction with the local community.	Reputational. Given the public have been consulted with on numerous occasions, continued inaction could cause the public to lose faith in the council to deliver	3	2	6	None. Given that the CPWG has completed its task and made recommendations to Full Council.
D6	Cause friction with the local community	Reputational. By the council electing not to provide for all in our society, in accordance with noted Project Plan, the council would be open to accusations of discriminatory behaviour.	2	3	6	None. Given that the CPWG has completed its task and made recommendations to Full Council.

Recommended Budgetary Allocation

Option 1

BTC has £40k (or £52k) set aside in earmarked reserves for a CP Toilet. There is a strong expectations of government funding anticipated to be £20k (or more) but £20k minimum and this announcement is expected to be made in early December 2021. Funding in this fiscal year is recommended to be found from the following budget lines:

Earmarked Reserves
Government funding
CIL Reserves
Total including a contingency



Option 2

If the Government reject BTC's EOI submission the project can still be funded in this fiscal year as follows:

Earmarked Reserves
CIL Reserves
Reserves
Total including a contingency



NB Reserves should be 6 months running costs to provide for exigencies, but these costs should surely assume that the Council is not functioning as a fully operational Council at that time. It is calculated that this figure at the current run rate is c £87k.

Option 3

Earmarked Reserves

CIL Reserves

4460 Regeneration & Tourism

4440 Neighbourhood Plan

Total including a contingency



NB The Regeneration & Tourism budget is currently underspent and is exactly the subject area that the CP toilet addresses.

NB It is understood that the Neighbourhood Plan is likely to be underspent this fiscal year by this amount (or more).

NB All these proposals outlined above avoid the addition of £30k to the revenue budget for 2022/23 for a CP toilet as presented to the F&GP in November.

Spending CIL

Councillors will be interested in what we can spend CIL on. The following is an extract from the Government guidance document on CIL:

“What can the Community Infrastructure Levy be spent on?”

The levy can be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, and other health and social care facilities (for further details, see section 216(2) of the Planning Act 2008, and regulation 59, as amended by the 2012 and 2013 Regulations). This definition allows the levy to be used to fund a very broad range of facilities such as play areas, open spaces, parks and green spaces, cultural and sports facilities, healthcare facilities, academies and free schools, district heating schemes and police stations and other community safety facilities. This flexibility gives local areas the opportunity to choose what infrastructure they need to deliver their relevant plan (the Development Plan and the London Plan in London). Charging authorities may not use the levy to fund affordable housing.

Local authorities must spend the levy on infrastructure needed to support the development of their area, and they will decide what infrastructure is needed.

The levy can be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure, if that is necessary to support development.”

Click [here](#) to visit the relevant government site.

CIL money can be spent on infrastructure. A CP toilet is undeniably ‘infrastructure’.

One might imagine going forward that the Neighbourhood Development Plan (NDP) would define and dictate where CIL money should be spent in Bingley but in the case of Bingley there is no agreed NDP nor is there likely to be one in 2022. The reasons for the strong statement here is that decisions on NDP projects will need to be made, local consultations held, Regulation 14 consultations held, review by Government appointed Inspector undertaken and a successful referendum held before CIL money can be spent in that manner within the auspices of the NDP. The Local Plan manager of BDMC (Ian Cunningham) has already advised Bingley Town Council that the projects mentioned in the draft NDP are mostly very expensive and many will require funding far beyond the reach and ability of the Council.

By the time the NDP has been approved the CIL spending ability of the current funds will have time expired. This will prove to be an embarrassment to Bingley Town Council.

Bingley Town Council has a policy document on spending of CIL. Extracts are as follows:

- Bingley Town Council is responsible for the disbursement of the CIL funds to local community groups and to support its own development projects as decided by the full Council. [NB Therefore we can spend it]
- Bingley Town Council is keen to contribute financial support to projects being developed by community organisations for purposes which aid development and improvement of infrastructure, strengthen the community and enhance the well-being of residents and their environment within Bingley Parish. [NB Therefore spending the CIL money on CP toilet is appropriate]
- Priorities for the Bingley Parish are identified by results of consultation with residents and via decisions made by meetings of the full council. The most recent being the Neighbourhood Plan Working Group Consultation in September 2019. These will be regularly

reviewed and the referendum on the Neighbourhood plan due in 2020 will provide further information and guidance for the council. Requests for funding need to be approved by Bradford Council. [NB A CP toilet is now Bingley Town Council's number 1 project]

- Awards cannot be paid to individuals or to groups whose membership is closed and not open to residents as a whole. The organisation must demonstrate that most of the members / beneficiaries live in the Parish of Bingley. [NB The current toilets do not comply with this requirement]
- Consultation. If the organisation are intending to carry out a project which may impact on other people in any way, the organisation must make sure that they have carried out consultation with affected parties and tell the Town Council about the results of the consultation [See the comment made by the CPWG and the recommendations regarding public consultations. QV]

A point to note is that the CIL policy document is out of date and does contain some grammatical anomalies.

One further point to note on the subject of CIL and the NPD is that if the Council cannot be seen to deliver its Number 1 project of a CP toilet effectively; what confidence will the public have in its ability to deliver those projects contained in the NPD? The public will have an opportunity to tell us their view at the likely referendum...

The recommendation for budget allocation set out above encompasses the wait for the results of our application for Government funding before installation and, as Councillors will recall, the informal advice we received from BDMC was that we might lose funding if we either raised the precept or install the CP toilet before the Government had announced funding allocation. This was an opinion only – not fact therefore Bingley Council could challenge any such decision if said decision negatively impacted on us. The solution offered in the paper does not raise the precept and given the 8-10 week lead time post contractual agreement and is it constrained by the second part of the advice either.

We understand from the tender process that all but 11 authorities submitted bids for funding but even so there is money that will remain in the pot therefore the funding cycle is likely to be extended beyond the current period. This is great news for CP toilet users and is mentioned here only to reinforce the view that there is a good chance of success in Round 1 for those projects already subject to an EOI.

The timescales have always been important but are now critically important. The Council is advised to pay this aspect due regard. We are at 7th December now and will know if the Government has met their loose commitment to announce by the end of November or not. If we pass this opportunity up to make a firm budgetary decision we then move to the next opportunity at January 18th 2022 unless there is an EGM called for in the interim. The January scheduled meeting is the precept setting meeting of the Council where we will agree budgets for the year 2022/23.

We already know at this time that the budget for Regeneration & Tourism (4460) is going to be underspent as is the budget for the Neighbourhood Plan consultancy (4440). We can therefore make a decision now to enter into a contract leaving the budget sum of £20k to be either the Government or the existing budget allocation as detailed here. This decision alone can be left until 18th January 2022 with no risk to either the funding or the project.

Recent Audit Report

The following extract from the recent External Audit Report refers to historical information as this case clearly shows how the budget issues can easily be resolved with no or little impact on budgets going forward.

“The Changing Places project continues to be challenging. The Council appear to have committed themselves to a project that they may not be able to afford. I understand that the Council is part of an overall bid to Bradford Council for Changing Places funding. If this bid is successful, the Council will receive £20k. This still leaves an affordability gap of upwards of £37.8k depending on the quotes received. If the project goes ahead there will be the future running costs of the facility to be included in the budget.”

This paragraph does not address the other projects that this Council has placed as a higher priority than the CP toilet project (first mentioned in Council minutes of 2017/18). It does not refer for example to the spending £28k on painting lampposts or other projects as “The Council appear to have committed themselves to a project that they may not be able to afford.” That comment might be seen as an infringement of the Equality Act as the same comment might apply to the Office/Toilet project at the time. It is the view of the CPWG that the Council needs to consider its priorities and deliver its No 1 project with no more delay or frustrating actions. Simply put; if we are to be a service provider of toilets we need to be a full service provider and set the budget and precept accordingly.

Remaining Details to be determined

BTC will need to agree further finer details including:

- internal colourways
- internal LED lighting panel design
- door access mechanism
- signage detail

- contractual terms (JCT or contractor terms)
- Relocation of the security alarm dummy box (by YSS)
- Power supply fuse allocation and interconnection details
- Additional PoE cameras on the new elevations
- Water supply interconnection details
- Soil pipe adjustment details
- Other details may emerge during discussions

Recommendations

It is the recommendation of the CPWG that BTC enter detailed discussions with the recommend tenderer as soon as possible as the Preferred Contractor to finalise a contract as the details are determined to provide a CP Toilet in the designated place in Bingley town.

It is also recommended that the minor details listed above, and the contractual agreement, is delegated to the Town Clerk in conjunction with the CPWG that can meet ad-hoc (as it is a Working Group) acting as a virtual project team to deliver this facility on behalf of the Council.

It is further recommended that Bingley Town Council avoid the creation of unofficial working groups in the future, i.e. groups with no Terms of Reference agreed, no clerk assigned and no minutes taken or issued. A working group is acknowledged as a 'task and finish' group whereas the group set up by the F&GP in March 2019 was neither of these things.

It is further recommended that the CIL Policy is updated to include reference to the Gunning principles of consultations.

Motions for Full Council

This paper presents the following seven (7) motions to Full Council for consideration:

1. To accept the Case for a CP Toilet and [Tender Report from the CPWG]* (*discussion on the latter may need to be in confidence);
2. To agree the funding proposals of option 1;
3. To agree that if funding proposal option 1 fails to materialise due to the non-delivery of Government funding by the end of December 2021, the project will be funded as per option 2 or option 3 and to agree which option is to be applied);
4. To resolve that, in accordance with Financial Regulation 4.6, the Council has satisfied itself that it has the necessary funds available to enter into a contract for the delivery of the CP project;
5. To resolve to enter into a contract with the preferred contractor for the supply of a Changing Places toilet;
6. To resolve the delegation to the Clerk.
7. Further resolve to halt all other discretionary funded projects that may be placed before the Council until either the outcome of the Government funding is known or until the Council determine that the anticipated funding will not be forthcoming within a timeframe that would be considered reasonable and the Council do not thereby incur additional costs resulting from a pricing increase from the preferred contractor due to our delay.

NB Motion 7 will ensure that a) Funding Options 2 & 3 remain available whilst the Council await an update from the Government with respect to the Expression of Interest for CPT funding and b) that we commence and deliver our No 1 project in accordance with the tenders received.

NB If it turns out that the opinion of the CPWG that the Council has £52,000 in reserves for a CP toilet is correct then these figures would be adjusted accordingly.