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Wednesday, 10 October 2018

Meeting of the Council

Dear Member

I am pleased to invite you to attend a meeting of Torbay Council which will be held in **Rosetor Room, Riviera International Conference Centre, Chestnut Avenue, Torquay, TQ2 5LZ** on **Thursday, 18 October 2018** commencing at **5.30 pm**

The items to be discussed at this meeting are attached.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Steve Parrock'.

Steve Parrock
Chief Executive

(All members are summoned to attend the meeting of the Council in accordance with the requirements of the Local Government Act 1972 and Standing Orders A5.)

A prosperous and healthy Torbay

For information relating to this meeting or to request a copy in another format or language please contact:

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Meeting of the Council Agenda

1. **Opening of meeting**

2. **Apologies for absence**

3. **Minutes**

To confirm as a correct record the minutes of the meeting of the Council held on 20 September 2018.

(Pages 4 - 23)

4. **Declarations of interests**

- (a) To receive declarations of non pecuniary interests in respect of items on this agenda

For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

- (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda

For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(Please Note: If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

5. **Communications**

To receive any communications or announcements from the Chairman, the Elected Mayor, the Overview and Scrutiny Co-ordinator, the Council's representative on the Heart of the South West Joint Committee or the Chief Executive.

6. **Public question time**

To hear and respond to any written questions or statements from members of the public which have been submitted in accordance with Standing Order A24.

7. **Members' questions**

To respond to the submitted questions asked under Standing Order A13.

(Pages 24 - 27)

8. **Notice of motion - Objection to Corporate Asset Management Plan** (Page 28)
To consider the attached motion, notice of which has been given in accordance with Standing Order A14 by the members indicated.
9. **Compulsory Purchase of Land at Little Blagdon Farm, Collaton St Mary and Land at Preston Down Road, Paignton** (Pages 29 - 61)
To consider the submitted report on the above.
10. **Call-in of Elected Mayor's decision in respect of Paignton Townscape** (Pages 62 - 73)
To consider the submitted report on a call-in of the Elected Mayor's decision in respect of Paignton Townscape referred to Council from the Overview and Scrutiny Board.
11. **Capital Funding to support additional places at Roselands Primary** (Pages 74 - 90)
To consider the submitted report on the above.
12. **Review of Political Balance** (Pages 91 - 99)
To consider the submitted report on a review of political balance following the creation of the Torbay Community Independents Group and other changes to political groups.
13. **Treasury Management Mid-Year Review 2018/19** (Pages 100 - 110)
To note the submitted report on a mid-year review of the Council's Treasury Management Strategy.
14. **Composition and Constitution of Executive and Delegation of Executive Functions** (Pages 111 - 121)
To note the submitted report on the above.
15. **Exclusion of the Press and Public**
To consider passing a resolution to exclude the press and public from the meeting prior to consideration of the following item on the agenda on the grounds that exempt information (as defined in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended)) is likely to be disclosed.
16. **Investment and Regeneration Committee Recommendation - Investment Opportunity**
To consider any recommendations from the Investment and Regeneration Committee on investment opportunities.

Note

An audio recording of this meeting will normally be available at www.torbay.gov.uk within 48 hours.



Minutes of the Council **(Council decisions shown in bold text)**

20 September 2018

-: Present :-

Chairman of the Council (Councillor Doggett) (In the Chair)
Vice-Chairwoman of the Council (Councillor Barnby)

The Elected Mayor of Torbay (Mayor Oliver)

Councillors Amil, Brooks, Bye, Carter, Darling (M), Darling (S), Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Manning, Mills, Morey, Morris, O'Dwyer, Pentney, Robson, Sanders, Stockman, Stocks, Stubbley, Sykes, Thomas (D), Thomas (J), Tolchard and Tyerman

69 Opening of meeting

The meeting was opened with a prayer.

70 Apologies for absence

Apologies for absence were received from Councillors Bent, King, Long, Parrott and Winfield.

Councillor Kingscote arrived late to the meeting and during consideration of Minute 80.

71 Minutes

The Minutes of the meeting of the Council held on 19 July 2018 were confirmed as a correct record and signed by the Chairman.

72 Declarations of interests

Councillor Hill declared a non-pecuniary interest in respect of Minute 80 as he was a Director of the RICC.

73 Communications

The Chairman:

- a) invited members to the Annual Civic Church Service which was due to be held at Palace Avenue Methodist Church, Paignton, on Sunday 30 September 2018 at 3.00 pm;
- b) advised that he attended the service of thanksgiving and rededication to commemorate the Battle Of Britain and the centenary of the formation of the RAF held at the Parish Church of St Luke, Torquay, on Sunday 16 September 2018; and
- c) informed members that, on 17 September 2018, he attended the inauguration of a new Parish Minister at Upton St. Mary Magdalene, where Reverend Samuel Leach became the Rector of the Church. The Right Reverend Robert Atwell, Bishop of Exeter was also present.

The Overview and Scrutiny Co-ordinator thanked those Members who took part in the Task and Finish Group, which was called at short notice to review the recommendations before this Council meeting on the Transformation Project for the Future of ICT Services.

74 Order of Business

In accordance with Standing Order A7.2 in relation to Council meetings, the order of business was varied to enable agenda Item 11 (Transformation Project – Future of ICT Services) to be considered before Item 17 (Exclusion of the Press and Public).

75 Public question time - withdraw charges for registered charities

In accordance with Standing Order A24, the Council heard from Mr Colhoun who had submitted a statement and question in relation to the Council charging registered charities for the use of public open space in Torbay. The Elected Mayor responded to the statement and question that had been put forward, plus a supplementary question asked by Mr Colhoun.

76 Petition - Traffic Calming Devices along Eden Park Road and outside Eden Park Primary School

In accordance with Standing Order A12, the Chairman reported that the Council had received a petition requesting the Council to install traffic calming devices along Eden Park Road and outside Eden Park Primary School, Brixham (approximately 102 valid signatures).

It was noted that the petition would be referred to the Assistant Director of Business Services for consideration in consultation with the Executive Lead for Community Services.

77 Members' questions

Members received a paper detailing questions, as set out at Appendix 1 to these Minutes, notice of which had been given in accordance with Standing Order A13.

The paper also contained the answers to the questions which had been prepared by Elected Mayor Oliver and Councillors Excell, Mills, Parrott and Stocks.

Supplementary questions were put and answered by Elected Mayor Oliver and Councillors Excell, Mills and Stocks, arising from their responses to the questions in respect of questions 1, 2, 3, 4, 5, 6, 8 and 9.

78 Notice of Motion - Brexit Negotiations (Mayoral Decision)

Members considered a motion in relation to the Brexit negotiations, notice of which was given in accordance with Standing Order A14.

Councillor Ellery proposed and Councillor Haddock seconded the motion, as set out below:

This Council notes the decision of the people of Torbay by a majority to support leaving the European Union and requests the Chief Executive of Torbay Council write to our Members of Parliament calling upon them to support the major democratic decision of the people of Torbay and that they support proposals that reflect that view in all negotiations nationally by the Government with the European Union.

In accordance with Standing Order A14.3(a), the motion stood referred to the Elected Mayor. The Elected Mayor supported the motion and his record of decision is attached to these minutes.

79 Notice of Motion - Clinical Commissioning Group - Overview and Scrutiny (Overview and Scrutiny Decision)

Members considered a motion in relation to the proposed merger of the governing bodies of the Clinical Commissioning Groups within Devon, notice of which was given in accordance with Standing Order A14. In the absence of Councillor Long, the Chairman permitted Councillor Sanders to propose the motion.

Councillor Sanders proposed and Councillor Darling (S) seconded the motion, as set out below:

Torbay Council notes that the Governing Bodies of the Clinical Commissioning Groups in Devon have submitted an 'expression of interest' to merge.

This Council further notes that the following concerns have been raised at meetings of the Overview and Scrutiny Board:

- The lack of any positive outcomes in terms of improved services for local residents;
- The lack of clarity on how a new merged body would be accountable to local people;

- Concerns about Torbay's influence in a larger body being watered down;
- Concerns that this decision could be made behind closed doors without public consultation; and
- Questions over whether funds currently earmarked for Torbay might be subsumed into a wider body.

It is understood that similar issues have been raised at meetings of Devon County Council's Overview and Scrutiny Board.

This Council understands that this issue will be discussed at a meeting of Torbay's Overview and Scrutiny Board in October, and recommends that a written report is presented from the local Clinical Commissioning Group responding to the above concerns at that meeting.

In accordance with Standing Order A14.3(a), the motion stood referred to the Overview and Scrutiny Board.

80 Transformation project : The future development of the RICC site

Following the Council's decision in February 2018, Members considered the submitted report on proposals for a market brief and procurement exercise to establish development opportunities for the future of the Riviera International Conference Centre (RICC) site and the surrounding area.

Elected Mayor Oliver proposed and Councillor Mills seconded a motion, which was agreed by the Council as set out below:

- (i) that Council approve the 'Riviera International Conference Centre Market Brief', as shown in Appendix 1 to the submitted report, and note that on this basis the Council will commence a procurement exercise to identify a Strategic Delivery Partner to establish development opportunities and solutions for the RICC; and**
- (ii) that following the procurement exercise the decision to award the 'preferred bidder' to become the Council's Strategic Delivery Partner is presented to Council for approval in May 2019.**

(Note 1: Councillor Hill declared his non-pecuniary interest during consideration of this item.)

(Note 2: Councillor Kingscote joined the meeting during consideration of this item.)

81 Elected Mayor's Response to Objection to Investment and Regeneration Fund Strategy

Further to the Council meeting held on 19 July 2018, Members considered the submitted report on the Elected Mayor's response to the objections raised by the

Council on the Investment and Regeneration Fund Strategy, along with the recommendations of the Investment and Regeneration Committee to update the Strategy. Members received the Elected Mayor's revised Record of Decision prior to the meeting.

Elected Mayor Oliver proposed and Councillor Mills seconded a motion as set out below:

- (i) that the revised Investment and Regeneration Fund Strategy set out at Appendix 2 to the submitted report be approved; and
- (ii) that the following decisions be rescinded:

Minute 180/4/17 (ix) - that any revenue surplus generated from the Town Centres Regeneration Programme be earmarked to fund a Town Centre Investment Fund with any capital receipts from the Programme being allocated by the Council in accordance with the Budget and Policy Framework;

Minute 119/10/17 (ii) - that any income (revenue or capital) from the projects within Phase 1 of the TCR Programme, in excess of the amount required to cover the prudential borrowing costs for the £25 million and sustain service delivery (including any increased service costs/forecast income), be re-invested into the delivery of the Town Centre Regeneration Programme;

Minute 119/10/17 (iii) - that the Town Centres Regeneration Programme Board must submit for approval by the Chief Executive, in consultation with the Elected Mayor and Group Leaders, an initial 5 year Town Centres Regeneration Business Plan, including delivery timescales and interdependencies between the projects demonstrating how the prudential borrowing will be used. The Business Plan needs to be regularly reviewed, with the Board submitting amendments for approval. The Overview and Scrutiny Board will periodically review progress against the business plan;

Minute 40/6/18 (ii) - that any income (revenue or capital) from the projects within Phase 1 of the TCR Programme, in excess of the amount required to cover the prudential borrowing costs for the £25 million and sustain service delivery (including any increased service costs/forecast income), be re-invested into the delivery of the Town Centre Regeneration Programme;

Minute 40/6/18 (iii) - that the Town Centres Regeneration Programme Board must submit for approval by the Chief Executive, in consultation with the Elected Mayor and Group Leaders, an initial 5 year Town Centres Regeneration Business Plan, including delivery timescales and interdependencies

between the projects demonstrating how the prudential borrowing will be used. The Business Plan needs to be regularly reviewed, with the Board submitting amendments for approval. The Overview and Scrutiny Board will periodically review progress against the business plan; and

Minute 40/6/18 (v) that, if necessary, the £25 million Town Centre Regeneration Programme Fund can be used to make strategic acquisitions of property, with the revenue and/or capital income from such purchases being reinvested into the delivery of the TCR Programme. The authority to make such acquisitions is delegated to the Executive Head of Business Services, in consultation with the Chief Finance Officer and the Town Centres Regeneration Programme Board, following assessment of a clear business case. The drawdown of the Prudential Borrowing to be approved in accordance with (i) above. Any purchase of property in excess of £5 million will need full Council approval.

During the debate Councillor Darling (S) proposed and Councillor Pentney seconded an amendment to the motion as follows:

That the Investment and Regeneration Fund Strategy be amended so that investments shall primarily be in within the Torbay local authority area, with the ability, on occasion, to allow for investments within approximately a radius of 60 kilometres of Torbay (to include Plymouth and Exeter), and the Director of Corporate Services be instructed to amend the strategy accordingly.

The amendment was put to the vote. Less than two-thirds of members present and voting cast their vote in support of the amendment and it was declared lost.

Elected Mayor Oliver's and Councillor Mills' original motion was then considered by the Council which was agreed, as set out below:

- (i) that the revised Investment and Regeneration Fund Strategy set out at Appendix 2 to the submitted report be approved; and**
- (ii) that the following decisions be rescinded:**

Minute 180/4/17 (ix) - that any revenue surplus generated from the Town Centres Regeneration Programme be earmarked to fund a Town Centre Investment Fund with any capital receipts from the Programme being allocated by the Council in accordance with the Budget and Policy Framework;

Minute 119/10/17 (ii) - that any income (revenue or capital) from the projects within Phase 1 of the TCR Programme, in excess of the amount required to cover the prudential

borrowing costs for the £25 million and sustain service delivery (including any increased service costs/forecast income), be re-invested into the delivery of the Town Centre Regeneration Programme;

Minute 119/10/17 (iii) - that the Town Centres Regeneration Programme Board must submit for approval by the Chief Executive, in consultation with the Elected Mayor and Group Leaders, an initial 5 year Town Centres Regeneration Business Plan, including delivery timescales and interdependencies between the projects demonstrating how the prudential borrowing will be used. The Business Plan needs to be regularly reviewed, with the Board submitting amendments for approval. The Overview and Scrutiny Board will periodically review progress against the business plan;

Minute 40/6/18 (ii) - that any income (revenue or capital) from the projects within Phase 1 of the TCR Programme, in excess of the amount required to cover the prudential borrowing costs for the £25 million and sustain service delivery (including any increased service costs/forecast income), be re-invested into the delivery of the Town Centre Regeneration Programme;

Minute 40/6/18 (iii) - that the Town Centres Regeneration Programme Board must submit for approval by the Chief Executive, in consultation with the Elected Mayor and Group Leaders, an initial 5 year Town Centres Regeneration Business Plan, including delivery timescales and interdependencies between the projects demonstrating how the prudential borrowing will be used. The Business Plan needs to be regularly reviewed, with the Board submitting amendments for approval. The Overview and Scrutiny Board will periodically review progress against the business plan; and

Minute 40/6/18 (v) that, if necessary, the £25 million Town Centre Regeneration Programme Fund can be used to make strategic acquisitions of property, with the revenue and/or capital income from such purchases being reinvested into the delivery of the TCR Programme. The authority to make such acquisitions is delegated to the Executive Head of Business Services, in consultation with the Chief Finance Officer and the Town Centres Regeneration Programme Board, following assessment of a clear business case. The drawdown of the Prudential Borrowing to be approved in accordance with (i) above. Any purchase of property in excess of £5 million will need full Council approval.

82 Delivery and implementation of the Housing Strategy

Further to the request of the Council on 19 July 2018 for a review of the delivery and implementation of the Housing Strategy, Members received the submitted report on the outcome of the review and current position. It was noted the Assistant Director of Business Services had been delegated Council's instructions for delivery of affordable housing schemes by the Chief Executive to avoid any conflict of interest in relation to the TDA or other senior officers' involvement with the Council's Housing Company.

Councillor Stocks proposed and Councillor Mills seconded a motion as set out below:

- (i) that, the Director of Adults and Housing be instructed to amend, consolidate and refresh Torbay Council's existing Housing Strategy and associated documents so that they align with the Council's current approach to policy framework documents, encompass the changes to the National Planning Policy Framework (NPPF), following a period of development and consultation, the revised Housing Strategy for Torbay to be presented to Council for approval as soon as possible after the local elections in May 2019;
- (ii) that, the Housing Committee be asked to consider the benefits and/or disadvantages of merging the Housing Rental Company (RentCo) into the TDA, or a subsidiary of the TDA to enable relevant schemes to be delivered at pace, and report back to Council with an appropriate recommendation;
- (iii) that, the Assistant Director of Business Services, be requested to identify additional potential sites for affordable housing and report on this to Council in October 2018; and
- (iv) that, following the Prime Minister's announcement on 19 September 2018 for £2 billion of government funding to build new homes, the Director of Adult Services and Housing be instructed to pursue this funding for Torbay.

During the debate Councillor Thomas (D) proposed and Councillor Tyerman seconded an amendment to the motion as follows:

- ~~(iii) That, the Assistant Director of Business Services, be requested to identify additional potential sites for affordable housing and report on this to Council in October 2018.~~
- (iii) that, in accordance with Minute 67 of 19 July 2018, Council re-emphasises its requirement for the housing schemes at Redwell Lane, Totnes Road and St Kilda's to be progressed as a matter of urgency, but notes that no decision has yet been taken in this respect. It is further noted that the Chief Executive has delegated this decision

to be implemented by the Assistant Director of Business Services. In light of this further delegation, that the Assistant Director of Business Services be instructed, as a matter of urgency, to make a decision regarding the delivery of the schemes, as per Minute 67, and to utilise the £20,000 previously identified to continue the ongoing design, planning and procurement work required to secure delivery of these affordable housing schemes at the earliest opportunity.

The amendment was put to the vote and declared carried.

The amended (substantive) motion was then considered by Members, which was agreed by the Council as follows:

- (i) that, the Director of Adults and Housing be instructed to amend, consolidate and refresh Torbay Council's existing Housing Strategy and associated documents so that they align with the Council's current approach to policy framework documents, encompass the changes to the National Planning Policy Framework (NPPF), following a period of development and consultation, the revised Housing Strategy for Torbay to be presented to Council for approval as soon as possible after the local elections in May 2019;**
- (ii) that, the Housing Committee be asked to consider the benefits and/or disadvantages of merging the Housing Rental Company (RentCo) into the TDA, or a subsidiary of the TDA to enable relevant schemes to be delivered at pace, and report back to Council with an appropriate recommendation;**
- (iii) that, in accordance with Minute 67 of 19 July 2018, Council re-emphasises its requirement for the housing schemes at Redwell Lane, Totnes Road and St Kilda's to be progressed as a matter of urgency, but notes that no decision has yet been taken in this respect. It is further noted that the Chief Executive has delegated this decision to be implemented by the Assistant Director of Business Services. In light of this further delegation, that the Assistant Director of Business Services be instructed, as a matter of urgency, to make a decision regarding the delivery of the schemes, as per Minute 67, and to utilise the £20,000 previously identified to continue the ongoing design, planning and procurement work required to secure delivery of these affordable housing schemes at the earliest opportunity; and**
- (iv) that, following the Prime Minister's announcement on 19 September 2018 for £2 billion of government funding to build new homes, the Director of Adult Services and Housing be instructed to pursue this funding for Torbay.**

83 Local Government Reorganisation Options

Further to the Council's decision on 21 June 2018, Members considered the submitted report on the outcome of the Chief Executive's review of local government reorganisation options. It was noted the Chief Executive obtained the views of relevant authorities across Devon as to their position in respect of any proposed local government re-organisation and that there was no desire from those authorities for any form of reorganisation either currently or in the foreseeable future. Therefore, the Chief Executive had undertaken a review of the business cases undertaken by Local Partnerships in 2017 and recommended the Council consider the possible creation of Town Councils to raise revenue in light of the Council's financial position.

Elected Mayor Oliver proposed and Councillor Mills seconded a motion, which was determined by recorded vote. The voting was taken by roll call as follows: For: Elected Mayor Oliver, Councillors Amil, Carter, Darling (M), Darling (S), Doggett, Ellery, Excell, Haddock, Manning, Mills, Morey, Pentney, Sanders, Stockman and Stocks (16); Against: Councillors Barnby, Brooks, Bye, Hill, Kingscote, Lewis (B), Lewis (C), Morris, O'Dwyer, Robson, Stubley, Sykes, Thomas (D), Thomas (J), Tolchard and Tyerman (16); and Absent: Councillors Bent, King, Long, Parrot and Winfield (5). Therefore, in accordance with Standing Order A19.2, the Chairman used his casting vote, voted for the motion and declared it carried, as set out below:

- (i) that Council instructs the Director of Corporate Services to undertake a Community Governance Review with a view to considering the principle of three Town Councils across the entirety of Torbay;**
- (ii) that the cost of additional resources to undertake the community governance review of £50,000, be funded from the Council's Revenue Contingency Budget;**
- (iii) that a Community Governance Review Working Party be established, with the terms of reference to oversee impartially and objectively the implementation of the Community Governance Review and to report back to Full Council with recommendations based on the responses to the consultation. The Working Party to be created with the following membership: the Elected Mayor, and 8 additional members, to be politically balanced (5 Conservative, 2 Liberal Democrat and 1 Independent Group);**
- (iv) that Council notes that it needs to continue to deliver and expand its current Transformation programme at pace, recognising that significant savings are required and that future change is inevitable. That Council reflects upon the severe ramifications of not achieving sufficient savings and works together to review options for raising additional income through Council Tax, above that envisaged within the current Medium**

term Resource Plan, irrespective of whether it decides to carry out a Community Governance Review.

During the debate, a procedural motion (in accordance with Standing Order A16.11(a)(iv)) to move to the vote was proposed by Councillor Tyerman and seconded by Councillor Thomas (D). The Chairman overruled the motion as the debate was drawing to a close.

84 Budget Monitoring 2018/2019 Quarter 1

The Council noted the forecast position for Revenue Budget for 2018/2019 based on quarter one information, as set out in the submitted report.

85 Urgent Council Decision Taken by the Chief Executive

Members noted the submitted report on an urgent Council decision taken by the Chief Executive (appropriation of land at the former Cockington Primary School site at 10 Old Mill Road, Torquay for planning purposes).

86 Transformation Project - Future of ICT Services

Members considered a proposal for the future delivery and ownership of the Council's ICT Services Department, as set out in the submitted report. It was noted that, as a result of austerity measures faced by the Council, the ICT budget had been reduced whilst demand had increased, resulting in the service becoming unsustainable with a high risk of service failure.

Councillor Haddock proposed and Councillor Excell seconded a motion, which was agreed (unanimously) by the Council as set out below:

- (i) that the Chief Executive be given delegated authority to purchase shares in DELT Shared Services LTD subject to the relevant due diligence taking place;**
- (ii) that the Chief Executive be given delegated authority to enter into a 10 year contract with DELT Shared Services LTD for the provision of ICT services to the Council, in accordance with the terms set out in exempt Appendix 2 to the submitted report;**
- (iii) that in order to fund the costs of the contract with DELT Shared Services LTD the Council approves the ICT budget (currently £2.2 million) from 2019 onwards to £2.5 million (representing an increase to the current budget of £0.3 million) – this covers the Core Fee to DELT Shared Services LTD and the Council client side costs; and**
- (iv) that Council delegate to the Chief Finance Officer the authority to identify the source of funding for the £200,000 transition costs for DELT Shared Services LTD from earmarked reserves.**

87 Exclusion of the Press and Public

Councillor Mills proposed and Councillor Thomas (D) seconded the motion, which was agreed by the Council, as set out below:

that the press and public be excluded from the meeting prior to consideration of the following item on the agenda on the grounds that exempt information (as defined in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended) is likely to be disclosed.

Prior to consideration of the items in Minute 88 the press and public were formally excluded from the meeting.

88 Proposal for TDA Pension Scheme

The Council considered the submitted exempt report on proposals in respect of the pension arrangements for the TDA.

The decision of the Council meeting is restricted due to exempt information contained within the decision.

Chairman

Minute Item 77

Meeting of the Council, Thursday, 20 September 2018

Questions Under Standing Order A13

A member may only submit three questions for consideration at each Council Meeting. Each member will present their first question in turn, when all the first questions have been dealt with the second and third questions may be asked in turn. The time for member's questions will be limited to a total of 30 minutes.

<p>Question (1) by Councillor Sanders to the Executive Lead for Children and Housing (Councillor Stocks)</p>	<p>How many meetings of the South West Councils' Children's Services Portfolio Holders Group have been held in the past three years and how many have you attended?</p>
<p>Councillor Stocks</p>	<p>As the Executive Lead for Children's Services since the beginning of August this year there have been no South West Councils Children's Services meetings for me to attend. I have been unable to establish how many meetings there have been in the last 3 years through the website but I am sure that as the Liberal Democrat top up representative on the South West Councils Councillor Sanders can access this information himself.</p>
<p>Question (2) by Councillor Carter to the Executive Lead for Community Services (Councillor Excell)</p>	<p>In previous years the Paignton seafront road has been closed to traffic and parking from May to September, and in those years the green was not invaded by travellers. However this year, as part of the seafront was open during the summer season, we have had at least three encampments by travellers, the latest one appearing to cause the local residents to retaliate by also parking on the green for free. Can you tell me why the seafront has been partially open, and if this is a good idea given the events that have happened and health and safety issues, also what permanent action is in place to stop any reoccurrences of encampments in future on the seafront.</p>
<p>Councillor Excell</p>	<p>Parking restrictions were amended in December 2014 so that that the northern arm of the Eastern Esplanade was only closed for the period of 21st July to 7th September, each year, with the southern arm still remaining closed for the longer period from May to September. These closure periods have been in operation for the summer periods during 2015, 2016, 2017, and 2018. There are no plans to re-instate the gate at the entrance to Pier Approach as resources to control permitted access are not available.</p> <p>There are no immediate plans to protect the green further as it is a fine balance between user access, event use and grounds maintenance efficiency. Furthermore, there is currently no budget available to progress any works. Officers are investigating the opportunity to reinstate bollards either side of Pier Approach and sea defence work in future years will hopefully prevent vehicular access to the Green from the seaward perimeter.</p> <p>The Council has received more attention from travellers this year on our seafront public open spaces, as surrounding sites within Torbay are now better protected and sea defences have caused this activity to be displaced.</p>

	During the recent encampment on Paignton seafront, Torbay Council followed due process and the legislative requirements associated with the removal of any unauthorised encampments.
Question (3) by Councillor Darling (M) to the Deputy Mayor and Executive Lead for Planning and Waste (Councillor Mills)	With the development of the Pavilion in limbo, are you confident that MDL Ltd are maintaining the building in accordance with the terms of the lease?
Councillor Mills	<p>There is a major planning application for comprehensive redevelopment of the Pavilion and adjacent marina car park pending, which is still “live” and waiting for additional information from the developer before it can be considered by the council as Local Planning Authority. If approved and implemented this would see the Pavilion extensively repaired as part of the redevelopment.</p> <p>In the interim, the Council continues to monitor the condition of the building regularly, and only recently carried out another inspection. I can confirm therefore that MDL are carrying out routine maintenance and we are keeping a close eye on its condition.</p> <p>If no deliverable redevelopment is approved and implemented then the Council has a number of remedies and actions it can take if necessary in consultation with the tenant to bring the property back up to a standard to the satisfaction of the Council.</p>
Question (4) by Councillor Darling (S) to the Deputy Mayor and Executive Lead for Planning and Waste (Councillor Mills)	I understand that the developers have up to six months to respond to the legal proceedings that found the planning decision in respect of the Pavilion deficient. What encouragement is the Council bringing to bear on the developer to either provide the relevant method statement or come up with alternative proposals to develop this sadly neglected Torquay treasure?
Councillor Mills	See answer to question 3 above.

Second Round

Question (5) by Councillor Sanders to the Deputy Mayor and Executive Lead for Planning and Waste (Councillor Mills)	Why was no substitute sent to attend in his place at either of the two South West Councils’ meetings this year that he has missed.
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Councillor Mills	I attended the March meeting and intend to be present at the October meeting. The Chief Executive attended the July meeting and an officer from Human Resources attends some meetings. I am fully briefed if I miss a meeting.
Question (6) by Councillor Darling (M) to the Executive Lead for Community Services (Councillor Excell)	At a community meeting held on 3rd September 2018 you informed those present that Torbay Council received monies for re-settling former prisoners in Torbay. Can you please explain this?
Councillor Excell	Torbay Council does not receive any direct payments for resettling former prisoners. It has however been successful in receiving government grant funding and additional support from the OPPC, through the Community Safety Partnership (CSP) in funding for a Prison Link work. They work directly with the prison to assist prisoners that are due to return to Torbay to gain accommodation prior to their release to reduce homelessness and hence assist with reducing reoffending. This is provided through direct grant funding.
Question (7) by Councillor Darling (S) to the Executive Lead for Adults (Councillor Parrott)	I understand that almost 1,000 older people a day are needlessly admitted to hospital amid social care crisis. A pensioner is readmitted to their local hospital every 90 seconds, with emergency admissions to hospital more than doubling in the last 13 years, according to new research by Age UK. The report also said the rate of avoidable admissions had increased by 63 per cent since 2003, citing that pensioners living alone are at greatest risk and that the care system fails to help an ageing population. Cllr Ian Hudspeth, Chairman of the LGA's Community Wellbeing Board, said: "With people living longer, increases in costs and decreases in funding, the system is at breaking point and is ramping up pressures on unpaid carers who are the backbone of the care system'. With Torbay's higher than average numbers of older people what assurance can you give around how Torbay Council are managing this crisis?
Councillor Mills (on behalf of Councillor Parrott)	<p>During the eight year period between 2009/10 and 2017/18 an increase in emergency admissions of 25% for the over 65 population was experienced, 13.4% across all age groups. The over 65 population in the catchment area increased by 18.8% in the same period. After adjusting for the increasing number over 65 in the population emergency admissions increased by 6.2%.</p> <p>It is not clear from the question if the Age UK analysis took population growth into account.</p> <p>The local model of care continues to supporting people at home and avoiding admission where appropriate and possible, however all NHS and social care services are under significant pressure.</p> <p>We have continued to support our services for carers: We believe that all carers are important. We want to actively support and work in partnership with carers, to get the best outcomes for both them and the</p>

	<p>person for whom they care. Our commitment to this is in our carers' policy, and in our action plan which will help us to achieve this.</p> <p>We have a carers' register; the carers' emergency card; free education courses; a quarterly newsletter; discounts in local shops and free hospital parking. Carers are offered support, and assessment, by Carers Support Workers who are based in GP surgeries. They are also supported by locality teams, who support them by offering assessments and support jointly with the person they care for. This support includes direct payments and access to replacement care.</p> <p>The estimate is there are 17,000 Carers in Torbay at present (16,107 in 2011 Census plus increase for population size and allowance for an ageing population) compared to the 4,282 on the Carers Register currently. This means we have identified just above 25% of Carers we believe to be active in Torbay. We continue to work on supporting more people to join the register. Carer Support Workers are also aware of 6,269 Carers who are registered as such at GP practices within Torbay (37% of the Carers in Torbay).</p> <p>Torbay is managing relatively well compared to some areas and via the LGA recent green paper and via ADASS we will lobby to support the continuation of IBCF scheme to ensure more money is available for adults social care, and that long term government solutions are agreed- as adult social care needs some national agreement to support it in a sustainable way given the national demographic pressures we are all familiar with.</p>
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Third Round

<p>Question (8) by Councillor Darling (M) to the Executive Lead for Community Services (Councillor Excell)</p>	<p>Over recent months I have noted increasing anger from constituents over the failure of adequate resourcing of the Police in Torquay Town Centre. Earlier this summer, at a meeting with the Overview and Scrutiny board, the Conservative Police and Crime commissioner for Devon & Cornwall and Chief Constable gave the clear impression that after an 80% decrease in PCSOs in Torquay local residents could expect an increase in numbers. When will this happen?</p>
<p>Councillor Excell</p>	<p>The Police have undertaken a review of PCSO numbers and the allocation per area. This has also included the changes recently implemented of the formation of new BCU incorporating Torbay. The exact allocation has yet to be announced. A couple of PCSO however have voluntary moved to Torbay as any permanent arrangements require contractual discussions.</p>
<p>Question (9) by Councillor Darling (S) to the Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and</p>	<p>On the 1st of August 2018, due to the severe financial pressure that the Council faces, Torbay Council introduced a moratorium on non-essential spending for all parts of the Local Authority. Since then what meetings have you held with the two MPs who represent Torbay to put pressure on the Government to adequately fund the Council?</p>

Transformation (Mayor Oliver)	
Elected Mayor Oliver	I contacted both MPs to request a meeting to discuss Torbay's finances as a matter of urgency. I met with Sarah Wollaston MP on 30 August 2018, however, Kevin Foster MP has declined to meet with me.

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Record of Decisions

Notice of Motion - Brexit Negotiations

Decision Taker

Elected Mayor on 20 September 2018

Decision

That the motion be supported.

Reason for the Decision

To respond to the motion.

Implementation

This decision will come into force and may be implemented on Wednesday 3 October 2018 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

At the Meeting of the Council held on 20 September 2018, members received a motion, as set out below, notice of which had been given in accordance with Standing Order A14 by Councillors Ellery and Haddock:

This Council notes the decision of the people of Torbay by a majority to support leaving the European Union and requests the Chief Executive of Torbay Council write to our Members of Parliament calling upon them to support the major democratic decision of the people of Torbay and that they support proposals that reflect that view in all negotiations nationally by the Government with the European Union.

The Elected Mayor considered the motion at the Meeting of the Council and his decision is set out above.

Alternative Options considered and rejected at the time of the decision

Not to support the motion.

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None.

Published

25 September 2018

Signed: _____
The Elected Mayor of Torbay

Date: 25 September 2018

Agenda Item 7

Meeting of the Council, Thursday, 18 October 2018

Questions Under Standing Order A13

A member may only submit three questions for consideration at each Council Meeting. Each member will present their first question in turn, when all the first questions have been dealt with the second and third questions may be asked in turn. The time for member's questions will be limited to a total of 30 minutes.

Question (1) by Councillor Darling (S) to the Executive Lead for Adults (Councillor Parrott)	What is Torbay Council doing to support Purple Angel's day centre for people with dementia?
Question (2) by Councillor Long to the Executive Lead for Community Services (Councillor Excell)	Residents on Great Hill Road, Torquay, and the surrounding area have described that they are living in fear due to the speeding traffic issues outside their properties. At the Full Council Meeting on 19th July 2018, a motion was tabled regarding those traffic issues by Councillor Darling (S) and myself. I understand that this motion was delegated to the Executive Head for Business Services to respond to. When might a decision be made in relation to this motion?
Question (3) by Councillor Tyerman to the Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and Transformation (Elected Mayor Oliver)	Why is it that the Toilet provision in the central area of Goodrington Beach has been closed and is being removed when the Mayor gave assurances to the local community that such provision was a condition of granting the lease to Whitbread which led to the demolition of the previous toilet block and made it clear in a published decision which has not been rescinded that toilet provision in the central area of Goodrington Beach would remain in place.
Question (4) by Councillor Carter to the Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and Transformation	On the 19 April 2018 Full Council meeting the following decision was made about Crossways Paignton This Council notes that the Crossways arcade and car park continues to be a blot on Paignton town centre and was identified as the number one issue by residents taking part in a recent survey conducted by Paignton Liberal Democrats. It is noted that Council has already, in October 2016, passed a motion which was proposed by Councillor Haddock and seconded by Councillor Robson authorising the Director of Corporate and Business Services to consider the acquisition or compulsory purchase of this site. Furthermore, Council reinforced this decision in April 2017 when, as part of the Transformation Project for Town Centre, adopted into the Council's Policy Framework

	<p>the Transformation Strategy for Torbay Town Centres as an appendix to the Torbay Economic Strategy. The responsibility clearly lies with the Town Centre Regeneration Board. Therefore, Council now instructs the Town Centre Regeneration Board to undertake, as a high priority, investigation of the acquisition by the Council of the Crossways site and to determine the best use of the site considering both financial and strategic aspects. The Town Centre Regeneration Board to make recommendations to the Council as soon as possible with the preferred options of the redevelopment of the Crossways site.</p> <p>I understand that this has now been transferred to the Investment and Regeneration Committee following the disbanding of the Town Centre Regeneration Board and an update is due to go to Committee on 16 October 2018, just prior to this meeting. Can you please explain why such a report has taken six months to prepare, when this blot on the landscape should be seen as the highest priority to resolve in Paignton?</p>
<p>Question (5) by Councillor Pentney to the Executive Lead for Community Safety (Councillor Excell)</p>	<p>The following motion about vehicles blocking the highway on the road down to Oddicombe beach was referred to the Mayor at Council on 19 July 2018:</p> <p>This Council notes the following freedom of information request in respect of Oddicombe Cliff Road.</p> <p>“This bank holiday Monday afternoon there was a lot of irresponsible parking on this stretch of road from Babbacombe Downs to the Beach. Pedestrian footways were blocked by cars and vehicles had to drive on the pavement to gain access to the beach. As you know there is signage stating no parking beyond this point March to September.</p> <ol style="list-style-type: none"> 1. Are these restrictions enforceable? <p style="margin-left: 40px;">No. I believe these signs relate to the area which is not highway.</p> 2. If yes, how many tickets have been issued at this location in the last 12 months? <p style="margin-left: 40px;">N/A</p> 3. What is the planned parking enforcement regime over this summer? <p style="margin-left: 40px;">As advised above, parking restrictions are not in place to enable parking enforcement. If enforcement was to occur there will need to be a restriction. Also consideration as to how the beach land can be enforced. Colleagues in the Highways Team will be able to advise on the process to ensure this area of highway down to the beach can be enforced. I am aware this will require the writing of a traffic regulation order and consideration as to the signage and/or lines. The area which is classed as beach land can only be managed by locking the area to restrict access to vehicles.”</p>

	<p>This Council understands that last summer on at least two occasions' emergency medical staff had to use the cliff rail way to gain access to a patient at Oddicombe Beach due to the road being blocked by inappropriately parked vehicles.</p> <p>In light of the above this Council instructs the Executive Head of Assets and Business Services to review the parking regulations on the public highway leading to Oddicombe Beach and consult with Oddicombe Beach users/stakeholders regarding the introduction of enforceable parking regulations in the interests of public safety.</p> <p>Mayor's response:</p> <p>The Mayor referred the matter to the Executive Head of Business Services to review and respond.</p> <p>Can you please advise the Council of the progress to date in respect of resolving this community safety issue?</p>
<p>Question (6) by Councillor Darling (M) to the Executive Lead for Community Services (Councillor Excell)</p>	<p>Shoppers in Torbay are outraged at the lack of public toilets in Torquay Town Centre. Whilst I welcome the imminent provision of new facilities at the junction of Market Street and Union Street, why did Torbay council not engage with local café owners and offer them a payment of a few hundred pounds so that they could advertise that the public can use their toilet facilities until the new ones became available?</p>

Second Round

<p>Question (7) by Councillor Long to the Executive Lead for Community Safety (Councillor Excell)</p>	<p>At the Full Council Meeting on 19th July 2018, a motion was tabled by Councillor Darling (S) and myself in relation to a request for a Grit Bin to be returned to Southern Close in Torquay. I understand that the Mayor delegated this decision to the Chief Executive. When might a decision be made on this matter?</p>
<p>Question (8) by Councillor Darling (S) to the Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and Transformation</p>	<p>At the Council meeting on 20 September 2018 I asked the following question and received the below reply:</p> <p>On the 1st of August 2018, due to the severe financial pressure that the Council faces, Torbay Council introduced a moratorium on non-essential spending for all parts of the Local Authority. Since then what meetings have you held with the two MPs who represent Torbay to put pressure on the Government to adequately fund the Council?</p> <p>I contacted both MPs to request a meeting to discuss Torbay's finances as a matter of urgency. I met with Sarah Wollaston MP on 30 August 2018, however, Kevin Foster MP has declined to meet with me.</p> <p>So, since the 20 September has Kevin Foster MP made himself available to discuss the financial challenges that Torbay Council faces in light of his Governments cuts?</p>

<p>Question (9) by Councillor Carter to the Deputy Mayor and Executive Lead for Planning and Waste (Councillor Mills)</p>	<p>Part of the decision to take TOR2 back in house on the 21 June 2018 Full Council was that the Chief Executive, in consultation with the Mayor and Group Leaders be given delegated authority to negotiate the complete acquisition of TOR2, with a target completion date of 1st October 2018 and a longstop date of 21st December 2018. Can you please advise me what risks the officers have identified should there be slippage on the dates above?</p>
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Third Round

<p>Question (10) by Councillor Long to the Executive Lead for Community Safety (Councillor Excell)</p>	<p>Are there any reasons that the Council are aware of why residents should not be able to walk down Hatchcombe Lane in Torquay to access the woods at the end of the Lane?</p>
<p>Question (11) by Councillor Darling (S) to the Executive Lead for Children and Housing (Councillor Stocks)</p>	<p>On 2 October 2018 a Culture and Events Members Update was circulated on behalf of Councillor Amil, Executive Lead for Tourism, Culture and Harbours. Does the Mayor's Executive have their priorities confused, for years I have been asking for updates in a similar vain to the Culture and events members update to be circulated about Children's Services. Why does the Mayors Executive prioritise culture and events over our children?</p>

Notice of Motion
Objection to Corporate Asset Management Plan

Objection to Existing Policy Framework Document
(Constitution Reference: Budget and Policy Framework Standing Order F4.8)

Council Meeting

18 October 2018

Proposal:

That the Council notes the aspirations within the emerging Torquay Neighbourhood Plan set out below in relation to Nightingale Park:

“Community Aspiration Services and Facilities. The former tip area adjacent to Browns Bridge Road named as Nightingale Park should continue to be protected for sports and leisure as identified in Torbay’s Playing Pitch Strategy and the adopted Torbay Local Plan. Detailed plans should be developed in accordance with the consultation report published in June 2016 “Nightingale Park Establishing Community Preferences”. It is proposed that a ‘sports and leisure masterplan’ should be developed to properly plan and maximise the area’s potential for sport, leisure which could include woodland walkways and a circuitous route around the park. Wild meadowland could also be included. New development within the area covered by the Gateway Masterplan must be supported by adequate community facilities which should include a new primary school and community health facilities.”

Therefore the Council formally objects to the current Corporate Asset Management Plan on the basis that Nightingale Park is not specifically referenced as land which should be prioritised for community and shared use.

In accordance with the Constitution at F4.9, the Council therefore requires the Mayor to consider this objection by 16 November 2018:

- a) submit a revision of the Corporate Asset Management Plan with the reasons for any amendments to the Council for its consideration; or
- b) inform the Council of any disagreement that the Executive has with any of the Council’s objections and the Executive’s reasons for any such disagreement.

Proposed by Councillor Long

Seconded by Councillor Darling (S)



Meeting: Council

Date: 18 October 2018

Wards Affected: Preston and Blatchcombe

Report Title: Compulsory Purchase of Land at Little Blagdon Farm, Collaton St Mary and Land at Preston Down Road, Paignton

Is the decision a key decision? Yes

When does the decision need to be implemented? Immediately

Executive Lead Contact Details: Elected Mayor, Gordon Oliver. Email: Mayor@torbay.gov.uk, 01803 207001

Supporting Officer Contact Details: Anne-Marie Bond, Director of Corporate Services and Operations, anne-marie.bond@torbay.gov.uk, 01803 207160

1. Proposal and Introduction

1. Approval is sought to acquire the leasehold interest in the land currently leased to Torbay Coast and Countryside Trust (TCCT) at Little Blagdon Farm, Collaton St Mary (CSM) and at Preston Down Road, Paignton (PDR), under, if necessary, a compulsory purchase order (CPO).

2. Reason for Proposal and associated financial commitments

- 2.1 Torbay Council (the Council) was awarded £3,076,000 of Land Release Fund (LRF) grant aid by the Ministry of Housing, Communities and Local Government (MHCLG) on 8 March 2018 for the purposes of securing early release of the land at both CSM and PDR for residential development.
- 2.2 Upon receipt of the LRF award, the Council considered whether to accept the award and by doing so considered whether the release of the land was deliverable by March 2020. The award was accepted by the Council on 14 March 2018 following the agreement of the Elected Mayor and Group Leaders.
- 2.3 The LRF grant requires that the sites are delivered to the market by March 2020. To ensure this occurs a decision on acquiring TCCT's leasehold interest, including the option of compulsory purchase acquisition, needs to be made in October 2018 at the latest to ensure that the grant conditions can be met. Any decision not to proceed with the CPO will see the £3,076,000 of LRF returned to Government.
- 2.7 Bringing both sites forward for development will potentially generate a significant capital receipt for the Council in advance of what would otherwise be possible.

- 2.8 The Council has been in negotiations for the early release of these sites with TCCT. For Preston Down Road these negotiations have been ongoing for many years, although discussions commenced again in earnest at the beginning of 2018 when discussions in respect of Little Blagdon properly commenced. Despite the efforts of both parties, it has not yet been possible to reach agreement for the surrender of this land. Whilst it is anticipated that the negotiations will result in an agreement between the Council and TCCT, the Council has to have a contingency plan for how to progress the sites should this not be achieved. This requires the Council to make an initial decision to commence the CPO process in October 2018. Officers have delayed bringing this forward to Council in the hope that an agreed position could be reached, however it cannot be delayed further. If such a decision is not made in October 2018, then the Council would not be able to use CPO powers in the event that negotiations fail with TCCT, as there will not be sufficient time within which to complete the CPO process and comply with the LRF conditions. This could result in a scenario whereby the grant monies have to be returned to Government.
- 2.9 Officers will continue to use best endeavours to reach an agreed position with TCCT, as this is in all parties' best interests.
-

3. Recommendation(s) / Proposed Decision

- 3.1 That delegated authority be given to the Chief Executive to continue negotiations with TCCT to acquire by agreement the land identified red (Appendices 1 and 2) at Preston Down Road and Collaton St Mary, with consultation with the Elected Mayor, Group Leaders and Section 151 Officer on any Heads of Terms.
- 3.2 That Council approve, if necessary, to progress and ultimately acquire the land identified red (Appendices 1 and 2) at Preston Down Road and Collaton St Mary by making a Compulsory Purchase Order, under Section 226(1)(a) of the Town & Country Planning Act 1990 and the Acquisition of Land Act 1981 in respect of all or part of the land edged red on the Order Plan attached at Appendices 1 and 2 and any additional land which is considered to be required in order to bring forward the Enabling Works and the residential development to ensure the early release of this land by March 2020.
- 3.3 That in furtherance of 3.2, Council authorise the Chief Executive to take all necessary steps to secure the making, confirmation and implementation of a Compulsory Purchase Order(s), including the publication and service of all notices, requisitions for information, statement of reasons and the preparation and presentation of the Council's case, including at any public inquiry, to secure confirmation of the Compulsory Purchase Order(s) by the Secretary of State.
- 3.4 That in furtherance of 3.2 above, the Chief Executive be given delegated authority to enter into agreement with any person to secure the withdrawal of objections to the Compulsory Purchase Order(s) and/or to negotiate and agree terms for the acquisition by agreement of any land, interests or rights as may be required for the Scheme.
- 3.5 That the Chief Executive be given authority to pay all necessary compensation either as agreed or as determined by the Lands Chamber of the Upper Tribunal in relation

to the acquisition of land and other interests or for the overriding or acquisition of rights in consultation with the Councils S151 Officer.

- 3.6 That Council delegate to the Chief Finance Officer the approval of the expenditure of monies (including by prudential borrowing if necessary) required to cover the acquisition of Preston Down Road and Collaton St Mary, either by agreement or by CPO, on the basis that there is a clear business case which demonstrates how the monies are to be repaid from the development of the sites.

Appendices

Appendix 1: Plan of land at Preston Down Road

Appendix 2: Plan of land at Collaton St Mary

Appendix 3: Burges Salmon report for Preston Down Road dated 8 October 2018

Appendix 4: Burges Salmon report for Collaton St Mary, dated 8 October 2018

Appendix 5: Statement from Strategic Planning, dated 8 October 2018

Section 1: Background Information

1. What is the proposal / issue?

The Council owns the freehold of 18.38 hectares (45.4 acres) of land at CSM and 4.06 hectares (10.03 acres) of land at PDR.

PDR is identified for future housing need and CSM allocated for residential development in the Council's Adopted Local Plan (A Landscape for Success) 2012-30.

A full public consultation exercise has been undertaken at CSM as the site falls within the remit of the Collaton St Mary Masterplan (Supplementary Planning Guidance). Proposals to bring this site forward are in accordance with this adopted Masterplan.

The Council was awarded £3,076,000 of LRF grant aid by MHCLG on 8 March 2018 for the purposes of securing early release of the land at both CSM and PDR for residential development.

Prior to the acceptance of the LRF Grant, the Elected Mayor and the Group Leaders were consulted on the proposals and they were informed that a CPO may be necessary to ensure the grant conditions were met. Notwithstanding this it was agreed to accept the grant to assist with bringing forward these sites

Despite the best efforts of TCCT and the Council as yet we have not reached agreement as to the surrender of the land. Whilst the principle of releasing both parcels of land is agreed by both parties, the compensation in terms of monies or alternative land is still outstanding.

The Council remains committed to reaching an agreed position in respect of the surrender of the land, however approval to commence the CPO process is now required in order to have a contingency plan in the event that agreement cannot be reached, so as to ensure that the sites can be released to the market in accordance with timescales set out by MHCLG for the LRF funding.

2. What is the current situation?

The Government has repeatedly stated that increasing housing supply is a high priority.

It is projected that CSM and PDR would deliver in the region of 500 new homes enabling the Council to deliver real housing growth in Torbay.

It is envisaged that the capital receipt receivable through bringing the sites forward for development will be significant and will provide capital funding to both pay for the land acquisition and assist the Council to meet its priorities.

Collaton St Mary:

This land is split into two parts. One part is under a Farm Business Tenancy that includes break provisions that will give the Council possession by March 2020. Whilst the legal position is not clear cut due to unsigned documents on the second and larger part of the site, the Council has taken the view that TCCT's has possession of the site for a further 9 years.

Discussions have been held with TCCT throughout this year in respect of the early surrender of the Farm Business Tenancy. Heads of Terms have in principle been agreed for the acquisition of the site on the basis that the Council finds suitable alternative land for TCCT of at least the same size and quality as the land at CSM within the Torbay and South Hams area, but which would provide a longer security of tenure for them than exists at CSM. The Council appointed a specialist land agent to identify possible sites although despite its best efforts, to date the Council has been unable to fulfil this aspiration. The search continues in earnest and the Council keep the Trust fully informed of potential options, with one site currently being actively pursued.

Preston Down Road:

TCCT's lease at PDR expires in 41.15 years.

The Council has been in negotiations with TCCT for the surrender of the lease for many years and in March 2016 discussions reached an advanced stage, however ultimately matters were not concluded. Negotiations commenced again in earnest early this year

Negotiations are ongoing and the principle of the acquisition has been agreed. However, there is currently a significant gap between TCCT's valuation position and that of the Council's.

The Council engaged the District Valuer in May 2018 to provide an independent valuation of the land assuming a CPO is forthcoming and this report has been shared with TCCT in an open and transparent way. This valuation was significantly below that of the Trusts and discussions are ongoing with a tripartite meeting being arranged between the Council; TCCT and the District Valuer to try to reach common ground on values.

Should negotiations fail on either site, the Council will need to exercise its powers under the Town & Country Planning Act 1990 to secure control of the land in accordance with MHCLG timescales.

The Council shall continue to negotiate with TCCT alongside the CPO process to seek to agree terms for purchase by private treaty throughout. Exercise of the CPO powers shall be an option of last resort.

<p>3.</p>	<p>What options have been considered?</p> <p>The Council has held negotiations with TCCT with the aim of agreeing a capital payment for purchase of TCCT's interest.</p> <p>Simultaneously the Council has initiated a specialist land search to identify suitable alternative land for TCCT in order to agree a land swap.</p> <p>If agreement cannot be reached through negotiation with TCCT, and the principle of exercising the Council's CPO powers is not supported by Members, the Council will not be able to meet the LRF Grant conditions and would have no choice but to return the Grant to MHCLG.</p> <p>A decision to return the Grant may have a negative reputational risk for the Council and is likely to adversely affect the Council's ability in the short to medium term to successfully secure other Government grants.</p>
<p>4.</p>	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</p> <p>The proposals meet the following Corporate Plan objectives:</p> <p>Ambitions: Prosperous and Healthy Torbay</p> <p>Principles:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Use reducing resources to best effect <input type="checkbox"/> Reduce demand through prevention and innovation <input type="checkbox"/> Integrated and joined up approach <p>Targeted actions:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Working towards a more prosperous Torbay <input type="checkbox"/> Promoting healthy lifestyles across Torbay <input type="checkbox"/> Ensuring Torbay remains an attractive and safe place to live and visit
<p>5.</p>	<p>How does this proposal tackle deprivation?</p> <p>The proposals shall result in bringing forward the early delivery of c. 500 new homes, 30% of which (c. 150 homes) will be affordable housing for local people.</p> <p>A greater housing supply within the local market will help limit future house price growth.</p> <p>The proposals will help ensure a mixed and balanced community, supplying housing of the right type, size and design in the right locations.</p>

<p>6.</p>	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>TCCT shall be affected by the proposals. However, they shall be fairly compensated either through negotiated agreement or via the CPO process.</p> <p>Extensive consultation has occurred throughout the Local Plan planning process and, in particular, the Collaton St Mary Masterplan has undergone extensive public consultation.</p> <p>Since the adoption of the Local Plan the principle of housing development in these locations appears to be accepted by the community.</p> <p>As part of the planning process the community will be fully consulted on the detail of any development proposed, however, there will be a benefit to the local community in terms of additional supply of good quality housing and an improved mix of units.</p> <p>It is anticipated that the proposed development of the CSM site will help fund flood alleviation works within Collaton St Mary village thereby benefitting the wider local community.</p>
<p>7.</p>	<p>How will you propose to consult?</p> <p>Briefings have been held with Group leaders and the Elected Mayor and briefings with all political groups will take place throughout the process.</p> <p>TCCT has been, and shall continue to be, consulted fully throughout the process.</p>

Section 2: Implications and Impact Assessment

8.	<p>What are the financial and legal implications?</p> <p>The legal process to undertake a CPO is extensive. Please see Appendix 1 for a legal briefing on the process.</p> <p>A substantial net capital receipt for the Council is envisaged.</p> <p>Any outgoings and the financial implications are expected to be limited as the LRF can be used to pay for exercising the CPO including associated legal and valuation costs. However, capital acquisition or compensations payments to TCCT (including costs of acquiring alternative land) cannot be met via the LRF.</p> <p>The Council is required to ensure that it pays a fair value for the land, supported by an independent valuation of the land.</p> <p>Assuming that the principle of a CPO is supported by Members, the LRF can be applied to:</p> <ul style="list-style-type: none">(a) Implement enabling works thus increasing the projected financial return to the Council.(b) Undertake a comprehensive suite of surveys thereby expediting delivery dates for bringing the site to market and reducing the risk for potential purchasers thus having a positive impact on land value.(c) Undertaking ecology mitigation and enhancement works to offset planning risk.
9.	<p>What are the risks?</p> <p>If the principle of CPO is not supported by members and the Council is unable to negotiate a settlement with TCCT:</p> <ul style="list-style-type: none">(a) The Council will repay any LRF monies received.(b) There will be a reputational risk for the Council.(c) Future grant income streams may be adversely affected.
10.	<p>Public Services Value (Social Value) Act 2012</p> <p>The Council's procurement team has been fully consulted and all works on these site are in accordance with the Councils financial regulations and standing orders.</p> <p>Legal advice has been procured in accordance with the Council's protocol.</p>

<p>11.</p>	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>The proposal shall facilitate the development of c. 500 new homes. The project will help protect more sensitive sites from development and will enable the Council to influence the location for growth of the Collaton St Mary area.</p>
<p>12.</p>	<p>What are key findings from the consultation you have carried out?</p> <p>Extensive consultation has occurred throughout the Local Plan planning process and, in particular, the Collaton St Mary Masterplan has undergone extensive public consultation.</p> <p>The proposed development is fully compliant with Torbay’s Housing Strategy 2015 – 2020 and the Planning Contributions and Affordable Housing SPD.</p>
<p>13.</p>	<p>Amendments to Proposal / Mitigating Actions</p> <p>None</p>

Equality Impacts

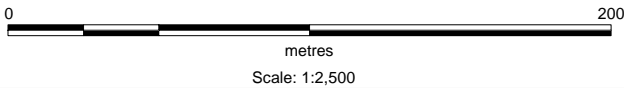
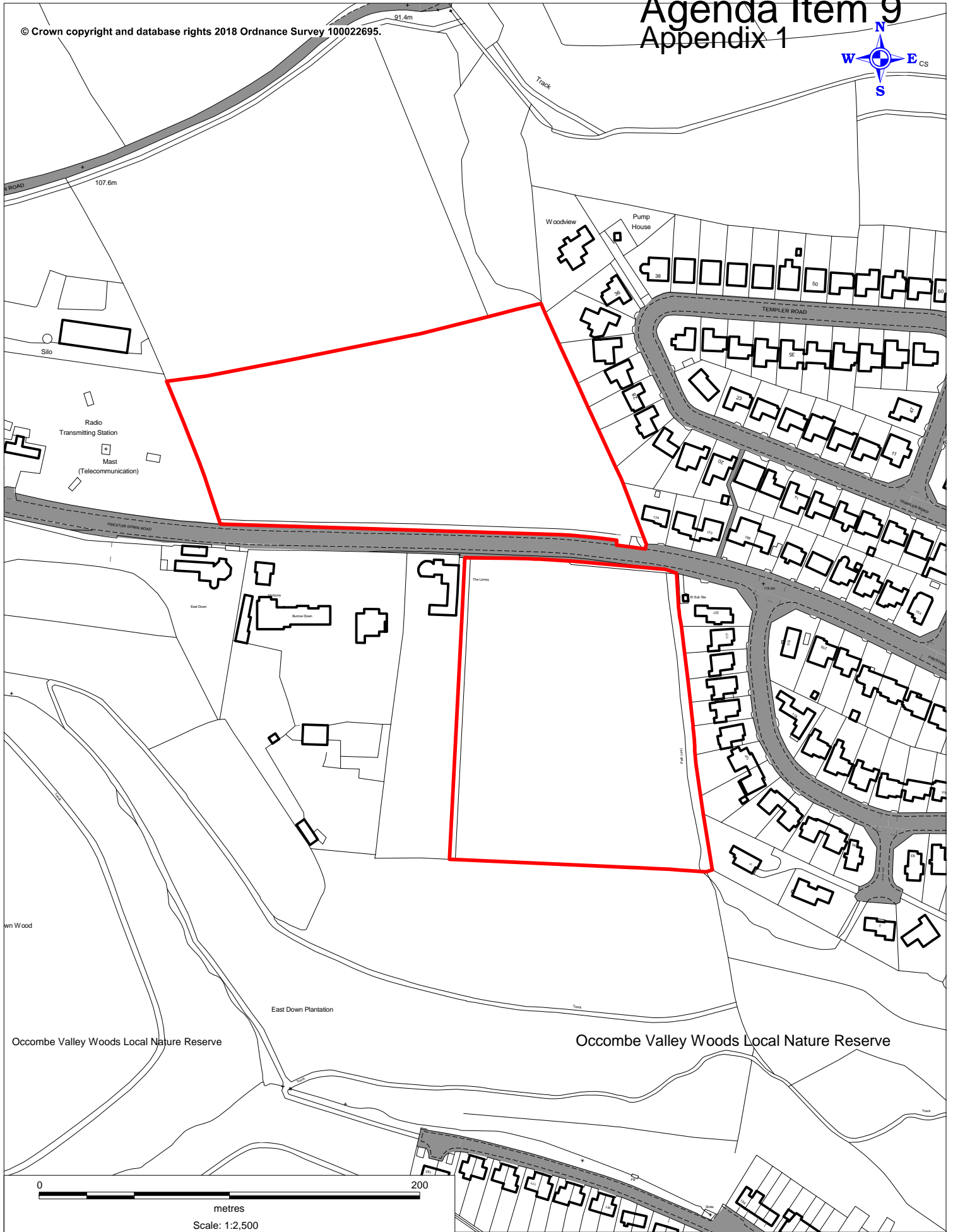
14.	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people	The proposal shall result in the provision of better quality housing in the Paignton area and shall deliver housing stock for all age groups. As per Council policy 30% of the development will be affordable housing thus helping to deliver housing stock for local people and serving to reduce the numbers of those of the waiting list.		
	People with caring Responsibilities			There is no differential impact
	People with a disability	As per Council policy a percentage of affordable housing provided will be wheelchair adapted units.		
	Women or men			There is no differential impact
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			There is no differential impact
	Religion or belief (including lack of belief)			There is no differential impact

People who are lesbian, gay or bisexual			There is no differential impact
People who are transgendered			There is no differential impact
People who are in a marriage or civil partnership			There is no differential impact
Women who are pregnant / on maternity leave			There is no differential impact
Socio-economic impacts (Including impact on child poverty issues and deprivation)	<p>The proposal is consistent with Local Plan policies for planning for sustainable development in the Torbay area. This takes into account the overall level of housing and jobs growth to represent a balanced and sustainable approach to future growth.</p> <p>The local planning authority is required to maintain a 5 year land supply in order to deliver the strategy and policies contained in the Local Plan. Without a 5 year housing land supply, the local authority is subject to increased risk of development occurring in unsuitable locations, or being of a lower quality than that which might have otherwise been required through local policies.</p> <p>Significant social benefits will be generated by the provision of a mix of dwelling types and tenures which will encourage mixed communities and provide a range of local facilities. It is envisaged that the new development will offer the opportunity to design out crime within residential layouts and could support the vibrancy of existing local centres.</p>		

	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	<p>The scheme shall include provision of affordable housing which is likely to reduce poverty in the area and improve health.</p> <p>There is potential to incorporate energy efficiency and micro renewable measures. The proposals will include green infrastructure and it is anticipated that the location could encourage sustainable modes of travel.</p> <p>The proposals are compliant with Policy SS11 Sustainable Communities as there will be opportunities to contribute to sustainable community objectives.</p>		
15	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	None		
16	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	None		

Agenda Item 9 Appendix 1

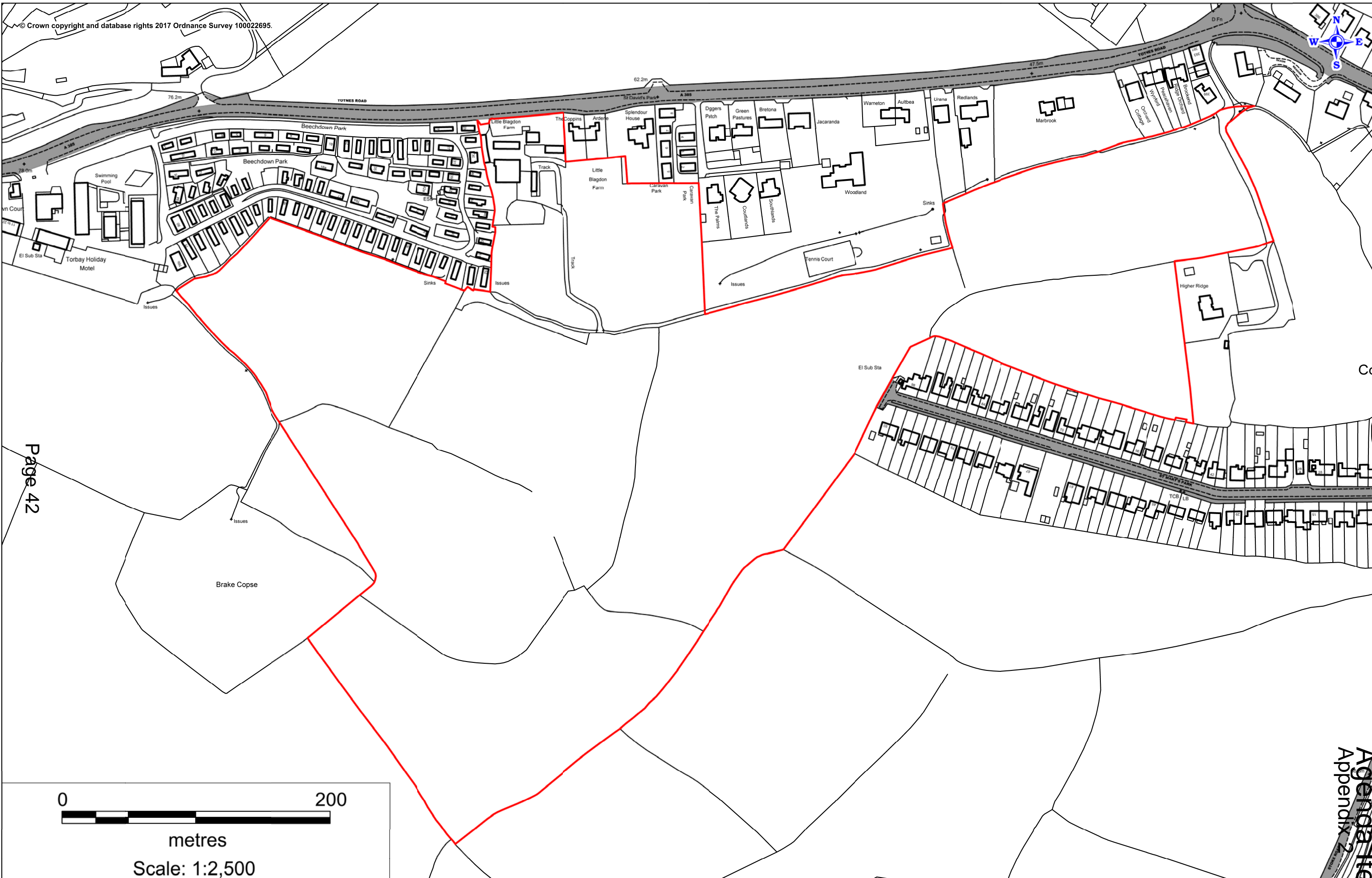
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EM Plan No: EM3172
Date: 5 October 2018
Title: Land North & South of Preston Down Rd, Paignton

Asset No: P0953AB
LR Title No: DN521239
Area: 40,581.9 m²





metres
Scale: 1:2,500

EM Plan No: EM2924
Date: 24th May 2017
Title: Little Blagdon Farm, Totnes Road, Paignton.

TORBAY DEVELOPMENT AGENCY - ASSET MANAGEMENT

Asset No: P1064
LR Title No: DN13535
Scale: 1:2500
Area: 184,751.17m²



Torbay Council

Burges Salmon Report to Full Council

Date of meeting	18 October 2018
Subject of report	Land to the North and South of Preston Down Road, Paignton: Compulsory Acquisition of Third Party Interests
Town or parish	Paignton

1 BACKGROUND

- 1.1 This report concerns a proposed compulsory purchase order (a “CPO”). The land subject to the proposed CPO (“the Order Land”) comprises two parcels of land to the North and South of Preston Down Road, Paignton.
- 1.2 The Adopted Torbay Local Plan 2012-30, “A Landscape for Success” (“the Local Plan”) identifies the Paignton North and Western Area, including the Order Land, as a Strategic Delivery Area under Policy SDP3 for mixed development, including housing. The Order Land is identified as a potential development site for consideration in Neighbourhood Development Plans for future housing need. The Order Land is shown as sites PNP1 and PNP2 on the Policy Map sheet 15 annexed to the Local Plan.
- 1.3 Torbay Coast and Countryside Trust (“TCCT”) currently manage approximately 1750 acres of land from Torbay Council in the area surrounding the Order Land, and TCCT and Torbay Council are currently in discussion around the possible surrender of several parcels of this land in order to develop the Strategic Delivery Area in accordance with the Local Plan. TCCT has the benefit of a Lease over the Order Land.
- 1.4 Funding has been secured under the Government’s Land Release Fund (“LRF”) to carry out certain enabling works to the Order Land to facilitate housing delivery. The enabling works will comprise detailed site investigations, ecological mitigation and enhancement and highway junction improvements (the “Enabling Works”), which are necessary for residential development to be carried out on the Order Land.
- 1.5 Although the Council has entered into negotiations with TCCT to surrender its lease of the Order Land, powers of compulsory acquisition will be needed to secure the land in the event those negotiations are not successful within the necessary time frame, to allow the Enabling Works to be carried out and the land released for residential development.

2 LAND TO BE ACQUIRED

- 2.1 The Order Land comprises 10.03 acres of land, currently used for mixed low intensity agricultural purposes. The parcel to the North of Preston Down Road comprises approximately 5.21 acres and the parcel to the South of Preston Down Road comprises approximately 4.82 acres. A plan showing the land to be acquired is attached at Appendix 1 (the “Order Plan”). The Order Land is shown edged red on the Order Plan.
- 2.2 The whole of the Order Land is within the Council’s freehold ownership, registered under title numbers DN521239 and DN178565. The whole of the Order Land is also currently leased to TCCT under a Lease dated 11 September 2002, for a term of 60 years commencing on 1 December 1999 (the “Lease”). The Lease does not contain a break clause. Therefore, the first date on which the Lease could therefore be terminated is 30 November 2059.

- 2.3 Utilities searches have been carried out in respect of the whole of the Order Land which have revealed gas pipelines, water distribution, telecommunications and electricity apparatus. The Council will be required to enter into discussions with the relevant utilities companies to ensure that appropriate protective measures and/or relocation of apparatus affected by the proposed development will be carried out. These discussions will be required whether the development is brought forward by CPO or voluntary agreement.
- 2.4 Searches of public rights of way in the vicinity of the Order Land have also been carried out. These searches have not revealed any rights of way which are expected to be interfered with by the proposed development.
- 2.5 TCCT has granted two underleases over the land subject to the Lease, but neither have any rights over or interest in the Order Land. A review of the Council's freehold title has revealed that the Order Land is subject to existing third party rights over the Order Land. These rights can be included in the CPO to the extent that they are affected.

3 OBJECTIVES OF AND NEED FOR ACQUISITION

- 3.1 The Adopted Torbay Local Plan 2012-30, "A Landscape for Success" (the "Local Plan") identifies the Paignton North and Western Area, including the Order Land, as a Strategic Delivery Area for mixed development, including housing. In particular, the Order Land is identified as a potential development site for consideration in Neighbourhood Development Plans – primarily housing.
- 3.2 There is a pressing need for residential development in the Council's administrative area as evidenced by the planning statement attached at Appendix 3. The Adopted Local Plan (Policy SS13) identifies a need to deliver 8,900 new homes in the Torbay area between 2012 and 2030, including 4,280 in the Paignton area alone (paragraph 4.5.50). In the 5-year period between 2017 and 2022, the target figure for Paignton is 1,190 homes (Section 4, Table 4).
- 3.3 The National Planning Policy Framework (NPPF) requires that local authorities maintain a supply of specific deliverable sites sufficient to provide a 5 year housing supply to meet their housing needs. The Council's Planning Department are of the view that Torbay currently has only 4.2 years of housing supply and is therefore failing to adequately meet its needs for deliverable housing sites. Policy SS13 provides for a number of ways for the Council to boost housing supply in these circumstances including bringing forward sites set aside for later in the plan period, allocating further sites for development and considering applications for new housing favourably, providing they are consistent with the Local Plan.
- 3.4 The Council intends to undertake the Enabling Works on the Order Land once it has been acquired. It is currently intended that these Enabling Works will include site investigations, ecological mitigation and enhancement and provision of a new highways junction. It is essential that the Order Land is acquired prior to 1 April 2020 to allow these Enabling Works to be carried out to release the land for housing development.
- 3.5 The acquisition by the Council of the Order Land is necessary to make the Order Land available for the early delivery of housing by the Council in light of the assessment that there is a shortfall in the Council's 5 year housing land supply. The first phase of the scheme of acquisition by the Council will be the carrying out of Enabling Works on the Order Land which will allow it to be made available for the delivery of much needed housing in the area.
- 3.6 The Council will be considering the best way to bring this land forward. This approach aligns with the current guidance on compulsory purchase (Compulsory Purchase Process and the Criche Down Rules) (the CPO Guidance) which confirms that it is appropriate for a local authority to acquire land in advance of the time at which it is immediately required. It states "*It is not essential to show that land is required immediately to secure the purpose for which it is to be acquired, but a confirming minister will need to understand, and the acquiring authority must be able to demonstrate, that there are sufficiently compelling*

reasons for the powers to be sought at this time.” The Council considers that there are sufficiently compelling reasons, as outlined in this report, for the power to be sought at this time. The Council has a clear idea of how it intends to use the land, and has outlined how the necessary resources are likely to be available within a reasonable time-scale. The acquisition is needed in order to deliver appropriate Enabling Works and to allow residential development over the Order Land to proceed.

3.7 Once the Order Land is available, the Enabling Works can be carried out.

4 OPTIONS CONSIDERED

(a) *Do nothing*

Given the difficulties in releasing the Order Land for redevelopment one option available to the Council is to take no action in respect of this land. However, there is a risk that this will delay the provision of urgently needed housing. The LRF funding of £1,100,000 would also be lost in a 'do nothing' scenario. This option has therefore been dismissed in favour of seeking release of the Order Land.

(b) *Negotiations for voluntary acquisition*

The Council has already entered into negotiations with TCCT for voluntary acquisition of the Order Land. These negotiations are still ongoing and it remains possible that terms can be agreed. However, due to the deadline for the delivery of housing using LRF funding, it is considered necessary to progress a CPO in parallel to the negotiations in order to guarantee delivery of the land for residential development. If agreement is reached with TCCT for the acquisition of the land, alternative land will need to be acquired for the benefit of TCCT on which to carry out the agricultural operations currently taking place on the Order Land.

(c) *Not exercising the CPO*

The option of not exercising the CPO if it is confirmed is also being considered. If agreement is reached with TCCT to release the land for housing before it is necessary to exercise the CPO then the decision can be taken not to exercise it.

5 THE COUNCIL'S POWER UNDER THE TOWN AND COUNTRY PLANNING ACT 1990

5.1 The Council is authorised to make the CPO by virtue of s.226(1)(a) of the Town and Country Planning Act 1990.

5.2 This power allows the Council to seek the confirmation of the Secretary of State by making a CPO of land where the Council considers that *“the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land.”* In this case the acquisition of the Order Land will facilitate the carrying out of the Enabling Works which, together with the acquisition of the land, will release the land for residential development.

5.3 S.226(1A) provides that the power of compulsory acquisition in s.226(1)(a) should only be exercised where the authority considers that the development is likely to contribute to one or more of the following objectives:

“(a) the promotion or improvement of the economic well-being of their area;

(b) the promotion or improvement of the social well-being of their area;

(c) the promotion or improvement of the environmental well-being of their area.”

5.4 The Council is satisfied that the development on the land for which the CPO is being made, namely the facilitation of the Enabling Works and subsequent development of the land for residential purposes, contributes to one or more of those objectives in that:

- (a) Significant social benefits will be generated by the provision of new homes incorporating a mix of dwelling types and tenures which will encourage mixed communities and provide a range of local facilities. Educational facilities required to serve the new housing could be provided as part of the wider strategic delivery. It is also envisaged that the new development will offer the opportunity to design out crime within residential layouts and could support the vibrancy of existing local centres.
- (b) Economic benefits generated by the scheme are expected to include provision of affordable housing which is likely to reduce poverty in the area and improve health. Development on greenfield land is expected to be capable of meeting requirements for affordable housing provision. There will be economic benefit to the Council in making the CPO as it will help to ensure that LRF funding conditions can be satisfied.
- (c) The environmental benefits of the proposed scheme include the potential to incorporate extensive energy efficiency and micro renewable measures to offset the overall energy usage increase from the new development. The proposals will also include green infrastructure and it is anticipated that the location could encourage sustainable modes of travel. There will inevitably be environmental impacts as a result of the development of greenfield land, however, any harm can be mitigated by the inclusion of green infrastructure that reflects the character of the area. Comprehensive ecological surveys will be carried out as part of the planning process and appropriate mitigation measures designed into the scheme.

5.5 The CPO Guidance provides advice in relation to use of CPO under section 226 of the Town and Country Planning Act 1990. This states that *“this power is intended to provide a positive tool to help acquiring authorities with planning powers to assemble land where this is necessary to implement proposals in their Local Plan or where strong planning justifications for the use of the power exist. It is expressed in wide terms and can therefore be used to assemble land for regeneration and other schemes where the range of activities or purposes proposed mean that no other single specific compulsory purchase power would be appropriate”*.

6 POLICY FRAMEWORK AND PROPOSED PLANNING APPLICATIONS

6.1 The following paragraphs set out an overview of the national and local planning policy framework relevant to the proposed development of the Order Land.

National Policy

6.2 The NPPF sets out the Government’s planning policies for England and how these should be applied. It provides a framework within which locally-prepared plans for housing and other development can be produced. Section 5 sets out the Government’s objective to “significantly boost” the supply of homes.

6.3 The NPPF requires that local authorities maintain a supply of specific deliverable sites sufficient to provide a 5 year supply of housing to meet their housing needs. Under paragraph 11, there is a presumption in favour of sustainable development and approving development proposals that accord with an up-to-date development plan without delay. Where the policies are out of date or the authority cannot demonstrate a five year supply of deliverable housing sites, the NPPF states that permission should be granted for development proposals unless there are clear policy reasons for refusing the application. As Torbay does not currently have a 5 year supply of deliverable housing sites, there will be a presumption in favour of sustainable development on the Order Land, providing it complies with the policies in the Local Plan.

Local Policy

6.4 The policy support for the development of the Future Growth Area is set out in detail in the Local Plan and Policy SS2 for residential housing.

- 6.5 The Council's Planning Department considers that the delivery of housing on the Order Land will contribute to delivering and/or be in compliance with the following policies in the Local Plan:
- (a) Policy SS1 Growth Strategy for a prosperous Torbay which provides for the delivery of 8,900 new homes over the plan period.
 - (b) Policy SS6 Strategic Transport Improvements. Opportunities should be available as part of the proposed development to contribute to the delivery of strategic transport infrastructure directly and/or indirectly.
 - (c) Policy SS8 Natural Environment. The site was assessed as part of the Local Plan Habitats Regulations Assessment and found to be broadly acceptable at a strategic level of assessment.
 - (d) Policy SS9 Green Infrastructure. Opportunities should be available as part of the proposed development to contribute to the delivery of strategic green infrastructure directly and/or indirectly.
 - (e) Policy SS11 Sustainable Communities. The broad Sustainability Appraisal assessment indicates that there will be opportunities to contribute to sustainable community objectives.
 - (f) Policy SS12 Housing. The site will contribute to the need for 8,900 new homes over the plan period.
 - (g) Policy SS13 Five Year Housing Land Supply. The delivery of housing will help contribute to 5 year supply (see the Planning Statement at Appendix 3).
 - (h) Policy SDP1 Paignton.
 - (i) Policy SDP3 Paignton North and Western Area.
 - (j) The above list is not intended to be exhaustive and further policy analysis will be carried out as part of the planning process.
- 6.6 The site at Preston Down Road is not specifically allocated for development in the Local Plan. However, it has been identified as a potential site for housing allocation as part of the Strategic Housing Land Availability Assessment carried out for Local Plan Policy SDP3. The Order Land is identified for potential housing allocation on policy map sheet 15.
- 6.7 The proposed planning application will need to accord with the planning policy framework outlined above and the Council is not aware of any obvious reason why planning permission would not be forthcoming, recognising that no planning application has yet been made. This approach accords with paragraph 15 of the CPO guidance.
- 6.8 An application for the Enabling Works will be made by the Council. The Enabling Works will comprise undertaking detailed site investigations, ecological mitigation and enhancement, and the creation of a new highways junction and are necessary for residential development to be carried out on the Order Land. It is anticipated that a planning application for the enabling works will be submitted in 2019. The Council's Planning Department has been consulted and the Council is not aware of any reason why planning would be refused.
- 6.9 The Council is currently in the course of seeking to enter the land to carry out surveys to inform the application for the Enabling Works. This is explained in further detail in the following section.

7 EXTENT OF ENTRY TO THE ORDER LAND FOR SURVEYS

- 7.1 Under the Lease relating to the Order Land, the Council is permitted to enter the land to ascertain whether or not the conditions of the Lease have been observed and to view the

state of repair and condition of the premises. While it may be difficult the Council to enter the land under these rights for the purpose of carrying out surveys for a proposed CPO, there are other statutory powers which would allow the Council to enter the land in connection with a proposed compulsory acquisition which are outlined below.

- 7.2 Under section 172 of the Housing and Planning Act 2016, an acquiring authority may enter onto and survey or value land in connection with a proposal to acquire an interest in or right over land, providing the surveys are carried out at a reasonable time and the authority gives the owner/occupier at least 14 days' notice. The owner/occupier may be entitled to compensation for any damage caused to the land as a result of the exercise of this power of entry.

8 FINANCIAL IMPLICATIONS AND VIABILITY

- 8.1 Funding for the enabling works has been secured under the Land Release Fund. Torbay Council (the Council) was awarded £1,100,000 of LRF grant aid by the Ministry of Housing, Communities and Local Government ("MHCLG") on 8 March 2018 for the purposes of securing early release of the land for residential development. This grant shall fully fund the proposed Enabling Works. The LRF grant requires that the sites are delivered to the market by March 2020. To ensure this occurs a decision on acquiring TCCT's leasehold interest, including the option of compulsory purchase acquisition, needs to be made in October 2018 at the latest to ensure that the grant conditions can be met.

- 8.2 The Enabling Works are currently estimated to cost £1,100,000.

- 8.3 Compensation will be payable to any landowner or right holder whose rights are compulsorily acquired. Compensation will be assessed as the value of land to the owner, and any increase in value attributable solely to the development of the Order Land for the Council's scheme must be discounted. The Council has obtained a report from an expert valuer on the likely value of the Order Land if acquired by compulsory purchase.

- 8.4 The compensation liabilities, including the acquisition of TCCT's leasehold interest, will be underwritten by the Council. Funding will be made available to meet any liabilities arising immediately on the making of the CPO if a blight notice were served by any party affected by the CPO, ultimately to be repaid from monies received when the land is released for development.

9 CONSULTATIONS AND LANDOWNER NEGOTIATIONS

- 9.1 The Council has entered into initial negotiations with TCCT surrounding the acquisition of the Order Land.

- 9.2 The Council has entered into initial negotiations with TCCT surrounding the acquisition of the Order Land. As mentioned at paragraph **Error! Reference source not found.** above, negotiations to agree terms with TCCT for the voluntary acquisition of the Order Land are ongoing.

10 RISK MANAGEMENT

- 10.1 Section 226(1) allows the Council to acquire land for the purposes of development, re-development or improvement, so long as it thinks this will contribute to promotion or improvement of economic, social or environmental well-being of the area. This power has been carefully considered and dealt with in this report to minimise the risk that the Secretary of State does not consider that the relevant tests have been met in this case.

- 10.2 A key risk is the failure to acquire the Order Land in a timely manner, which would jeopardise the funding available to deliver the Enabling Works and, in turn, the wider delivery of the land for housing. This risk is will be mitigated through progressing compulsory acquisition.

- 10.3 A further risk is that there is a strong possibility that the CPO will be made in advance of planning permission being obtained for any proposed scheme. Though paragraph 105 of the CPO Guidance makes it clear that planning permission is not required before a CPO can be made, paragraph 15 of the CPO Guidance states that the acquiring authority will need to demonstrate that there are “no obvious reasons why it might be withheld”. This risk will be mitigated by the Council putting forward a compelling case for the CPO in advance of obtaining planning permission, and by demonstrating that, when applied for, planning permission for the proposed scheme will be awarded.
- 10.4 The preparation of a CPO and related documents is a technical and complex area, carrying a risk of challenge. However, the Council has retained experienced and expert external legal advice on this and other issues and will continue to do so.
- 10.5 In considering whether to make the CPOs the Human Rights Act 1998 applies. The relevant rights that have been considered and are set out below.
- 10.6 There is a risk that owners and occupiers will seek sums in excess of the estimates for the costs of land acquisition. This risk has been mitigated through the receipt of professional valuation advice.

11 ENVIRONMENTAL IMPLICATIONS

- 11.1 A strategic environmental assessment has not yet been carried out due to the prematurity of the proposed scheme and difficulties accessing the Order Land to carry out the necessary surveys in advance of the Council progressing the CPO. The Council is being asked to resolve to use statutory powers to enter onto land to carry out surveys in connection with a CPO (as set out in paragraph **Error! Reference source not found.** above) as part of this report.
- 11.2 However, ecologists were appointed in July 2018 and preparatory work is currently being carried out to progress surveys to feed into a strategic environmental assessment. Engineers have also been appointed to prepare a flood and drainage strategy for the Order Land.
- 11.3 Discussions have already taken place with the Council's Planning Department prior to formal requests being made for Environmental Impact Assessment and Habitats Regulations Assessment screening. The relevant application forms are in the process of being prepared.
- 11.4 The site was assessed as part of the Local Plan Habitats Regulations Assessment and was found to be broadly acceptable at a strategic level of assessment.

12 HUMAN RIGHTS IMPLICATIONS

- 12.1 The Human Rights Act 1998 (“HRA 1998”) incorporated into domestic law the European Convention on Human Rights (the “Convention”). Under the HRA 1998, it is unlawful for a public body such as the Council to act in contravention of the Convention.
- 12.2 In resolving to make a compulsory acquisition of the Order Land, the Council will consider the rights of the owners of the Order Land, in particular:
- (a) Article 1 of the First Protocol, which provides that every person is entitled to peaceful enjoyment of their possessions, and that no one should be deprived of his possession except in the public interest and subject to the law; and
 - (b) Article 6 of the First Protocol which protects the right to a fair hearing by a tribunal in the determination of civil rights and obligations.
 - (c) Article 8 of the First Protocol, which provides that every person is entitled to respect for their home and family life.

- (d) Article 14 of the First Protocol which provides for the rights in the Convention to be enjoyed without discrimination on any ground such as sex, race, colour, language, religion political or other opinion, national or social origin, association with a national minority, property, birth or other status.
- 12.3 The Council must be conscious of the need to strike a balance between the rights of the individual and the interests of the public.
- 12.4 It is considered that there is a compelling case in the public interest for the acquisition of the Order Land which outweighs the Convention rights and that the use of compulsory purchase is proportionate. This conclusion is based on the significant benefits generated by the scheme (as set out at paragraph above), which include but are not limited to the following:
- (a) There is an urgent need for additional residential development within the Council's administrative area and specifically within the locality of the Order Land (see paragraph 3.2 to above). The acquisition of the Order Land will enable the Council to deliver the Enabling Works, and release the land for residential development.
 - (b) Further social, economic and environmental benefits that are anticipated as a result of the scheme are set out in in the Council report.

Torbay Council

Burges Salmon Report to Full Council

Date of meeting	18 October 2018
Subject of report	Little Blagdon Farm, Collaton St Mary: Compulsory acquisition of Third Party Interests
Town or parish	Paignton

1 BACKGROUND

- 1.1 This report concerns a proposed compulsory purchase order (a "CPO"). The land subject to the proposed compulsory purchase order (the "Order Land") is land at Little Blagdon Farm, Collaton St Mary.
- 1.2 The Adopted Torbay Local Plan 2012-30, "A Landscape for Success" (the "Local Plan") identifies the Collaton St Mary Area, including the Order Land, as a Future Growth Area under Policy SS2 for residential housing. The Order Land is shown on policy map sheets 23 and 24 of the Local Plan.
- 1.3 Torbay Coast and Countryside Trust ("TCCT") currently manage approximately 1750 acres of land from Torbay Council in the area surrounding the Order Land, and TCCT and Torbay Council are currently in discussion around the possible surrender of several parcels of this land in order to develop the Future Growth Area in accordance with the Local Plan. TCCT has the benefit of two Tenancies over the Order Land.
- 1.4 Funding has been secured under the Government's Land Release Fund ("LRF") to carry out certain enabling works to the Order Land to facilitate housing delivery. The enabling works will comprise highway junction improvements and other strategic infrastructure such as sewage capacity and flood attenuation measures (the "Enabling Works"), which are necessary for residential development to be carried out on the Order Land.
- 1.5 Although the Council has entered into negotiations with TCCT to surrender its lease of the Order Land, powers of compulsory acquisition will be needed to secure the land in the event those negotiations are not successful within the necessary time frame, to allow the Enabling Works to be carried out and the land released for residential development in accordance with the conditions of the LRF.

2 LAND TO BE ACQUIRED

- 2.1 The Order Land comprises 45.42 acres of land, currently used for low intensity mixed agricultural purposes. It is predominantly pasture land and there are several vacant and dilapidated farm buildings to the north in the vicinity of Totnes Road. The site's topography undulates with the lowest point situated approximately 150m south of Totnes Road, and the highest point being located on the southern boundary of the Order Land. A plan showing the land to be acquired is attached at Appendix 1 (the "Order Plan"). The Order Land is shown edged red on the Order Plan.
- 2.2 The whole of the Order Land is within the Council's freehold ownership, registered under title number DN13535. The whole of the Order Land is also currently leased to TCCT under two Tenancies. One of the Tenancies is a Farm Business Tenancy that contains a break clause exercisable by either party on 1 April of each year provided that at least 12 months' notice, but not more than 24 months' notice, is provided.

- 2.3 Utilities searches have been carried out in respect of the whole of the Order Land which have revealed water distribution and electricity apparatus. The Council will be required to enter into discussions with the relevant utilities companies to ensure that appropriate protective measures and/or relocation of apparatus affected by the proposed development will be carried out. These discussions will be required whether the development is brought forward by CPO or voluntary agreement.
- 2.4 Searches of public rights of way in the vicinity of the Order Land have also been carried out. These searches have not revealed any rights of way which are expected to be interfered with by the proposed development.
- 2.5 A review of the Council's freehold title has revealed that the Order Land is subject to existing third party rights over the Order Land. These rights can be included in the CPO to the extent that they are affected.

3 OBJECTIVES OF AND NEED FOR ACQUISITION

- 3.1 The Adopted Torbay Local Plan 2012-30, "A Landscape for Success" ('the Local Plan') identifies the Collaton St Mary Area, including the Order Land, as a Future Growth Area (Policy SS2) for residential housing.
- 3.2 There is a pressing need for residential development in the Council's administrative area as evidenced by the planning statement attached at Appendix 3. The Adopted Local Plan (Policy SS13) identifies a need to deliver 8,900 new homes in the Torbay area between 2012 and 2030, including 4,280 in the Paignton area alone (paragraph 4.5.50). In the 5-year period between 2017 and 2022, the target figure for Paignton is 1,190 homes (Section 4, Table 4).
- 3.3 The National Planning Policy Framework ("NPPF") requires that local authorities maintain a supply of specific deliverable sites sufficient to provide a 5 year housing supply to meet their housing needs. The Council's Planning Department are of the view that Torbay currently has only 4.2 years of housing supply and is therefore failing to adequately meet its needs for deliverable housing sites. Policy SS13 provides for a number of ways for the Council to boost housing supply in these circumstances including bringing forward sites set aside for later in the plan period, allocating further sites for development and considering applications for new housing favourably, providing they are consistent with the Local Plan.
- 3.4 The new NPPF (revised July 2018) sets out a national standard methodology for calculating housing need. Future reviews of the Local Plan using this new methodology are likely to result in further increases to these target figures for housing. Due to environmental constraints in Torbay, the need for housing outstrips the availability of housing land and, therefore, in order to meet its demand, the Council may need to ask neighbouring authorities to take some of its housing requirement. However, the Council is only likely to be successful in doing this if it can demonstrate that it has already maximised capacity on the suitable housing sites which are available within Torbay.
- 3.5 The Council intends to undertake the following Enabling Works to the Order Land once it has been acquired. It is currently intended that these Enabling Works will include improvements to flood alleviation and provision of a new road junction on the Order Land (as further described at paragraph **Error! Reference source not found.** below). It is essential that the Order Land is acquired prior to 1 April 2020 to allow these Enabling Works to be carried out to release the land for housing development.
- 3.6 The acquisition by the Council of the Order Land is necessary to make the Order Land available for the early delivery of housing by the Council in light of the assessment that there is a shortfall in the Council's 5 year housing land supply. The first phase of the scheme of acquisition by the Council will be the carrying out of Enabling Works on the Order Land which will allow it to be made available for the delivery of much needed housing in the area.

3.7 The Council will be considering the best way to bring this land forward. This approach aligns with the current guidance on compulsory purchase (Compulsory Purchase Process and the Crichel Down Rules) (the CPO Guidance) which confirms that it is appropriate for a local authority to acquire land in advance of the time at which it is immediately required. It states "*It is not essential to show that land is required immediately to secure the purpose for which it is to be acquired, but a confirming minister will need to understand, and the acquiring authority must be able to demonstrate, that there are sufficiently compelling reasons for the powers to be sought at this time.*" The Council considers that there are sufficiently compelling reasons, as outlined in this report, for the power to be sought at this time. The Council has a clear idea of how it intends to use the land, and has outlined how the necessary resources are likely to be available within a reasonable time-scale. The acquisition is needed in order to deliver appropriate Enabling Works and to allow residential development over the Order Land to proceed.

3.8 Once the Order Land is available, the Enabling Works can be carried out.

4 OPTIONS CONSIDERED

4.1 The Council has considered the following alternative options to compulsorily acquiring the Order Land:

(a) *Do nothing*

Given the difficulties in releasing the Order Land for redevelopment one option available to the Council is to take no action in respect of this land. However, there is a risk that this will delay the provision of urgently needed housing. The LRF funding of £1,976,000 would also be lost in a 'do nothing' scenario. This option has therefore been dismissed in favour of seeking release of the Order Land.

(b) *Negotiations for voluntary acquisition*

The Council has already entered into negotiations with TCCT for voluntary acquisition of the Order Land. These negotiations are still ongoing and it remains possible that terms can be agreed. However, due to the deadline for the delivery of housing using LRF funding, it is considered necessary to progress a CPO in parallel to the negotiations in order to guarantee delivery of the land for residential development. If agreement is reached with TCCT for the acquisition of the land, alternative land will need to be acquired for the benefit of TCCT on which to carry out the agricultural operations currently taking place on the Order Land and negotiations are also being undertaken in relation to appropriate alternative land.

(c) *Not exercising the CPO*

The option of not exercising the CPO if it is confirmed is also being considered. If agreement is reached with TCCT to release the land for housing before it is necessary to exercise the CPO then the decision can be taken not to exercise it.

5 THE COUNCIL'S POWER UNDER THE TOWN AND COUNTRY PLANNING ACT 1990

5.1 The Council is authorised to make the CPO by virtue of s.226(1)(a) of the Town and Country Planning Act 1990.

5.2 This power allows the Council to seek the confirmation of the Secretary of State by making a CPO of land where the Council considers that "*the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land.*" In this case the acquisition of the Order Land will facilitate the carrying out of the Enabling Works which, together with the acquisition of the land, will release the land for residential development.

- 5.3 S.226(1A) provides that the power of compulsory acquisition in s.226(1)(a) should only be exercised where the authority considers that the development is likely to contribute to one or more of the following objectives:

“(a) the promotion or improvement of the economic well-being of their area;

(b) the promotion or improvement of the social well-being of their area;

(c) the promotion or improvement of the environmental well-being of their area.”

- 5.4 The Council is satisfied that the development on the land for which the CPO is being made, namely the facilitation of the Enabling Works and subsequent development of the land for residential purposes, contributes to one or more of those objectives in that:

(a) Significant social benefits will be generated by the provision of approximately 300 – 350 new homes incorporating a mix of dwelling types and tenures which will encourage mixed communities and provide a range of local facilities. Educational facilities required to serve the new housing could be provided as part of the wider strategic delivery. It is also envisaged that the new development will offer the opportunity to design out crime within residential layouts and could support the vibrancy of existing local centres.

(b) Economic benefits generated by the scheme are expected to include provision of affordable housing which is likely to reduce poverty in the area and improve health. Development on greenfield land is expected to be capable of meeting requirements for affordable housing provision. There will be economic benefit to the Council in making the CPO as it will help to ensure that LRF funding conditions can be satisfied. The development of the site is also dependent upon the delivery of the Western Corridor improvements as set out the Local Plan, including improvements to the Totnes Road which have the potential to provide economic and social benefit to the wider area.

(c) The environmental benefits of the proposed scheme include the potential to incorporate extensive energy efficiency and micro renewable measures to offset the overall energy usage increase from the new development. The proposals will also include green infrastructure and it is anticipated that the location could encourage sustainable modes of travel. There will inevitably be environmental impacts as a result of the development of greenfield land, however, any harm can be mitigated by the inclusion of green infrastructure that reflects the character of the area. Comprehensive ecological surveys will be carried out as part of the planning process and appropriate mitigation measures designed into the scheme.

- 5.5 The CPO Guidance provides advice in relation to use of CPO powers under section 226 of the Town and Country Planning Act 1990. This states that *“this power is intended to provide a positive tool to help acquiring authorities with planning powers to assemble land where this is necessary to implement proposals in their Local Plan or where strong planning justifications for the use of the power exist. It is expressed in wide terms and can therefore be used to assemble land for regeneration and other schemes where the range of activities or purposes proposed mean that no other single specific compulsory purchase power would be appropriate”*.

6 POLICY FRAMEWORK AND PROPOSED PLANNING APPLICATIONS

- 6.1 The following paragraphs set out an overview of the national and local planning policy framework relevant to the proposed development of the Order Land.

National Policy

- 6.2 The NPPF sets out the Government’s planning policies for England and how these should be applied. It provides a framework within which locally-prepared plans for housing and other development can be produced. Section 5 sets out the Government’s

objective to “significantly boost” the supply of homes. The NPPF requires that local authorities maintain a supply of specific deliverable sites sufficient to provide a 5 year supply of housing to meet their housing needs. Under paragraph 11, there is a presumption in favour of sustainable development and approving development proposals that accord with an up-to-date development plan without delay. Where the policies are out of date or the authority cannot demonstrate a five year supply of deliverable housing sites, the NPPF states that permission should be granted for development proposals unless there are clear policy reasons for refusing the application.

Local Policy

- 6.3 The policy support for the development of the Future Growth Area is set out in detail in the Local Plan and Policy SS2 for residential housing.
- 6.4 The Council’s Planning Department considers that the delivery of housing on the Order Land will contribute to delivering and/or be in compliance with the following policies in the Local Plan:
- (a) Policy SS1 Growth Strategy for a prosperous Torbay which provides for the delivery of 8,900 new homes over the plan period.
 - (b) Policy SS2 Future Growth Area. The Order Land forms part of SDP 3.3 Totnes Road/Collaton St. Mary.
 - (c) Policy SS6 Strategic Transport Improvements. Opportunities should be available as part of the proposed development to contribute to the delivery of strategic transport infrastructure directly and/or indirectly.
 - (d) Policy SS8 Natural Environment. The site was assessed as part of the Local Plan Habitats Regulations Assessment and found to be broadly acceptable at a strategic level of assessment.
 - (e) Policy SS9 Green Infrastructure. Opportunities should be available as part of the proposed development to contribute to the delivery of strategic green infrastructure directly and/or indirectly.
 - (f) Policy SS11 Sustainable Communities. The broad Sustainability Appraisal assessment indicates that there will be opportunities to contribute to sustainable community objectives.
 - (g) Policy SS12 Housing. The site will contribute to the need for 8,900 new homes over the plan period.
 - (h) Policy SS13 Five Year Housing Land Supply. The delivery of housing will help contribute to 5 year supply (see the Planning Statement at Appendix 3).
 - (i) Policy SDP1 Paignton.
 - (j) Policy SDP3 Paignton North and Western Area. This policy provides (at SDP 3.3) the site allocation of the Order Land for new housing.
 - (k) The above list is not intended to be exhaustive and further policy analysis will be carried out as part of the planning process.
- 6.5 The proposed planning application will need to accord with the planning policy framework outlined above and the Council is not aware of any obvious reason why planning permission would not be forthcoming, recognising that no planning application has yet been made. This approach accords with paragraph 15 of the CPO guidance.
- 6.6 An application for the Enabling Works will be made by the Council. The Enabling Works will comprise undertaking detailed site investigations, ecological mitigation and

enhancement, the creation of a new highways junction and flood alleviation works which are necessary for residential development to be carried out on the Order Land. It is anticipated that an application for prior approval (of permitted development rights) for demolition of the dilapidated farm buildings will be submitted in December 2018 and that a planning application for the first phase of the Enabling Works will be submitted in Spring 2019. The Council's planning department has been consulted and the Council is not aware of any reason why the Enabling Works planning permission would be refused. The Council is currently undertaking surveys to inform the application for the Enabling Works. This is explained in further detail in the following section. Additional approval will also be required from the Environment Agency for the flood attenuation works.

7 EXTENT OF ENTRY TO THE ORDER LAND FOR SURVEYS

- 7.1 Under the current Farm Business Tenancy relating to the Order Land, the Council is permitted to enter the land to carry out maintenance works as well as for "all other reasonable purposes". The making of a CPO could potentially constitute a reasonable purpose to enter the land but the meaning of this provision of the Farm Business Tenancy lacks clarity. In any case, there are statutory powers available which would allow the Council to enter the land in connection with a proposed compulsory acquisition and these are outlined below.
- 7.2 Under section 172 of the Housing and Planning Act 2016, an acquiring authority may enter onto and survey or value land in connection with a proposal to acquire an interest in or right over land, providing the surveys are carried out at a reasonable time and the authority gives the owner/occupier at least 14 days' notice. The owner/occupier may be entitled to compensation for any damage caused to the land as a result of the exercise of this power of entry.

8 FINANCIAL IMPLICATIONS AND VIABILITY

- 8.1 Funding for the Enabling Works has been secured under the LRF. The Council was awarded £1,976,000 of LRF grant aid by the Ministry of Housing, Communities and Local Government ("MHCLG") on 8 March 2018 for the purpose of securing early release of the land for residential development. This grant shall fully fund the proposed Enabling Works. The LRF grant requires that the site is delivered to the market by March 2020. To ensure this occurs, a decision on acquiring TCCT's leasehold interest, including the option of compulsory purchase acquisition, needs to be made in October 2018 at the latest to ensure that the grant conditions can be met.
- 8.2 The Enabling Works are currently estimated to cost £1,976,000.
- 8.3 Compensation will be payable to any landowner or rightholder whose rights are compulsorily acquired. Compensation will be assessed as the value of land to the owner, and any increase in value attributable solely to the development of the Order Land for the Council's scheme must be discounted. The Council has obtained a report from an expert valuer on the likely value of the Order Land if acquired by compulsory purchase.
- 8.4 The compensation liabilities, including the acquisition of TCCT's leasehold interest, will be underwritten by the Council. Funding will be made available to meet any liabilities arising immediately upon the making of the CPO if a blight notice were served by any party affected by the CPO, ultimately to be repaid from monies received when the land is released for development.

9 CONSULTATIONS AND LANDOWNER NEGOTIATIONS

- 9.1 In 2014, the Council appointed Stride Treglown to carry out an initial community and stakeholder consultation exercise in relation to the Future Growth Area in Collaton St Mary. The findings are contained in the Collaton St Mary Masterplan Supplementary Planning Document (Adopted February 2016).

9.2 The Council has entered into negotiations with TCCT surrounding the acquisition of the Order Land. As mentioned at paragraph **Error! Reference source not found.** above, negotiations to agree terms with TCCT for the voluntary acquisition of the Order Land (and alternative land for use by TCCT) are ongoing.

9.3 TCCT are agreeable to the principle of releasing the land to the Council on the basis that the Council finds replacement land. Efforts are being made to find replacement land.

10 RISK MANAGEMENT

10.1 Section 226(1) allows the Council to acquire land for the purposes of development, re-development or improvement, so long as it thinks this will contribute to promotion or improvement of economic, social or environmental well-being of the area. This power has been carefully considered and dealt with in this report to minimise the risk that the Secretary of State does not consider that the relevant tests have been met in this case.

10.2 A key risk is the failure to acquire the Order Land in a timely manner, which would jeopardise the funding available to deliver the Enabling Works and, in turn, the wider delivery of the land for housing. This risk will be mitigated through progressing the compulsory acquisition.

10.3 A further risk is that there is a strong possibility that the CPO will be made in advance of planning permission being obtained for any proposed scheme. Though paragraph 105 of the CPO Guidance makes it clear that planning permission is not required before a CPO can be made, paragraph 15 of the CPO Guidance states that the acquiring authority will need to demonstrate that there are “no obvious reasons why it might be withheld”. It will be mitigated by the Council putting forward a compelling case for the CPO in advance of obtaining planning permission, and by demonstrating that, when applied for, planning permission for the proposed scheme will be awarded. It can be noted in this regard that the land is already allocated as residential and is identified in the Local Plan as a Future Growth Area for housing.

10.4 The preparation of a CPO and related documents is a technical and complex area, carrying a risk of challenge. However, the Council has retained experienced and expert external legal advice on this and will continue to do so.

10.5 In considering whether to make the CPOs the Human Rights Act 1998 applies. The relevant rights that have been considered and are set out below.

10.6 There is a risk that owners and occupiers will seek sums in excess of the estimates for the costs of land acquisition. This risk has been mitigated through the receipt of professional valuation advice.

11 ENVIRONMENTAL IMPLICATIONS

11.1 A strategic environmental assessment has not yet been carried out due to the prematurity of the proposed scheme and difficulties accessing the Order Land to carry out the necessary surveys in advance of the Council progressing the CPO. The Council is being asked to resolve to use statutory powers to enter onto land to carry out surveys in connection with a CPO (as set out in paragraph **Error! Reference source not found.** above) as part of this report.

11.2 However, ecologists were appointed in July 2018 and preparatory work is currently being carried out to progress surveys to feed into a strategic environmental assessment. Engineers have also been appointed to prepare a flood and drainage strategy for the Order Land.

11.3 Discussions have already taken place with the Council's Planning Department prior to formal requests being made for Environmental Impact Assessment and Habitats Regulations Assessment screening. The relevant application forms are in the process of being prepared.

11.4 The site was assessed as part of the Local Plan Habitats Regulations Assessment and was found to be broadly acceptable at a strategic level of assessment.

12 HUMAN RIGHTS IMPLICATIONS

12.1 The Human Rights Act 1998 (“HRA 1998”) incorporated into domestic law the European Convention on Human Rights (the “Convention”). Under the HRA 1998, it is unlawful for a public body such as the Council to act in contravention of the Convention.

12.2 In resolving to make a compulsory acquisition of the Order Land, the Council will consider the rights of the owners of the Order Land, in particular:

- (a) Article 1 of the First Protocol, which provides that every person is entitled to peaceful enjoyment of their possessions, and that no one should be deprived of his possession except in the public interest and subject to the law; and
- (b) Article 6 of the First Protocol which protects the right to a fair hearing by a tribunal in the determination of civil rights and obligations.
- (c) Article 8 of the First Protocol, which provides that every person is entitled to respect for their home and family life.
- (d) Article 14 of the First Protocol which provides for the rights in the Convention to be enjoyed without discrimination on any ground such as sex, race, colour, language, religion political or other opinion, national or social origin, association with a national minority, property, birth or other status.

12.3 The Council must be conscious of the need to strike a balance between the rights of the individual and the interests of the public.

12.4 It is considered that there is a compelling case in the public interest for the acquisition of the Order Land which outweighs the Convention rights and that the use of compulsory purchase is proportionate. This conclusion is based on the significant benefits generated by the scheme (as set out at paragraph **Error! Reference source not found.**above), which include but are not limited to the following:

- (a) There is an urgent need for additional residential development within the Council’s administrative area and specifically within the locality of the Order Land (see paragraph 3.2 to above). The acquisition of the Order Land will enable the Council to deliver the Enabling Works, and release the land for residential development.
- (b) The sewerage facilities in the area surrounding the Order Land are at full capacity. Acquisition of the Order Land would allow the Council to undertake works to improve the sewerage facilities to serve the local area and facilitate residential development in the local area.
- (c) Improvements will be made to the highways network in the area, including delivery of the Western Corridor improvements.
- (d) Further social, economic and environmental benefits that are anticipated as a result of the scheme are set out in the Council report.

CSM and PDR planning statement

8 October 2018

This statement provides a local planning authority view of the position regarding planning policy and housing land supply in relation to the proposal contained in the report to Council.

The Torbay Local Plan 2012-2030 is a locally sustainable plan for growth which is within environmental limits. The Local Plan identifies land for the delivery of around 8,900 new homes over the plan period of 2012-2030, equating to around 495 homes per year. The overall level of housing and jobs growth, together with the locations of new development, represent a balanced and sustainable approach to growth. This strategy was subject to scrutiny by the community/stakeholders prior to being examined then approved by the Government's Planning Inspectorate. The Local Plan was then adopted by Council in December 2015.

The proposal contained in this report is in relation to two sites which fall within areas either allocated or identified for new development within the Torbay Local Plan. They will be dealt with in turn:

Little Blagdon Farm, Collaton St. Mary

This site lies within an area which is allocated within the Torbay Local Plan to be brought forward for development, as specified in Policy SS2 (Future Growth Areas) and SDP3.3 (Totnes Road/Collaton St Mary). This area is also subject of an adopted Supplementary Planning Document, which supports the delivery of this policy, the Collaton St. Mary Masterplan (adopted 2016). There is a clear policy expectation in the Torbay Local Plan, augmented by the Collaton St Mary Masterplan, that this site will come forward for development.

The Paignton Neighbourhood Plan (discussed in further detail below under Preston Down Road) has been recommended by an Independent Examiner to progress to referendum subject to modifications – the Council is yet to make its decision on the recommendations. One of those modifications are (as made to Policy PNP24) that future development should be in accordance with the Collaton St. Mary Masterplan – a plan which sets out a strategy for the delivery of approximately 460 homes within the Collaton St. Mary Future Growth Area.

Preston Down Road

This site lies within an area identified in the Local Plan for a potential housing allocation. It is not part of an allocated housing site but does lie within a wider general area of Paignton agreed to be suitable for such growth. As part of the preparation of the Torbay Local Plan, the site was considered as being suitable for development as a result of a Strategic Housing Land Availability Assessment (SHLAA). A Sustainability Appraisal, which considered growth in this wider area of Paignton, also considered that the proposal would be consistent with planning for sustainable development. The

Torbay Local Plan provides for the site to be considered for allocation as a housing site either within the Paignton Neighbourhood Plan or future site allocation documents, in order to contribute to the required level of growth needed in Paignton. The Paignton Neighbourhood Plan, which has been subject to a completed Examination but the Council is yet to make its decision on whether it proceeds to referendum) does not allocate this site for development, nor indeed any other sites for housing development in Paignton. Notwithstanding this, the findings of the Examiner are that this does not detract from the housing need required by the Torbay Local Plan – the target for housing in Paignton as set out in the Local Plan remains at 4,285. The Examiner’s report finds that the Paignton Neighbourhood Plan cannot be required to make housing allocations and recommends that it meets the basic conditions and that it should proceed to Referendum subject to modifications. This means that the local planning authority would need to make further allocations for development. The local planning authority’s approach would be to allocate further sites for development through the review of the Local Plan in order to meet the shortfall in allocated housing sites created by the absence of a neighbourhood plan or site allocations document which fills this gap. Sites which have been identified for development within the Torbay Local Plan but have not been allocated or given planning permission (such as the site in question at Preston Down Road), will form a starting point for the consideration of new housing allocations which will be made as necessary through the Local Plan review. These allocations will need to be made in order to deliver development for the rest of the plan period through to 2030.

Housing land supply and NPPF

Torbay Council, as Local Planning Authority, is required to set out its position and understanding of its supply of future housing. The NPPF requires that local authorities maintain a supply of specific, deliverable sites sufficient to provide 5 years worth of housing to meet their housing requirements set out in their Local Plans (para 73 of the NPPF). The Spatial Planning team has considered the position, objectively, in great detail, and are clear that there is currently 4.2 years worth of supply and therefore Torbay is failing to adequately meet its needs for demonstrating sufficient deliverable housing sites. The Torbay Local Plan through Policy SS13, provides for a number of ways in which the local planning authority would seek to boost housing supply under this circumstance, including bringing forward sites from later in the plan period, allocating further sites for development, etc.

It is imperative that the local planning authority maintains a 5 year land supply in order to effectively deliver the strategy and policies contained in the Local Plan and (when adopted/made) Neighbourhood Plans. Neighbourhood Plans which allocate sites can benefit from having to evidence a 3 year supply of housing sites. The Paignton Neighbourhood Plan, in the form submitted to Examination, does not allocate sites and would not benefit from a 3 year period, i.e. a 5 year supply requirement would apply and without a supply the presumption in favour of development would apply to planning applications for housing. Without a 5 year housing land supply, the local authority is subject to increased risk of development occurring in locations which might not be locally palatable or being of a lower quality than that which might have otherwise been required through local policies.

The new National Planning Policy Framework sets out a national standard methodology for the calculation of housing need. The delivery rate in the adopted Local Plan is 495 dwellings per year. The objectively assessed housing needs for Torbay (taking into account local policy added targets for employment growth) is 615 per year. The need to meet the objectively assessed figure was reduced

due to environmental constraints in Torbay, which had to be justified and accepted as part of the Examination of the Torbay Local Plan. Future reviews of the Torbay Local Plan will be subject to their own Examinations and scrutiny. The new household standard methodology sets out an objectively assessed housing need of 588 dwellings per year. This figure does not add on a requirement for increased employment projections (like the figure for the Local Plan). If employment growth was added, for instance, this figure would rise further. In future, looking ahead to reviews of the Torbay Local Plan, it is highly likely due to environmental constraints, that the Council will need to work under the duty-to-cooperate with its neighbouring authorities and ask them to take at least some of its housing requirement. Neighbouring authorities also face pressure for delivering enough suitable housing land and the Council is only likely to be successful in gaining the cooperation of neighbouring authorities if it can show that it is doing all it can to accommodate housing development on suitable and sustainable sites where possible within Torbay.

General comments on delivering large housing sites

The delivery of housing on large sites takes many years and it is therefore important that work to deliver sites that might not be expected to be built out for many years begins many years in advance. This steps in this process (i.e. from start to finish) have been identified in research (NLP, 2016) as:

- *The lead in time*
- *The planning approval period*
- *The time of the first housing completion*
- *Annual build rate*
- *Site completion*

The lead in time precedes the submission of a planning application and can involve land assembly, detailed site surveys, technical planning preparation, etc. The planning approval period is the time taken to determine a planning application (in full). There is then a period of time between granting planning permission and the time taken for construction works to achieve the delivery of the first house. From then on there will be an annual build out rate (the number of homes built on site per year). For example, this might be expected to be 40-50 homes a year for a site of between 100-350 homes. This means that large sites can take a number of years to build out in full even once planning permission is granted. Research indicates that the time taken to begin delivering homes on a site (that can be counted in the Council's annual housing monitor) of between 100-499 dwellings takes on average 4 years from the moment a planning application is submitted. Then, applying a build out rate of 50 homes per year, it would take a 300 home development a further 6 years to be fully delivered (10 years in total). In order to deliver housing on large sites and deliver them within the period up to 2030, preparation leading up to the submission of development proposals must begin many years in advance.



Meeting: Council

Date: 18 October 2018

Wards Affected: Roundham with Hyde

Report Title: Call-in of Elected Mayor’s decision in respect of Paignton Townscape

Is the decision a key decision? No

When does the decision need to be implemented? as soon as possible

Executive Lead Contact Details: Elected Mayor Oliver, Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and Transformation mayor@torbay.gov.uk

Supporting Officer Contact Details: Anne-Marie Bond, Director of Corporate Services, (01803) 207015, anne-marie.bond@torbay.gov.uk

1. Proposal and Introduction

1.1 On 3 September 2018 the Elected Mayor took the following decision:

- (i) That the decision taken by the Council to borrow £1.172m from PWLB for the Paignton Townscape scheme is postponed and that alternative sources of funding are explored and a detailed business case is produced before any further work is carried out on this scheme; and
- (ii) that the implementation of the Paignton Townscape scheme is considered as part of the 2019/20 budget setting process.

1.2 The Elected Mayor’s decision was called in for scrutiny and considered at the meeting of the Overview and Scrutiny Board held on 26 September 2018. An extract of their Minute is set out below:

29. Paignton Townscape Call-In

The Board had before them details of a call-in by five Members of the Council of the decision of the Elected Mayor to postpone the decision of Council to borrow £1.172m from PWLB for the Paignton Townscape scheme and explore alternative sources of funding and produce a detailed business case before any further work is carried out on this scheme.

The Monitoring Officer outlined the options available to the Board as set out in the submitted report. In the absence of the Elected Mayor or Deputy Mayor and the call-in promoter the Board felt that it was not appropriate to consider the call-in at this meeting.

Resolved:

That the decision of the Elected Mayor in respect of Paignton Townscape be referred to the Council to enable the call-in promoter to present the reasons for the call-in and for the Elected Mayor to be able to hear the debate and concerns raised and respond to them.

1.3 Members are requested to consider this report in their role as overview and scrutiny and have the following options available to them:

- (a) if the Council does not object to the decision, no further action is necessary and the decision will be effective from the date of the Council meeting; or
- (b) provided the decision has been made in accordance with the Policy Framework and the Budget, the Council has no power to amend the decision but may refer any decision to which it objects back to the decision maker (the Elected Mayor) together with the Council's views on that decision.

1.4 If the Council refers the decision back to the Elected Mayor the following will apply:

Within a further ten working days, the decision maker will resolve to either:

- (i) confirm the decision without modification; or
- (ii) confirm the decision with modification; or
- (iii) rescind the decision.

If the decision maker does none of the above within ten working days, the decision shall be deemed to have been rescinded.

2. Reason for Proposal and associated financial commitments

2.1 To consider the call-in of the Elected Mayor's decision in respect of Paignton Townscape referred to Council by the Overview and Scrutiny Board.

2.2 As the Council is acting as overview and scrutiny members are only able to recommend the Elected Mayor to reconsider the decision, the funding of which had previously been approved by Council.

3. Recommendation(s) / Proposed Decision

3.1 That the Council considers the contents of this report (including appendices) and determines which of the actions available set out in paragraph 1.3 above it wishes to pursue.

Appendices

Appendix 1: Reasons for call-in – Paignton Townscape Briefing Note

Appendix 2: Record of Decision Paignton Townscape

Appendix 3: Paignton Townscape report to Policy Development and Decision Group (Joint Operations Team)



Paignton Townscape – call-in of Decision taken by the Elected Mayor

Background

The above decision was called-in by Councillors Carter, Doggett, Darling (S), Darling (M) and Pentney on 12 September 2018.

The reasons for the call-in are:

Delaying the Paignton Town Regeneration will have a detrimental effect on the town and Crossways continues to be a blight on the town centre.

Failure to progress this town centre regeneration will reinforce the feeling that Paignton is the poor relation to the other towns in the Bay.

There is a fear from local residents that this project will never be progressed.

Members should note that in a motion put by the Liberal Democrats to Council in February 2016 it was noted that figures obtained by the Liberal Democrats demonstrated that there had only been £12 spent per head of population on such projects in Paignton over the last 9 years, compared to £161 in Torquay and £1,201 per head in Brixham.

The capital expenditure per town was as follows:

<u>Project</u>	<u>Total project cost £m</u>	<u>Approx. Dates</u>
Torquay		
Tqy Town Dock	1.20	2007/08-2008/09
Tqy Townscape Heritage	0.70	2008/09-2010/11
Mallock Memorial	0.20	2010/11
Princess Promenade	4.00	2011/12-2013/14
Haldon/Princess Piers	3.10	2009/10-2015/16
Princess Pier decking	0.40	2015/16
Inner Harbour Pontoons	0.90	2013/14-2015/16
	10.50	

Paignton		
Paignton Geopark	0.60	2011/12-2012/13
	0.60	
Brixham		
Bxm Harbour Regen	19.70	2007/08-2012/13
Harbours Major Repairs	0.30	2013/14
Bxm Breakwater	0.05	2013/14
	20.05	

Key documents

Record of Decision – Paignton Townscape

Paignton Townscape Officer report

Order of Business

Councillor Carter	To explain the reasons for calling-in the decision.
Other call-in supporters	To provide further information.
Members of the public	Members of the public who have registered with the clerk to be invited to make representations.
Elected Mayor	To be invited to respond.
Members of the Board	To debate and ask questions.
Any other Members	To make comments or ask questions
Members of the Board	To agree a way forward.

Options

The options open to the Board are:

- Take no further action.
- Refer the decision back to the Elected Mayor for reconsideration, setting out in writing the nature of the Board's concerns.
- In exceptional circumstances, refer the matter to the Council for scrutiny, giving reasons for why the matter is being referred to Council.

Record of Decision

Paignton Townscape

Decision Taker

Elected Mayor on 03 September 2018

Decision

- (i) That the decision taken by the Council to borrow £1.172m from PWLB for the Paignton Townscape scheme is postponed and that alternative sources of funding are explored and a detailed business case is produced before any further work is carried out on this scheme; and
- (ii) that the implementation of the Paignton Townscape scheme is considered as part of the 2019/20 budget setting process.

Reason for the Decision

Since the original decision was taken the Council has reviewed its financial position for 2018/2019 and is in the process of developing its budget for 2019/2020. The Council is projecting an overspend of circa £2.8m for 2018/2019 with continued pressures on its resources especially in children's social care. In light of the budget situation it was recommended that the decision taken by the Council to borrow £1.172m from PWLB for the Paignton Townscape scheme is not implemented and that alternative sources of funding are explored and a detailed business case is produced before any further work is carried out on this scheme.

Implementation

This decision will come into force and may be implemented on 18 September 2018 unless the call-in process is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

Information

The submitted report provided background to a decision taken by the Council on 22 February 2018 to borrow £1.72m from PWLB to fund a scheme for Paignton Townscape as part of £25m approved by the Council for town centre regeneration.

Whilst Town Centre Regeneration is a priority for the Council, current and future financial pressures mean that it would not be prudent for the Council to invest in this scheme at this time. There has been no detailed business case approved and there are currently no other income generating Town Centre Regeneration schemes in the pipeline which could be used to help fund the interest repayments.

The Elected Mayor considered the recommendations of the Policy Development and Decision Group (Joint Operations Team) at the meeting on 3 September 2018 and his decision is set out above.

Alternative Options considered and rejected at the time of the decision

To implement the decision of Council but this was not recommended due to current and ongoing financial pressures facing the Council.

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

10 September 2018

Signed: _____
The Elected Mayor of Torbay

Date: 10 September 2018



Meeting: Policy Development and Decision Group (Joint Operations Team)

Date: 3 September 2018

Wards Affected: Roundham with Hyde

Report Title: Paignton Townscape

Is the decision a key decision? No

When does the decision need to be implemented? As soon as possible

Executive Lead Contact Details: Elected Mayor Gordon Oliver, Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and Transformation, mayor@torbay.gov.uk

Supporting Officer Contact Details: Kevin Mowat, Executive Head for Assets and Business Services, (01803) 208435, kevin.mowat@torbay.gov.uk

1. Proposal and Introduction

- 1.1 At the Council meeting held on 22 February 2018 Members considered and approved (unanimously) the following Notice of Motion in respect of Paignton Townscape:

that Council note the overwhelming need for investment in Paignton Town Centre, and that the Town Centre Regeneration Board have been developing townscape improvement proposals in relation to the Station Square area of Paignton, which would cost £1.172 million to implement. Prudential borrowing would be required to fund the scheme which is to be considered as part of the £25 million approved by Council for Town Centre Regeneration which had anticipated that repayments for this scheme would come from surplus income from other Town Centre Regeneration Schemes.

That Council instructs Officers to implement those proposals and borrow £1.172m from PWLB, noting that repayments would not need to be made until the financial year 2019/20, and therefore need to be included within the budget for 2019/20 and beyond unless and until surplus income from other Town Centre Regeneration schemes is able to cover repayments.

- 1.2 In coming to their decision Members had regard to a briefing note which can be found at <http://www.torbay.gov.uk/DemocraticServices/documents/s47532/Briefing%20Report%20-%20Paignton%20Townscape.pdf>

2. Reason for Proposal and associated financial commitments

- 2.1 Since the decision was taken the Council has reviewed its financial position for 2018/2019 and is in the process of developing its budget for 2019/2020. The Council is projecting an overspend of circa £2.8m for 2018/2019 with continued pressures on its resources especially in children's social care. In light of the budget situation it is recommended to the Elected Mayor that the decision taken by the Council to borrow £1.172m from PWLB for the Paignton Townscape scheme is not implemented and that alternative sources of funding are explored and a detailed business case is produced before any further work is carried out on this scheme.
-

3. Recommendation(s) / Proposed Decision

- 3.1 That the elected Mayor be recommended:
- (i) that the decision taken by the Council to borrow £1.172m from PWLB for the Paignton Townscape scheme is not implemented and that alternative sources of funding are explored and a detailed business case is produced before any further work is carried out on this scheme.

Background Documents

Briefing Report to Council on 22 February 2018 -

<http://www.torbay.gov.uk/DemocraticServices/documents/s47532/Briefing%20Report%20-%20Paignton%20Townscape.pdf>

Section 1: Background Information

1.	<p>What is the proposal / issue?</p> <p>The Council approved borrowing of £1.72m from PWLB to fund a scheme for Paignton Townscape as part of £25m approved by the Council for Town Centre Regeneration. It was proposed that the repayments would be made during 2019/2020 and that this would need to be included in the budget for 2019/2020 and beyond.</p>
2.	<p>What is the current situation?</p> <p>Whilst Town Centre Regeneration is a priority for the Council, current and future financial pressures mean that it would not be prudent for the Council to invest in this scheme at this time. There has been no detailed business case approved and there are currently no other income generating Town Centre Regeneration schemes in the pipeline which could be used to help fund the interest repayments.</p>
3.	<p>What options have been considered?</p> <p>To implement the decision of Council but this is not recommended due to current and ongoing financial pressures facing the Council.</p>
4.	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</p> <p>Principles:</p> <ul style="list-style-type: none">• Use reducing resources to best effect
5.	<p>How does this proposal contribute towards the Council's responsibilities as corporate parents?</p> <p>Not applicable.</p>
6.	<p>How does this proposal tackle deprivation?</p> <p>Not applicable.</p>
7.	<p>How does this proposal tackle inequalities?</p> <p>Not applicable.</p>

8.	How does the proposal impact on people with learning disabilities? Not applicable.
9.	Who will be affected by this proposal and who do you need to consult with? Not applicable.
10.	How will you propose to consult? Not applicable.

Section 2: Implications and Impact Assessment	
11.	What are the financial and legal implications? The Council is required to ensure that it uses its resources to best effect. This proposal takes account of the Council's overall financial position which is why it is recommended not to progress the scheme at this time.
12.	What are the risks? There is a reputational risk to the Council that the decision to not progress the Paignton Townscape Scheme at this time will deter private investors from investing in Paignton Town Centre.
13.	Public Services Value (Social Value) Act 2012 Not applicable.
14.	What evidence / data / research have you gathered in relation to this proposal? Not applicable.
15.	What are key findings from the consultation you have carried out? Not applicable.
16.	Amendments to Proposal / Mitigating Actions Not applicable.

Equality Impacts

17.	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people			There is no differential impact.
	People with caring Responsibilities			There is no differential impact.
	People with a disability			There is no differential impact.
	Women or men			There is no differential impact.
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			There is no differential impact.
	Religion or belief (including lack of belief)			There is no differential impact.
	People who are lesbian, gay or bisexual			There is no differential impact.
	People who are transgendered			There is no differential impact.
	People who are in a marriage or civil partnership			There is no differential impact.
	Women who are pregnant / on maternity leave			There is no differential impact.

	Socio-economic impacts (Including impact on child poverty issues and deprivation)			There is no differential impact.
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			There is no differential impact.
16	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	None		
17	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	None		



Meeting: Council

Date: 18 October 2018

Wards Affected: Goodrington with Roselands Ward/All Paignton

Report Title: Capital Funding to support additional places at Roselands Primary

Is the decision a key decision? Yes

When does the decision need to be implemented? For September 2019

Executive Lead Contact Details: Councillor Stocks, Executive Lead for Children and Housing, cindy.stocks@torbay.gov.uk

Supporting Officer Contact Details: Rachael Williams, Head of Education & Learning, 01803 208743 rachael.williams@torbay.gov.uk

1. Proposal and Introduction

- 1.1 Officers seek approval from Council to fund an additional classroom at Roselands Primary school from the 2019-20 Basic Need funding allocation and Children Services Capital Programme. This is needed as a short term solution to meet the Council statutory obligation of providing sufficient primary places in Paignton
- 1.2 In addition to the new classroom Council are being asked to authorise the transfer of additional land adjoining the school at nil cost to ensure the total site is sufficient for the additional pupil numbers, a plan of this land is available at Appendix 2.
- 1.3 The land will be transferred by the way of a 25 year lease that will contain appropriate clauses restricting the use for educational purposes and appropriate clawback provisions. The land is currently leased to the TCCT at a peppercorn rent with regular break provisions. Therefore there is no impact on the revenue received to the Council by making this decision.
- 1.4 Pupil forecasts and admissions data indicate a shortfall of primary school places in the Paignton area from 2018 onwards. Additional school places are required to meet demand.
- 1.5 The Department for Education (DfE) recognises Paignton as an area of significant growth and has approved funding for a new primary free school. The opening of the free school was originally planned for September 2018 in recognition of the spike in demand. However, the opening of the new primary school has been delayed until September 2020. This means the Council needs to provide additional temporary places for the next 2 years in order to meet demand prior to the new school opening in September 2020.
- 1.6 Officers have secured an agreement with Roselands Primary School for the school to admit a bulge class of an extra 15 pupils per year for the next two years. Their

Planned Admission Number (PAN) is 45 but they will have admitted 60 in September 2018 and will take 60 again in September 2019. This is temporary growth and the school will return to its substantive PAN of 45 from September 2020.

- 1.7 In order to accommodate the additional 30 pupils (15 in September 2018 and 15 in September 2019), the school requires the provision of an additional classroom which Officers are seeking approval from members to fund.

2. Reason for Proposal and associated financial commitments

- 2.1. The Council has a statutory duty to ensure there are sufficient school places to meet demand. The approval for a new primary free school by the DfE was welcomed by Officers as it helps the Council meet this duty with minimal cost to the Authority; the DfE will fund the opening and setting up of the new school with the Council providing a relatively small capital contribution towards the site acquisition.
- 2.2. However, the original application sought an opening date of September 2018. This has been delayed by two academic years due to problems securing a suitable school site. A site for the free school has now been purchased by the DfE and the plans for the new school are proceeding with a revised opening date of September 2020.
- 2.3. As a result of the delayed opening, the Council needs to find a short term solution to manage the shortfall of primary provision in the Paignton area for two academic years – 2018/19 and 2019/20. Roselands Primary have agreed to admit a bulge class of an extra 15 pupils per year for those two years. To accommodate the additional 30 pupils the school will require an additional classroom from September 2019. They can manage for one year because of the way in which they structure their Reception class but they will need the extra room from September 2019. The new classroom will then be needed for a minimum of 8 years while the bulge classes move through the school year groups.
- 2.4. A feasibility study of the school site has identified three options for providing this extra classroom; these are detailed in Section 3 of the Supporting Information Document. Officer's proposal is to fund Option 3 as this option will provide the school and Council with the best educational outcomes and ensure that the school can expand further in the future if required.
- 2.5. This proposal will commit the Council financially to Capital Funding up to £599,720.
- 2.6. At the same time as agreeing to take extra pupils the school have highlighted the difficulties of their existing small site and have requested that some additional Council land adjacent to the school be incorporated in to their school boundary. The additional land would ensure that the school had sufficient external play area for the numbers of pupils they will have on roll and allow for future expansions, if necessary. The school will still take the additional pupils but without the additional land teaching and learning for all pupils will be affected. Their request is covered in more detail in Section 2 of the Supporting Information.

3. Recommendation(s) / Proposed Decision

- 3.1 That the Director of Children's Services be given delegated authority to allocate up to £599,720 from the 2019-20 Basic Need Allocation and Children Services Capital Programme to support the provision of an additional classroom at Roselands Primary School.
- 3.2 That the transfer of the land edged red shown at Appendix 1 to the submitted report, by way of a 25 year lease at nil cost to Roselands School under the Local Government Act 1972: General Disposal Consent 2003, be approved.

Appendices

Appendix 1: Map of land to be transferred

Appendix 2: Roselands School Consultation

Background Documents

- Review of School Places in Torbay 26 February 2015
- Relocation of Torbay School and a New Primary School in Paignton 25 February 2016
- New Primary School in Paignton 21 July 2016
- Amendment to Children Services Capital Programme to enable Acquisition of site for new Primary School in Paignton 8 August 2017
- School Place Planning & Basic Need Grant PDDG Report 6 November 2017
- Financial Contribution to the Acquisition of site for new Primary School in Paignton 22 February 2018

SUPPORTING INFORMATION

Section 1: Background Information	
1.	<p>What is the proposal / issue?</p> <p>As a result of the delayed opening of the new Paignton primary school, the Council needs to find a short term solution to manage the shortfall of places for two academic years – 2018 & 2019. Roselands Primary have agreed to admit a bulge class of an extra 15 pupils per year for the next two years.</p> <p>Roselands Primary is a popular and successful school in an area of high and growing demand. Applications for this school consistently exceed the number of places available. As they are a 1.5 form of entry school (i.e. 45 per year group), they run with 2 Reception classes of 23 and 22 and then they move in to mixed age year groups from Year 1. This means that they can take 15 additional pupils for one year in Reception without the need for an extra classroom. However, the school will need extra room from September 2019. The new classroom will then be needed for a minimum of 8 years while the bulge classes move through the school year groups.</p> <p>Recommendation 3.1 is for Council to approve funding to remodel the existing admin area and staff room to create the new classroom and then provide a new entrance and admin area. This would provide the school with the required additional teaching space without comprising its existing external play space which is already smaller than recommended. It will also address existing access issues within the school and future proof a popular and successful school for further expansion.</p> <p>In addition to the extra classroom, the school is also requesting some additional Council land adjacent to their site be incorporated into their school boundary. The additional land would help address the shortfall of external space that the school currently has for the number of pupils they will have on roll and allow for future expansions if necessary.</p> <p>Recommendation 3.2 is for members to approve the transfer of the land set out in Appendix 2 to Roselands School on a 25 year lease. The transfer would be at “less than best” with nil income to the Council in return for the school increasing their Planned Admission Number (PAN) as and when the Council request it.</p>
2.	<p>What is the current situation?</p> <p>The Council and school have a duty to ensure that the quality of education they provide and their outcomes are not adversely affected by the school admitting above PAN. The PAN is based on a school’s Net Capacity assessment. This is a calculation which sets out the total number of pupils that a school can admit based on its available teaching space. Therefore, any pupils the school admits above their PAN would be placing pressure on</p>

	<p>available teaching spaces. Roselands Primary PAN is 45 and its Net Capacity is 315 pupils.</p> <p>The school building, in particular the hall, are already undersized for the existing number of children attending and the bulge classes will place extra pressure on school facilities. The site area of the school is also below the recommended area for a school with a PAN of 45.</p> <p>Roselands Primary have agreed to admit over their PAN again for September 2019 on the understanding that an additional classroom will be provided to support them in continuing to deliver high quality education.</p> <p>In addition to the extra classroom, the school is also requesting some additional Council land adjacent to their site be incorporated into their school boundary. The land is owned by the Council but is currently held on licence by the Torbay Coast and Countryside Trust (TCCT). It is also identified as an Urban Landscape Protection Area in the Local Plan. Disposal and transfer of the site has been considered and is supported by the Council’s Strategic Land Task Group. The school have undertaken their own consultation with parents and local residents and this feedback is summarised in Appendix 3.</p> <p>As part of the land transfer, Officers would seek planning approval for the change in designation. The lease would stipulate the land can only be used as a playing field/playground. The Academy would be liable for legal costs for the lease and also the costs of establishing a new perimeter fence.</p> <p>Recommendation 3.2 is for members to approve the transfer of the land set out in Appendix 2 to Roselands School on a 25 year lease. The transfer would be at “less than best” with nil income to the Council in return for the school increasing their Planned Admission Number (PAN) as and when the Council request it.</p> <p>Without the additional land, the school will not be able to expand in future. Pupil forecasts indicate that Paignton primary numbers will continue to grow for the foreseeable future. Even after the new Primary Free School opens in 2020, there will be a need for further primary expansion within the next five to ten years. The Council needs to ensure that there are viable options for further expansion after the free schools programme has been delivered. The expansion of Roselands would provide a solution if the second free school for the area does not proceed.</p>
<p>3.</p>	<p>What options have been considered?</p> <p>Alternative options considered to meet the shortfall of places include:</p> <p>Bringing forward the opening of the new school through:</p> <ul style="list-style-type: none"> • Opening in temporary accommodation; this option would be costly and the cost would need to be covered by the Council. Plus there is no site readily available to house the accommodation. • A phased opening; the site is already restricted and there would be considerable health & safety issues. Plus potentially this could impact on delivery of the new school and lead to further delays through restricted working/access

Utilising provision in other planning areas:

- Whilst places might be available in other planning areas, they would not be in the local community and the Council would be required to fund the additional transport costs for the next 7 years.

Maintaining status quo:

- The Council would not be effectively managing demand and could face unknown costs arising from legal challenge or increased transport costs.
- Detrimental effect on Roselands Primary which has already admitted over PAN for one to allow the Council to meet its statutory duty.

Feasibility options to provide additional classroom at Roselands:

	PROPOSED WORKS	COST	PROS	CONS
1	Classroom extension access through toilets (108m ²)	£361,000 (£3,300 per m ²)	<ul style="list-style-type: none"> • This is the most affordable solution overall 	<ul style="list-style-type: none"> • Negative impact on existing classrooms/ blocking natural light more reliant on artificial lighting • Reduces play area which is already below minimal requirements • Restricts future development of site • Does not address existing site issues • Not value for money in terms of cost per m2 • Potential loss of 2 toilet cubicles impacting on number of toilets in an expanding school
2	Classroom extension access through existing classroom (108m ²)	£380,000 (£3,500 per m ²)	<ul style="list-style-type: none"> • This option is more affordable than option 3 	<ul style="list-style-type: none"> • Negative impact on existing classrooms/ blocking natural light • Reduces play area which is already below minimal requirements • Restricts future development of site • Does not address existing site issues • Not value for money in terms of cost per m2 • Logistic/management issues of accessing a classroom through another classroom
3	Remodel existing admin/staff room to provide classroom & new entrance (210m ²)	£599,720 (£2,800 per m ²)	<ul style="list-style-type: none"> • Address existing site issues • Significantly improve access and flow of staff & pupils • New class is integral rather than add on • Most cost effective per m2 	<ul style="list-style-type: none"> • This is the more expensive option • This option would need to be phased so the build time is slightly longer/ greater impact on the school during construction

			<ul style="list-style-type: none"> • Future proofs the school for further development/expansion 	
	<p>Officer's recommendation (recommendation 3.1) is to implement Option 3 as it will provide the school and the Council with the best educational outcomes. It allows for future development of the site whilst not negatively impacting on school's existing external play space.</p> <p>It is acknowledged that it is the most expensive option but is the most cost effective because it will ensure that the school can expand in the future without significant extra investment. This is an important consideration for the Council as pupil growth in Paignton is forecast to continue and further school places are likely to be required within the next 5 years.</p>			
4.	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</p> <p>The proposal supports the Council's Corporate Plan as it ensures the delivery of additional school places in an area of significant growth and regeneration.</p>			
5.	<p>How does this proposal contribute towards the Council's responsibilities as corporate parents?</p> <p>The proposal helps ensure all children have access to a school place within a reasonable distance from their home location.</p> <p>The places are being provided at a popular and successful school, helping to ensure that each child is given the best possible start in life to achieve and succeed.</p>			
6.	<p>How does this proposal tackle deprivation?</p> <p>This proposal tackles inequality by giving every child a school place giving them the best possible opportunity to achieve and succeed.</p>			
7.	<p>How does this proposal tackle inequalities?</p> <p>This proposal tackles inequality by ensuring that every child has the opportunity to access a school place.</p>			
8.	<p>How does the proposal impact on people with learning disabilities?</p> <p>The proposal has no direct impact on those with learning difficulties as the provision is not specialised. However, any pupils identified as having special educational needs will be supported in their placement by the Council.</p>			

<p>9.</p>	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>Parents and children in Paignton will benefit from the provision of sufficient school places in the area.</p> <p>Other key stakeholders affected are the staff, parents and pupils at Roselands Primary School, the ESFA, the Department of Education and the Regional Schools Commissioner.</p>
<p>10.</p>	<p>How will you propose to consult?</p> <p>Meetings and ongoing dialogue with the key stakeholders. Consultation has also already taken place with parents and residents – see Appendix 3.</p>

Section 2: Implications and Impact Assessment

11.

What are the financial and legal implications?

The financial implication of approving this proposal is £599,720 of additional capital expenditure.

The Council has been allocated £559,482 Basic Need funding in 2019/20 for providing additional primary school places. This funding has not yet been allocated to any schemes. Officers are requesting that this Basic Need be allocated to Roselands Primary School. The balance of £40,238 would be funded from savings made on other schemes already approved within the Children's Services Capital Programme.

In April 2018 the Council approved Officers recommendation to relocate the Council's Medical Tuition Service (MTS) to MyPlace. The decision included the funding of the proposal from 'any unallocated sums within the existing Children's Services Capital Programme'.

In approving the proposal, Members acknowledged the needs of the service. Recognising that the existing accommodation was unsuitable and that the Council was at risk of an enforcement order from the DfE. Members also saw the advantages of a co-location of services in securing the long term sustainability of MyPlace.

Following Council approval, the MTS relocation is being implemented and the latest costings indicate that the scheme will need all of the £600,000 prudential borrowing approved/allocated.

If the MTS project was suspended so that the funding could be re-directed to cover the costs of this proposal then there would be abortive costs of approximately £25,000. The Council would still need to address the accommodation needs of MTS and the long term sustainability of MyPlace both of which will have a cost implication.

The legal implications are for the additional land requested by the school to be held on a 25 year lease. The transfer would be at "less than best" with nil income to the Council in return for the school increasing their Planned Admission Number (PAN) as and when the Council request it.

12.

What are the risks?

If the Council is unable to support the school's request for additional accommodation then it would not be able to offer additional Reception places for the forthcoming academic year.

This would place the Council at risk of breaching its statutory school place planning duty.

The school have already admitted 15 extra pupils in September 2018. Without any additional accommodation when they move in to year 1 the

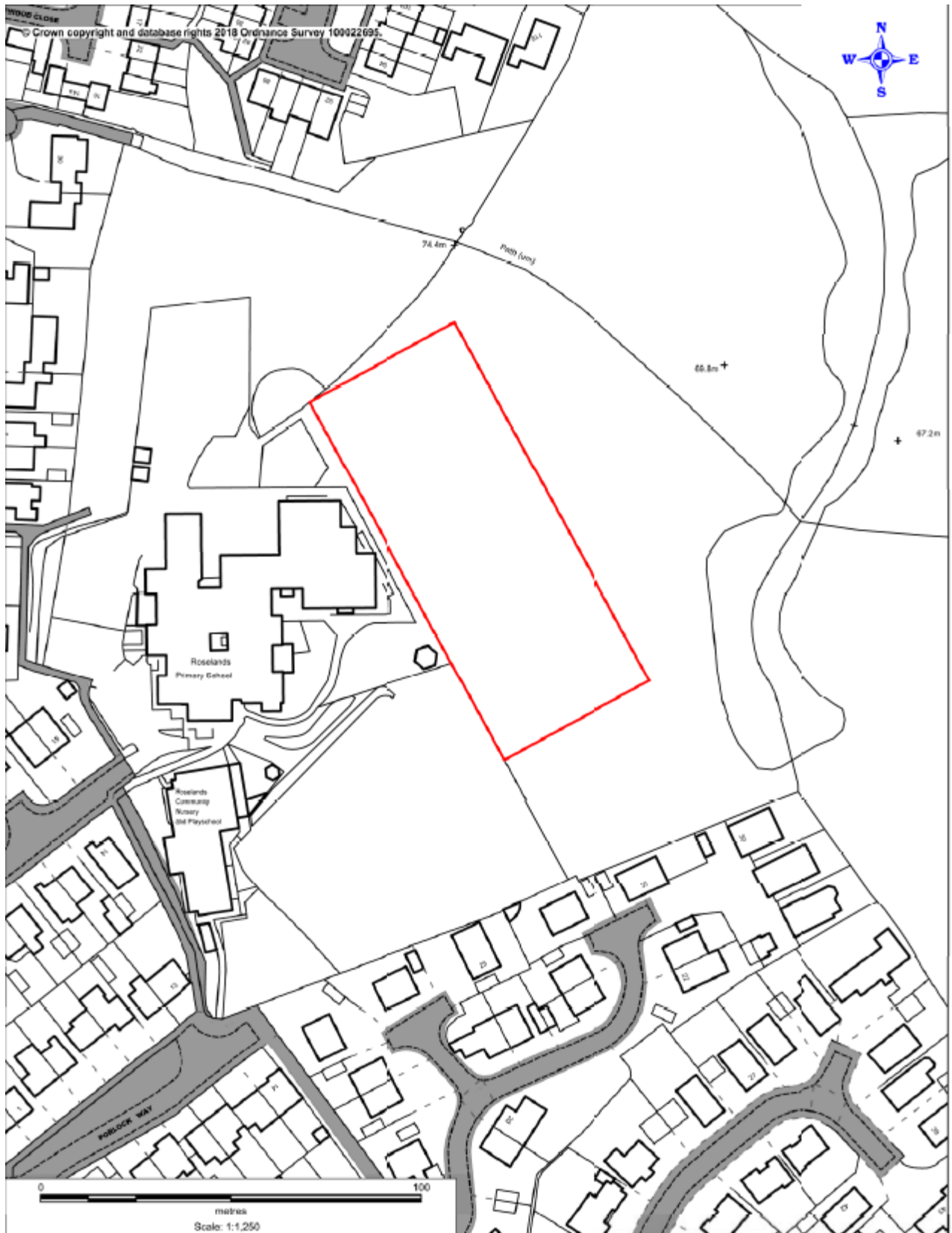
	<p>school would be forced to teach in very large classes which would mean they would be in breach of the Infant Class Size legislation and there would be a severe impact on the teaching and learning experience of all pupils. There would be considerable objection from parents and staff.</p>
13.	<p>Public Services Value (Social Value) Act 2012</p> <p>All works procured in connection with the new accommodation will be procured in line with the Public services Value Act 2012.</p>
14.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>Paignton continues to experience a period of growth through increased birth rates and housing being delivered quicker and in greater quantities than originally anticipated. Admissions data and projections show there is insufficient capacity to meet demand from 2018 onwards or provide the 5-10% surplus recommended to meet parental preference, in-year admission and any unforeseen growth.</p> <p>This data has been scrutinised by the DfE and underpins their decision to approve a new 210 place primary school in the area. This has also been presented to Members in previous reports and presentations.</p>
15.	<p>What are key findings from the consultation you have carried out?</p> <p>Following discussions with the head teacher and the Academy Trust it has been agreed that Roselands Primary will admit above PAN for September 2018 and 2019 on the understanding that the Council funds an additional classroom for the reasons stated in Paragraph 2 above.</p>
16.	<p>Amendments to Proposal / Mitigating Actions</p> <p>As the consultees are supportive of the proposal no amendments or mitigating actions are proposed.</p>

Equality Impacts

17.	Identify the potential positive and negative impacts on specific groups		
	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people	Sufficient Reception places to meet local demand School places provided within a reasonable distance from home location Expansion of a popular and successful school Optimum learning environment in line with DfE recommendations		
People with caring Responsibilities	Sufficient Reception places to meet local demand School places provided within a reasonable distance from home location Expansion of a popular and successful school Optimum learning environment in line with DfE recommendations		
People with a disability	Any provision will be fully DDA compliant &, wherever possible, look to address existing issues on the site		
Women or men			No differential impact
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			No differential impact
Religion or belief (including lack of belief)			No differential impact
People who are lesbian, gay or bisexual			No differential impact

	People who are transgendered			No differential impact
	People who are in a marriage or civil partnership			No differential impact
	Women who are pregnant / on maternity leave	Sufficient reception places to meet local demand School places provided within a reasonable distance from home location Expansion of a popular and successful school		
	Socio-economic impacts (Including impact on child poverty issues and deprivation)	Ensuring all children have the best possible opportunity to thrive and succeed		
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			No differential impact
16	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	Local investment in the Paignton area into improved infrastructure, industrial and retail outlets and the completion of large housing developments is placing significant pressure on school places in the area. Insufficient primary provision to meet demand will mean the Council is in breach of its statutory duty and will be not meeting it's priority to give every child the best possible stat in life School Place Planning needs to support this investment and the aims of the Council's Local Plan. Schools have a role to play in creating an attractive and sustainable community.		
17	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	No differential impact		

MAP OF LAND TO BE TRANSFERRED



EM Plan No: EM3171
Date: 28th September 2018
Title: Potential Roselands Primary School Extension

Asset No: P00392Z
LR Title No: DN220016
Scale: 1:1250
Area: 4,610.07m²



TORBAY DEVELOPMENT AGENCY - ASSET MANAGEMENT

ROSELANDS SCHOOL CONSULTATION

INTRODUCTON

Roselands School has put forward a request to Torbay Council to extend its site boundaries and incorporate into it some of the adjacent Council owned land. The aim is to address the shortfall of the school's existing site area against DfE recommendations and to improve the external space for play and learning.

In preparing this proposal the school has consulted with staff, parents/carers of pupils attending the school and local residents. A background paper detailing the proposal was distributed and made available via the school's website. The paper included a response form for consultees to complete; a copy is attached below for your reference.

Also as part of the consultation process the proposal was included on the agenda of the Paignton Town Community Partnership meeting in September. The meeting was held at the school so attendees could view the site. The head provided a short presentation for discussion and was on hand to answer arising questions.

SUMMARY OF RESULTS

In total, the school received 143 responses to their consultation:

- **91% of the respondents confirmed that they were in support of the proposal**
- **9% of the respondents confirmed they were against the proposal**

The respondents can be grouped as follows:

LOCAL RESIDENT

Local residents in support	5 (3%)
Local residents against proposal	8 (6%)

PARENT/CARER

Parent/carer in support	123 (86%)
Parent/carer against proposal	1 (1%)

RESPONDSEE NOT IDENTIFIABLE

In support of proposal	2 (1%)
Against proposal	4 (3%)

COMMENTS FROM THOSE IN SUPPORT INCLUDED:

- 'I think this is a great idea and it benefits the community of Roselands in the future too... This plan is also considerate of the 'dog walking' community. .'
- 'If Torbay Council rely on the school to take in more pupils...then they have an obligation to improve the school for the pupils'
- 'Fantastic idea!! This bit of land will help improve the school building so much and I support making use of an empty field'
- '..it will benefit the children hugely'
- 'With the growth in housing around the area, schools will need to accommodate Roselands is an amazing school and would benefit/need more space to accommodate children moving into the area.'
- 'A fabulous opportunity. .'

- ‘..A great school like Roselands benefits the whole community and should be properly supported.’
- ‘.. I hope Torbay Council takes into consideration the large amount of people this will help. Thank you in advance for your time and consideration.’
- ‘It’s much needed and would be a good and worthwhile improvement’
- ‘Schools support our future generations – very much in favour of making them the best they can be.’
- ‘Torbay Council should support Roselands in this request as it is a credit to Torbay and the surrounding community. As a member of the Roselands Community I support the schools request.’
- ‘We fully support Roselands in this matter...’
- ‘It is nothing but a necessity for Torbay Council to support Mr O'Connor, the headteacher of the outstanding provision, in planning to continue to provide an outstanding environment and opportunities for all current and future children who are all proud to attend Roselands Primary School.’
- ‘..having a good school for our children is fundamental...essential if you want to attract young professional families to the area...Roselands is such a wonderful school...’
- ‘Roselands has a great reputation in the area as a school that you want your children to attend and develop in...’

COMMENTS FROM THOSE OBJECTING INCLUDED:

- ‘The school has already taken part of the community field to provide a new playground’
- ‘The land ...is. .a site of special scientific interest which I believe was bequeathed by a member of the Whitley family for community enjoyment...’
- ‘..this is an area for the public and not to further the growth of the school’
- ‘The school boundaries have been extended in recent years and taken part of the green space that we thought was protected. To take more would set a precedent for wholesale development of the land. ‘
- ‘...The school already has an enormous playing field compared to some other schools.’
- ‘How can we make a decision without a detailed plan? ..’
- ‘..Total waste of money and time...’

Noticeably the majority of the respondents who objected to the proposal cited increased traffic as a reason for their objection. One respondent objecting went as far as to say ‘In principle not against this but reason stated 'do not support' is a traffic/car issue.’

SUMMARY

The school acknowledges the concerns raised by residents over parking and traffic congestion; these are challenges facing most schools in Torbay during school drop off and pick up times. The school will continue to proactively look for ways to address this not just for the residents but also to ensure the safety of its pupils. As part of this development the school will be undertaking a travel assessment and developing a robust travel plan. **In view of the majority of the responses supporting the school’s proposal, Roselands School is proceeding with its request for additional land.**



Believe and Achieve

Roselands Primary School

Head of School: Mr Chris O'Connor
Lynmouth Avenue, Paignton, Devon TQ4 7RQ
Tel: (01803) 525375
Email: admin@roselandsprimary.org.uk
Website: www.roselandsprimary.org.uk

Monday 10th September 2018

Dear Parent/Carer,

Roselands is an outstanding community primary school. All of us connected with the school are very proud of our school and how well it serves the children of our community. We work hard to ensure we do the best for our pupils and will continue to do so. Some aspects of school life are within our control such as the lessons we teach and the activities our pupils can take part in. In other aspects of our school we need help from other people to improve. I am writing to you now to keep you informed of current developments and to ask your help in supporting the school.

You will have noticed that the area is growing with many new homes and shops being built. Torbay Council is responsible for making sure that as houses are built there are enough school places for the extra children from these houses. They have plans for a new school to serve all the new houses but finances are tight and it is some way off being built.

Roselands currently has 317 pupils on roll and an admission number for each Reception year of 45 children. Torbay Council has asked the school to take 60 pupils into Reception year in September 2018 as a one off. We have agreed so that there are places for children at their local school. This will see the school increase to 332 children over the next year.

To enable Roselands to teach the additional children Torbay Council will build the school an additional classroom. Additional pupils will put extra pressure on other areas of the school particularly the school hall which is too small even for the current number of pupils and as you will know is not a great space to use because it has an oddly sloping ceiling.

More pupils also need more space to play and run around. This is where we need your help. The Roselands site is not big enough for the current number of pupils and we have asked for some of the field behind the school to be included in the school site. If Torbay Council agree with this request it would enable the school to move its football field/playing field to this new area of land and would give us the space, at some stage in the future, to build a new school hall on the current playing field.

There is no money for this at the moment but a new hall would be our aspiration that would improve the facilities for all the pupils in the school as well as being a wonderful community facility. The field behind the school is mostly used by members of the community walking and exercising their dogs. We are only requesting part of the field for a new football pitch/playing field so there would still be space for the community on the other part of the field and on the other adjoining fields. Our new field would be used by 332 pupils throughout the school year.

We would welcome your views on this proposal and if you agree, your support. Please can you complete the attached response form and send it back by Thursday 13th September.

Yours sincerely

Mr Chris O'Connor

Head of School

Response

I support Roselands in its request to Torbay Council for additional land

I do not support Roselands in its request to Torbay Council for additional land

Any comments



Meeting: Council

Date: 18 October 2018

Wards Affected: All Wards

Report Title: Review of Political Balance

Is the decision a key decision? No

When does the decision need to be implemented? Immediately

Supporting Officer Contact Details: June Gurry, Governance Support Manager, telephone 01803 207012 and email june.gurry@torbay.gov.uk

1. Proposal and Introduction

1.1 This report sets out a review of the political balance of the Council to ensure places on Committees and Working Parties are allocated in accordance with the relevant statutory and Constitutional requirements. The report is presented following notification that: Councillors Amil, Excell, Manning and Mills wish to be known as members of the Torbay Community Independents group; and Councillor King wishes to be known as an Independent councillor.

2. Reason for Proposal

2.1 Following notification that Councillors Amil, Excell, Manning and Mills wish to be known as members of the Torbay Community Independents group and Councillor King as an Independent councillor, the political balance for the Council needs amending.

3. Recommendation(s) / Proposed Decision

3.1 That the overall political balance of the committees as set out at Appendix 1 be approved.

3.2 That, in accordance with the Local Protocol for Working Parties, the overall political balance of working parties as set out in Appendix 2 be approved.

Appendices

Appendix 1: Political Balance of Committees

Appendix 2: Political Balance of Working Parties

Background Documents: None

Supporting Information

<p>1.</p>	<p>Position and Background Information</p> <p>Following notification that Councillors Amil, Excell, Manning and Mills wish to be known as members of the Torbay Community Independents group, this has resulted in changes to the political make-up of the Council. There are now 19 members of the Conservative Group, 7 members of the Liberal Democrat Group, 4 members of the Independent Group, 4 members of the Torbay Community Independents group, 1 UKIP member and 1 Independent councillor. The political balance is now:</p> <table data-bbox="399 667 1268 891"> <tr> <td>Conservative Group</td> <td>19 seats</td> <td>= 52.78%</td> </tr> <tr> <td>Liberal Democrat Group</td> <td>7 seats</td> <td>= 19.44%</td> </tr> <tr> <td>Independent Group</td> <td>4 seats</td> <td>= 11.11%</td> </tr> <tr> <td>Torbay Community Independents</td> <td>4 seats</td> <td>= 11.11%</td> </tr> <tr> <td>UKIP (Cllr Parrott)</td> <td>1 seat</td> <td>= 2.78%</td> </tr> <tr> <td>Independent (Cllr King)</td> <td>1 seat</td> <td>= 2.78%</td> </tr> </table> <p>The notifications have resulted in a change in the political make-up of the Council with a recalculation of seats on Committees between political groups. Proportional distribution of seats on Committees is set out at Appendix 1.</p> <p>Whilst not a legislative requirement, the Council has included in its Constitution for Working Parties to also be politically balanced. Proportional distribution of seats on Working Parties is set out at Appendix 2.</p>	Conservative Group	19 seats	= 52.78%	Liberal Democrat Group	7 seats	= 19.44%	Independent Group	4 seats	= 11.11%	Torbay Community Independents	4 seats	= 11.11%	UKIP (Cllr Parrott)	1 seat	= 2.78%	Independent (Cllr King)	1 seat	= 2.78%
Conservative Group	19 seats	= 52.78%																	
Liberal Democrat Group	7 seats	= 19.44%																	
Independent Group	4 seats	= 11.11%																	
Torbay Community Independents	4 seats	= 11.11%																	
UKIP (Cllr Parrott)	1 seat	= 2.78%																	
Independent (Cllr King)	1 seat	= 2.78%																	
<p>2.</p>	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</p> <p>The calculation of political balance of committees is a statutory requirement and supports all aspects of the Corporate Plan through the good governance of the Council.</p>																		
<p>3.</p>	<p>How does this proposal contribute towards the Council's responsibilities as corporate parents?</p> <p>There is no direct contribution towards the Council's responsibilities as corporate parents. The legislation ensures that nominations to the seats on committees reflects the representation of different political groups on the Council.</p>																		
<p>4.</p>	<p>How does this proposal tackle deprivation?</p> <p>As section 3 above.</p>																		

5.

What are the financial and legal implications?

Legal:

The Local Government and Housing Act 1989 requires the Council to allocate seats on committees to political groups in accordance with the size of each group as a whole, unless alternative arrangements are notified to all Members and agreed without any councillor voting against them. The Council is required to observe the following principles as far as it is reasonably practicable:

(a) that not all seats on the body are allocated to the same group;

(b) that the majority of seats on the body are allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;

(c) subject to paragraphs (a) and (b) above, that the number of seats on the ordinary committees of a relevant authority which are allocated to each political group bears the same proportion to the total of all the seats on the ordinary committees of that authority as is borne by the number of Members of that group to the membership of the authority; and

(d) subject to paragraphs (a) to (c) above, that the number of seats on the body which are allocated to each political group bears the same proportion to the number of all the seats on that body as is borne by the number of Members of that group to the membership of the authority.

The Council is required to determine the number of seats on each committee and the allocation of those seats to the political groups. Applying the principles of the Local Government and Housing Act 1989 and the supporting Regulations, the option for distribution would be proportional as set out at Appendix 1 (the Elected Mayor is not included in the calculation for proportionality purposes).

Once the Political Groups have been allocated the seats that they are due under the calculation and in line with the four principles above then any seats remaining are allocated the ungrouped members e.g. the UKIP member and Independent councillor. The allocations are proposed in Appendices 1 and 2.

The allocation of seats includes a statutory bar on members of the Executive on the Overview and Scrutiny Board and a Council decision to exclude the Executive on the Audit Committee.

Political balance requirements may be dis-applied under Section 17, Local Government and Housing Act 1989 and Regulation 20, Local Government (Committees and Political Groups) Regulations 1990. This would allow the relevant seats to be allocated to another group and/or the ungrouped UKIP member and/or the Independent Councillor. Any decision to dis-apply would require a unanimous vote of full Council.

In respect of Working Parties, the Council's Constitution states that Working Parties considering non-executive functions will be appointed in accordance

	<p>with the principles of political balance.</p> <p>Finance: None.</p>
6.	<p>What are the risks?</p> <p>There is a statutory requirement to undertake a review of political balance following a change in the political composition of the Council. This review has been completed. Therefore there are no risks unless members fail to determine the matter.</p>
7.	<p>Public Services Value (Social Value) Act 2012</p> <p>Not applicable.</p>
8.	<p>What consultation you have carried out?</p> <p>The Group Leaders have been consulted on the political balance calculations set out at Appendix 1 and Appendix 2.</p>

Political Balance of Committees

Conservative Group	19 seats	= 52.78%
Liberal Democrat Group	7 seats	= 19.44%
Independent Group	4 seats	= 11.11%
Torbay Community Independents	4 seats	= 11.11%
UKIP (Cllr Parrott)	1 seat	= 2.78%
Independent (Cllr King)	1 seat	= 2.78%

Committee	Conservative Group	Liberal Democrat Group	Independent Group	Torbay Community Independent	UKIP (Cllr Parrott)	Independent (Cllr King)	Total
Appeals Committee (School Transport)	4	1	1	1	0	0	7
Audit Committee (excluding Executive)	4	2 1	1	0 1	0	0	7
Civic Committee	4	2 1	0	1	0	0 1	7
Development Management Committee (excluding Executive Lead with responsibility for Planning)	5	2	2 1	0 1	0	0	9
Employment Committee (to include Executive member)	3	1	0	1	0	0	5
Harbour Committee	5	2	1	1	0	0	9

Committee	Conservative Group	Liberal Democrat Group	Independent Group	Torbay Community Independent	UKIP (Cllr Parrott)	Independent (Cllr King)	Total
Housing Committee (to include Executive Lead with responsibility for Housing)	4	1	1	0	1	0	7
Investment and Regeneration Committee	4	2	1	0	0	0	7
Licensing Committee (excluding Executive Lead with responsibility for Licensing)	8	3	1	2 3	4 0	0	15
Overview and Scrutiny Board (excluding Executive)	5	2	1	0	0	0	8
Standards Committee	4	2	1	0	0	0	7
	50	18	9	9	1	1	88

Political Balance of Non-Executive Working Parties

Working Party	Conservative Group	Liberal Democrat Group	Independent Group	Torbay Community Independents	UKIP (Cllr Parrott)	Independent (Cllr King)	Total
Adult Services and Public Health Monitoring Working Party	3	1	1	0	0	0	5
Airshow Working Party	3	1	0	1	0	0	5
Children's Services Monitoring Working Party	3	1	0	1	0	0	5
Community Asset Transfer Panel (including Executive Lead for Planning, Transport and Housing)	3	1	0	1	0	0	5
Community Governance Review Working Party (plus Elected Mayor)	5	2	1	0	0	0	8
Constitution Working Party	3	1	1	0	0	0	5

Working Party	Conservative Group	Liberal Democrat Group	Independent Group	Torbay Community Independents	UKIP (Cllr Parrott)	Independent (Cllr King)	Total
Consultation, Communication and Engagement Working Party	3	1	4 0	0 1	0	0	5
Corporate Parenting Panel (including Executive Lead for Children)	3	1	0	0	1	0	5
Devolution Working Party	3	1	4 0	0	0	0 1	5
Financial Future Working Party (plus Elected Mayor)	4	1	1	0	0	0	6
Harbour Asset Working Party (plus external advisors and membership restricted to Harbour Committee)	3	2 1	0	0 1	0	0	5
Harbour Budget Working Party (plus external advisors and membership restricted to Harbour Committee)	3	2 1	0	0 1	0	0	5

Working Party	Conservative Group	Liberal Democrat Group	Independent Group	Torbay Community Independents	UKIP (Cllr Parrott)	Independent (Cllr King)	Total
Oldway Mansion and Estate Working Party	3	1	1	0	0	0	5
Town Centre Regeneration Programme Board (plus Elected Mayor, partners and officers)	4	1	1	0	0	0	6
	46	15	6	6	1	1	75



**Meeting: Audit Committee
Council**

**Date: 25th September 2018
18th October 2018**

Wards Affected: All Wards in Torbay

Report Title: Treasury Management Mid-Year Review 2018/19

Is the decision a key decision? No

When does the decision need to be implemented? Immediate

Executive Lead Contact Details: Mayor Gordon Oliver, 01803 207001,
gordon.oliver@torbay.gov.uk

Supporting Officer Contact Details: Pete Truman, Principal Accountant, 01803 207302,
pete.truman@torbay.gov.uk

1. Proposal and Introduction

1.1 This report provides Members with a review of Treasury Management activities during the first part of 2018/19. The Treasury function aims to support the provision of all Council services through management of the Council's cash flow and debt & investment operations.

1.2 The key points in the Treasury Management review are as follows:

- New borrowing of £10million taken in year to date (as at end August 2018)
- Re-profiling of capital expenditure to future years reducing the overall borrowing need in 2018/19
- Total borrowing currently in line with the Capital Financing Requirement – under borrowing position anticipated by year end
- Increase in Bank Rate by 0.25% to 0.75% in August 2018
- Forward renewal of core cash investments in one year duration deposits

2. Reason for Proposal

2.1 The preparation of a mid-year review on the performance of the treasury management function forms part of the minimum formal reporting arrangements required by the CIPFA Code of Practice for Treasury Management.

3. Recommendation(s) / Proposed Decision

Audit Committee

- 3.1 that the Audit Committee provide any comments and/or recommendations on the Treasury Management decisions made during the first part of 2018/19

Council

- 3.2 that the Treasury Management decisions made during the first part of 2018/19 as detailed in this report be noted.

4. Background Information

- 4.1 The original Treasury Management Strategy for 2018/19 was approved by Council on 8th February 2018.

- 4.2 The Council defines its treasury management activities as:

“The management of the authority’s borrowing, investments and cash flows, it’s banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks”.

- 4.3 The Chartered Institute of Public Finance and Accountancy’s (CIPFA) Code of Practice on Treasury Management was adopted by the Council on 25th March 2010. A full revision of the Code was published in December 2017 with new requirements in respect of Non-Treasury Investments (NTI’s) to be implemented from 1st April 2019 (see section 11 and Appendix 2). NTI’s for the Council is likely to include guarantees, loans to organisations and investment properties.

- 4.4 This mid-year review has been prepared in compliance with the CIPFA Code of Practice and covers the following:

- Economic and Interest Rate update;
- Review of the Council’s Borrowing strategy;
- Review of the Council Investments 2018/19;
- Minimum Revenue Provision Policy Statement 2018/19;
- Revenue Budget Performance
- Compliance with Prudential Limits for 2018/19
- CIPFA Code of Practice for Treasury Management and MHCLG Guidance

5. Economic and Interest Rate Update

- 5.1 The Bank of England raised the official Bank Rate by 0.25% to 0.75% in August 2018. This was slightly earlier than anticipated in the Treasury Management Strategy 2018/19 although forward forecasts remain little changed.

- 5.2 The revised forecasts (as at August 2018) from the Council’s treasury advisors, Link Asset Services are detailed in the table below. The expectations for borrowing rates continue to be for a gradual increase.

Link Asset Services Interest Rate View											
	Sep-18	Dec-18	Mar-19	Jun-19	Sep-19	Dec-19	Mar-20	Jun-20	Sep-20	Dec-20	Mar-21
Bank Rate View	0.75%	0.75%	0.75%	0.75%	1.00%	1.00%	1.00%	1.25%	1.25%	1.50%	1.50%
3 Month LIBID	0.75%	0.80%	0.80%	0.90%	1.10%	1.10%	1.20%	1.40%	1.50%	1.60%	1.60%
6 Month LIBID	0.85%	0.90%	0.90%	1.00%	1.20%	1.20%	1.30%	1.50%	1.60%	1.70%	1.70%
12 Month LIBID	1.00%	1.00%	1.00%	1.10%	1.30%	1.30%	1.40%	1.60%	1.70%	1.80%	1.80%
5yr PWLB Rate	2.00%	2.00%	2.10%	2.20%	2.20%	2.30%	2.30%	2.40%	2.50%	2.50%	2.60%
10yr PWLB Rate	2.40%	2.50%	2.50%	2.60%	2.70%	2.70%	2.80%	2.90%	2.90%	3.00%	3.10%
25yr PWLB Rate	2.80%	2.90%	3.00%	3.10%	3.10%	3.20%	3.30%	3.30%	3.40%	3.50%	3.50%
50yr PWLB Rate	2.60%	2.70%	2.80%	2.90%	2.90%	3.00%	3.10%	3.10%	3.20%	3.30%	3.30%

* PWLB forecasts are shown at the discounted "Certainty Rate" which the Council is eligible for.

5.3 An economic update is provided at Appendix 1 to this report

6. Borrowing Portfolio 2018/19

6.1 New borrowing taken during the first part of the year is summarised in the table below.

Total Loans	£10 million
Lender	Public Works Loan Board
Average rate	2.53%
Average term	29 years

6.2 Along with funding already held the current year borrowing has been applied to capital spending, predominantly on three new Investment Fund acquisitions. Overall borrowing stands at £280.2 million and is currently below the Capital Financing Requirement. The balance is being funded by internally borrowing against the Council's cash resources, in line with the approved strategy.

6.3 The intention is to maintain the under-borrowed position for the remainder of the financing requirement during the rest of the year. The latest version of the Capital Plan indicates a reduction in planned spend (funded by borrowing) from £115M to £59M as a result of a number of regeneration, housing and Investment Fund schemes being re-profiled to future years.

6.4 Timing of further new borrowing will be driven by liquidity needs of capital spending but due regard will be given to any possibility of significant increases in borrowing rate levels which could risk the affordability of capital spending plans. In the event of a shift upward in the rate environment the Chief Finance Officer will vary the focus of the strategy to lock into cheaper funding.

6.5 Assuming the forecast trend of a steady increase in rates remains it will likely prompt a review of the internal borrowing target in the 2019/20 strategy.

7. Investment Portfolio 2018/19

7.1 In line with the primary strategy, cash has been kept in short term and instant access facilities to be available to fund revenue and capital outlay. Extensive use has been made of money market funds averaging around 0.5%.

- 7.2 Following the reduction in planned capital spending in the year focus changed to locking out cash to gain an increase in return. Deals of six month duration have been transacted at a level of 0.81%-0.85%.
- 7.3 Currently, £15 million of core cash is held within longer term deposits and the CCLA Property Fund. The term deposits, averaging 1.72%, all mature later in 2018. One of these deposits has been forward renewed for one year at 1.05% and a further one year deposit with new money has also been transacted at the same rate. The one year duration should enable deals to track the forecast rise in investment rates.
- 7.4 The CCLA Property Fund is performing adequately with a Q1 return of around 4.65%. The impact of new financial reporting standards (IFRS9) and the recent MHCLG consultation on a temporary override is a key consideration on future levels held in the Fund.
- 7.5 At the end of August 2018 the overall investment performance stood at 0.89% against the market benchmark rate of 0.36%
- 7.6 Counterparties with which funds were deposited (April 2018 – August 2018):

Banks

Goldman Sachs International Bank
 Lloyds Bank
 Nat West Bank
 Santander UK
 Svenska Handelsbanken

Other Approved Institutions

Public Sector Deposit Fund
 Goldman Sachs Sterling Fund
 Aberdeen Asset Management
 Funding Circle

Local Authorities

Lancashire County Council
 Newcastle City Council
 Nottinghamshire Police and Crime
 Commissioner

- 7.7 The Chief Finance Officer confirms that the approved limits within the Annual Investment Strategy were not breached during the period of this report.

8 Minimum Revenue Provision (MRP) policy statement

- 8.1 The Minimum Revenue Provision is a statutory charge that the Council is required to make from its revenue budget. This provision enables the Council to generate cash resources for the repayment of borrowing.
- 8.2 No update to the approved 2018/19 MRP policy is required. However in light of the 2018/19 budget position the Chief Finance Officer will review the MRP policy in line with statutory guidance relating to asset lives to establish whether in year savings can be generated. Any changes will be implemented in consultation with the external auditor.

9 Revenue Budget Performance

- 9.1 The revenue budget for treasury management is still in balance. Within the year the budget for interest payments has been increased to reflect the costs of new borrowing offset by rental income from the new properties.

As at end August 2018	Revised Budget 2018/19	Projected Outturn 2018/19	Variation
	£M	£M	£M
Investment Income	(0.4)	(0.5)	(0.1)
Interest Paid on Borrowing	9.2	9.4	0.2
Net Position (Interest)	8.8	8.9	0.1
Minimum Revenue Provision	4.5	4.5	0.0
Net Position (Other)	4.5	4.5	0.0
Net Position Overall	13.3	13.4	0.1

10 Compliance with Prudential Limits for 2018/19

- 10.1 Performance of the Treasury Management function against the approved Prudential and Treasury Indicators is provided in the following table.

TREASURY MANAGEMENT PRUDENTIAL INDICATORS	2018/19 LIMIT	As at 31/08/18
	£M	£M
Authorised limit for external debt -		
borrowing	500	280
other long term liabilities	20	20
TOTAL	520	300
This is the Statutory “affordable borrowing limit” required under section 3(1) of the Local Government Act 2003. Impending breach would require the Council to take avoiding action.		
Borrowing Levels are within the Authorised Limit – no action required		
Operational boundary for external debt -		
borrowing	450	280
other long term liabilities	20	20
TOTAL	470	300
This is the most likely, but not worst case scenario for day-to-day cash management purposes. This indicator provides an early warning for a potential breach in the Authorised Limit. Occasional breach of this limit is not serious but sustained breach would indicate that prudential boundaries the Council has set may be exceeded, requiring immediate Council action.		
Borrowing Levels are within the Operational Boundary – no action required		

£M	2017/18 Actual	2018/19 Revised	2019/20 Revised	2020/21 Revised
Net Revenue Stream	£110m	£112m	£112m	£112m
Financing Costs				
Interest Paid & MRP as at 31/03/18	£11m	£14m	£14m	£14m
Interest paid & MRP on new debt	0	0	£2m	£4m
Interest Received	(£1m)	(£1m)	(£1m)	(£1m)
Sub Total	£10m	£13m	£15m	£17m
Percentage of Financing Costs to Net Revenue Stream	9%	12%	13%	15%
<i>Financing costs excludes income from Investment Property portfolio which is included within the Net Revenue Stream.</i>				
<i>Gross Rental Income (as at Sept 18)</i>	£(5.5)m	£(8.6)m	£(10.5)m	£(10.5)m
<i>Percentage of Financing Costs to Net Revenue Stream including Investment Property Gross Rental Income</i>	4%	4%	4%	6%

11 CIPFA Code of Practice for Treasury Management and MHCLG Guidance

- 11.1 The definition of an investment covers all of the financial assets of the Council, which includes non- financial assets that the Council holds primarily to generate a financial return e.g. investment properties. These non- financial assets are not managed as part of normal treasury management process or delegations.
- 11.2 In response to this and the increase in commercial activities by Local authorities, CIPFA have issued a revised Code of Practice for Treasury Management in Public Services (December 2017) which increased the scope of the Code to incorporate governance of Non-Treasury Investments (NTIs) .
- 11.2 Additions to the Council's Treasury Management Practices have yet to be completed pending receipt of the applicable guidance from CIPFA, due autumn 2018. However, ahead of this guidance Appendix 2 sets out the current activities being undertaken by Torbay Council which are expected will fall within this new category of Non Treasury Investments and for which Audit Committee will be the responsible scrutiny body.
- 11.3 The new guidance will also be reviewed to ascertain whether certain Treasury Indicators, omitted from the Treasury Management Strategy 2018/19 on the interpretation of the new Code should in fact be re-instated. (If so these will be reported for approval in the Treasury Management Strategy for 2019/20.)

Appendices

Appendix 1: Economic Commentary

Appendix 2: Non-Treasury Investments

Background Documents

[Treasury Management Strategy 2018/19](#)

Economics update (Link Asset Services – August 2018)

UK. The first half of 2018/19 has seen UK economic growth post a modest performance, but sufficiently robust for the Monetary Policy Committee, (MPC), to unanimously (9-0) vote to increase Bank Rate on 2nd August from 0.5% to 0.75%. Although growth looks as if it will only be modest at around 1.5% in 2018, the Bank of England's August Quarterly Inflation Report suggested that growth will pick up to 1.8% in 2019, albeit there were several caveats – mainly related to whether or not the UK achieves an orderly withdrawal from the European Union in March 2019.

Some MPC members have expressed concerns about a build-up of **inflationary pressures**, particularly with the pound falling in value again against both the US dollar and the Euro. The Consumer Price Index (CPI) measure of inflation is currently running at 2.5% but is expected to fall back towards the 2% inflation target over the next two years given a scenario of minimal increases in Bank Rate. The MPC has indicated Bank Rate would need to be in the region of 1.5% by March 2021 for inflation to stay on track. Financial markets are currently pricing in the next increase in Bank Rate for the second half of 2019.

As for **unemployment**, this is now at a 43 year low of 4% on the Independent Labour Organisation measure, but despite that, wage inflation is currently weak. This is a global theme for the major economies of the world. Indeed, with UK wages running in line with the CPI measure of inflation, real earnings are, in effect, neutral. Given the UK economy is very much services sector driven, any weakness in household spending power is likely to feed through into tepid economic growth. This is another reason why the MPC will need to tread cautiously before increasing Bank Rate again, especially given all the uncertainties around Brexit. Additionally, business sentiment surveys, such as the Purchasing Managers Index collated by Markit, suggest the UK is set for only modest **GDP growth** in the second half of 2018 with the monthly updated figure for annual growth being 1.5% as at the end of July. The **housing market** is going through a weak phase – with UK-wide house price growth averaging 2 to 3%, but with London and the south-east experiencing price falls.

As for the **political arena**, there is a risk that the current Conservative minority government may be unable to muster a majority in the Commons over Brexit. However, our central position is that Prime Minister May's government will endure, despite various setbacks, along the route to Brexit in March 2019. If, however, the UK faces a general election in the next 12 months, this could result in a potential loosening of monetary policy and therefore medium to longer dated gilt yields could rise on the expectation of a weak pound and concerns around inflation picking up.

USA. President Trump's massive easing of fiscal policy is fuelling a (temporary) boost in consumption which has generated an upturn in the rate of strong growth to around 1% in Q2 2018, but also an upturn in inflationary pressures. With inflation moving towards 3%, the Fed has already tightened the Fed Funds interest rate to between 1.75% and 2%, and a further two increases to 2.25% - 2.5% are expected before the end of 2018 with the prospect of another increase or two next year. The dilemma, however, is what to do when the temporary boost to consumption wanes, particularly as the recent imposition of tariffs on a number of countries' exports to the US, (China in particular), could see a switch to US production of some of those goods, but at higher prices. Such a scenario would invariably make any easing of monetary policy harder for the Fed in the second half of 2019.

EUROZONE. Growth has undershot early forecasts for a strong economic performance in 2018. In particular, data from Germany has been mixed and it could be negatively impacted by US tariffs on a significant part of manufacturing exports e.g. cars. For that reason, although growth is still expected to be in the region of 2% for 2018, the horizon is less clear than it seemed just a short while ago.

CHINA. Economic growth has been weakening over successive years, despite repeated rounds of central bank stimulus; medium term risks are increasing. Major progress still needs to be made to eliminate excess industrial capacity and the stock of unsold property, and to address the level of non-performing loans in the banking and credit systems.

JAPAN - has been struggling to stimulate consistent significant GDP growth and to get inflation up to its target of 2%, despite huge monetary and fiscal stimulus. It is also making little progress on fundamental reform of the economy.

Appendix 2

Non Treasury Management Investments

As at 3rd September 2018

Investment Properties		
<p>The criteria the Council has adopted for the recognition of an investment priorities is :- A property held primarily to generate rental income or for capital appreciation or both. A property that is used solely to facilitate delivery of services, or to facilitate delivery of services as well as rentals does not meet the definition.</p>		
Asset	Value at 31.03.2018 *	2018/19
	£'000	
Distribution Warehouse at Medway	29,630	
Ferndown	26,000	
Fugro House	19,517	
Gadeon House	15,259	
Gala Bingo Club	321	
Torquay Golf Course (Petitor)	1,358	
Travel Lodge Chippenham (classified as AUC 31.3.18)	69	
Unit 3 Riviera Park	774	
Waterside Caravan Park	2,363	
Wren Retail Park	20,171	
SubTotal	115,462	
Acquisitions in 2018/19	£'000	
Twyver House, Gloucester Purchase Price £12m	1,306	These two properties awaiting valuation
Woodwater Exeter Purchase Price £10m	11	
Total	116,779	

* Note: Valuation are made inline with the CIPFA Accounting Code as required for the Council's Statement of Accounts

Loans							
All loans over £50k have received Council or Investment Committee Approval in line with Financial Regulations							
Debtor	Value Principal	Loan Term (years)	Remaining term as at 31/03/18	Interest rate per annum	Outstanding Balance 31.03.2018	Note	Mitigation of risk
	£'000				£'000	£'000	
Care Home Provider	1,250	10	9 years and 8 months	5%	1,217		legal charges in place
Parkwood Leisure	1,700	12		4.20%	515	Final drawdown to be made	asset leased from Council
Queens Park Sports Club	8	10	5 years & 11 months	4.50%	5		none
South Devon college	4,000	25	24 years & 3 months	2.80%	3,880		None - Council decision to accept risk as public sector
Swim Torquay	30	tbc	tbc	tbc	24		none
TEDC - Cockington Car Park	575	n/a		n/a	0	Not yet taken up	Wholly owned subsidiary of the Council
TEDC - Kings Ash House	1,488	25	24 years & 3 months	4.50%	1,446		legal agreement and personal guarantee
THAT Group	9,250				0	Not yet taken up	
Torbay Coast & Countryside Trust	900	45	42 years	Variable 3% ceiling	891		linked charity
Torbay Coast & Countryside Trust- Green Heart Project	50	4	2 years	interest free	25		short repayment period
Total	19,251				8,003		

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Guarantees
None as at 31.3.18

Pension Guarantees (to Pension Fund not Employer)						
Employer	Nature of Guarantee **	Fund Start Date	Bond Renewal Date	Existing Bond Amount £'000	***2017 Assessed Risk £'000	Mitigation of risk
Action for Children	A	01.08.2012	31.12.2016	80	22	Council contract
Mama Bears	A	08.12.2012	08.01.2018	22	9	Council contract
Healthwatch Torbay	A	01.05.2013	Cash held in Escrow A/C with DCC	13	21	Escrow a/c
Churchill Services (Sherwell Vally)	A	01.10.2014	30.09.2017	24	7	Low value
Torbay Community Development Trust	A	01.03.2014	Cash held in Escrow A/C with DCC	21	18	Escrow a/c
Sanctuary Housing (Intergrated Domestic Abuse)	A	02.09.2014	01.10.2019	10	39	Bond in place until 1.10.19
Torbay Coast and Countryside Trust	C	01.12.1999	n/a	n/a	223	linked charity
Tor 2 Waste (Kier PCG)	C	19.07.2010	n/a	n/a	324	pass through
Tor 2 Street Scene (Kier PCG)	C	19.07.2010	n/a	n/a	659	pass through
Tor 2 Asset Management (Kier PCG)	C	19.07.2010	n/a	n/a	632	pass through
Torbay Econ. Development Agency	C	01.07.2011	n/a	n/a	525	wholly owned subsidiary
The Childrens Society (Services) Ltd	C	01.01.2014	n/a	n/a	8	Low value
ISS Torbay Schools	C	01.08.2014	n/a	n/a	21	Low value
LEX Leisure (transfer of Velopark staff)	n/a	1.12.17	If deficit materialises, through LEX becoming insolvent, amount will be added to Council's existing deficit			
Libraries Unlimited (transfer of Libraries staff)	n/a	01.04.18	Any liability arising through Libraries Unlimited becoming insolvent, the amount will be added to the Council's existing fund deficit. In addition, any liability at the end of the contract will also be added to the Council's fund deficit			
CSW Group (Cornwall Local Government Pension Scheme)	n/a		tbc	tbc	tbc	tbc

**A= Bond is required as part of the organisation's admission agreement

C= A bond is not in place and either the letting authority or a guarantor has responsibility for any residual deficit

***The summary shows the 2017 Assessed Risk Value as supplied by the Devon Local Government Pension Scheme

Subsidiary Companies (wholly owned by Torbay Council)

The Council has a 100% interest in the following companies. The companies trading below provide services to or on behalf of the Council.

Year ending 31st March 2018	Turnover	Expenditure	Operating (Profit) or Loss	Other Comprehensive Income and Expenditure	Actuarial Gains/(Losses) recognised in the pension scheme	Taxation	Total (Profit) or Loss	Assets	Liabilities	Total Net Assets
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Torbay Economic Development Company Group										
Wholly Owned Subsidiaries within group:-										
Complete Facilitites Management Services Ltd	(7,121)	6,997	(124)	314	(752)	74	(488)	9,756	(9,352)	404
KAH Holding Company										
Business Centres South West Ltd										
Torbay Housing Holding Co Ltd - Has not yet commenced trading	-	-	-	-	-	-	-	-	-	-
Wholly Owned Subsidiaries within group:-										
Torbay Housing Development Co Ltd										
Housing Rental Co Ltd										
Oldway Mansion Management Co Ltd	(100)	100	-	-	-	-	-	-	-	-
English Riviera Tourism Co Ltd - Dormant company	-	-	-	-	-	-	-	-	-	-

Schedule 5 - Scheme of Delegation of Executive Functions to the Executive, Committees of the Executive and Officers

This report is presented to the meeting of Council on 18 October 2018 in accordance with Standing Order C4.2(a) for inclusion in the Council’s Scheme of Delegation (Schedule 5 of Part 3) of the Constitution of Torbay Council.

1. The names, addresses and wards of the people appointed to the Executive by the elected Mayor are set out below:

Name	Address	Electoral Ward
Deputy Mayor and Executive Lead Planning and Waste- Councillor Derek Mills	5 Bascombe Close Churston Brixham TQ5 0JR (01803) 843412 or 07769369651	Churston with Galmpton
Executive Lead for Tourism, Culture and Harbours - Councillor Amil	c/o Town Hall Castle Circus Torquay TQ1 3DR 07815561301	Cockington with Chelston
Executive Lead for Children and Housing – Councillor Cindy Stocks	27 Ellacombe Road Torquay TQ1 3AT (01803) 295702 07787 766544	Ellacombe
Executive Lead for Environment – Councillor Vic Ellery	3 Alma Road Brixham TQ5 8QR (01803) 854928	Berry Head with Furzeham
Executive Lead for Community Services - Councillor Robert Excell	Excell Studio 203 Union Street Torre Torquay TQ1 4BY (01803) 212377 07811965194	Tormohun
Executive Lead for Customer Services – Councillor Richard Haddock	Churston Farm Shop Dartmouth Road Brixham TQ5 0LL (01803) 845837 07836 584944	St Marys with Summercombe

Name	Address	Electoral Ward
Executive Lead for Adults – Councillor Julien Parrott	51 Princes Road Torquay TQ1 1NW (01803) 389624	Ellacombe
Executive Lead for Adults and Health and Wellbeing – Councillor Jackie Stockman	Winsome Higher Furzeham Road Brixham TQ5 8QP (01803) 851255	Berry Head with Furzeham

2. The elected Mayor is responsible for the discharge of all executive functions (except as specified in paragraph 3. below). Executive Leads will have an advisory role in relation to the areas of responsibility set out below.

Executive Lead	Portfolio/Service Area:	Main Director/Assistant Director/Executive Head/Lead Officer
<p>Elected Mayor Gordon Oliver</p> <p>Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and Transformation</p>	<p>Transformation: Programme Management Project Management</p> <p>Economic Regeneration: TDA Commissioning</p> <p>Assets: Asset Management</p> <p>Business Services: Events</p> <p>Finance: Financial Services – Martin Phillips Creditors Debtors Payments Internal Audit Cashiers Procurement Systems Accountancy</p> <p>Governance and Corporate Services: Communications Coroner Governance Support (Democratic and Electoral Services) Registrars Human Resources & Payroll</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Chief Executive/Chief Executive TDA <input type="checkbox"/> Director of Corporate Services and Operations <input type="checkbox"/> Director of Commercial and Transformation <input type="checkbox"/> Head of Financial Services <input type="checkbox"/> Executive Head Assets and Business Services

Executive Lead	Portfolio/Service Area:	Main Director/Assistant Director/Executive Head/Lead Officer
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 114</p>	<p>Corporate Support (Freedom of Information and Performance) Legal Services Policy and Overview & Scrutiny Senior Leadership Team Strategic Support</p> <p>Business Development and Administration: JOT administrative & Technical Support JOT Contract Management: Leisure contracts Crematorium Waste Disposal Building Control Homes Improvement Agency Concessionary Fares Analysts</p>	
	<p>Deputy Mayor and Executive Lead for Planning and Waste Councillor Derek Mills</p>	<p>Planning and Transport: Planning Applications, Appeals & Enforcements</p> <p>Business Services: TOR2 (Commissioning) & Service Delivery</p> <ul style="list-style-type: none"> <input type="checkbox"/> (Twinning) <input type="checkbox"/> (Design Review Champion) <p>Delegated Decision: <i>Regeneration of the Castle Circus area of Torquay</i></p> <p>Delegated Decisions: <i>Executive functions in absence of Mayor (see paragraph 3(iv) below.</i></p>

Executive Lead	Portfolio/Service Area:	Main Director/Assistant Director/Executive Head/Lead Officer
<p>Executive Lead for Tourism, Culture and Harbours</p> <p>Councillor Nicole Amil</p>	<p>Business Services: Harbour Authority Resort Services (Beaches) Theatres Arts & Museums Culture</p> <p><input type="checkbox"/> (Armed Forces Champion) <input type="checkbox"/> (Heritage Champion)</p>	<p><input type="checkbox"/> Director of Corporate Services and Operations</p> <p><input type="checkbox"/> Executive Head of Assets and Business Services</p>
<p>Executive Lead for Community Services</p> <p>Councillor Robert Excell</p>	<p>Community Safety: Corporate Health & Safety Emergency Planning Anti-Social Behaviour and Vulnerability (excluding town centres) Safer Communities (excluding town centres) CCTV & Security</p> <p>Business Services: Parking Services Sports Development</p> <p>Transport: Local Transport & Strategic Transport Highways & Street scene</p>	<p><input type="checkbox"/> Director of Corporate Services and Operations</p> <p><input type="checkbox"/> Executive Head of Assets and Business Services</p> <p><input type="checkbox"/> Executive Head of Community Safety</p>
<p>Executive Lead for Adults</p> <p>Councillor Julien Parrott</p>	<p>Adult Services (NHS Trust Provider): Adult Mental Health Adult Safeguarding Care Homes Commissioning & Management Community Alarms</p>	<p><input type="checkbox"/> Director of Adult and Housing</p> <p><input type="checkbox"/> Assistant Director Adults Services (NHS Trust Provider)</p> <p><input type="checkbox"/> Director of Public Health</p>

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Executive Lead	Portfolio/Service Area:	Main Director/Assistant Director/Executive Head/Lead Officer
	<p>Community Equipment Domiciliary & Day Care</p> <p>Adult Social Care Commissioning: Community Engagement Healthwatch Housing Strategy & Development NHS Advisory Service Performance Management</p> <p>Public Health: Domestic Abuse</p>	
<p>Executive Lead for Customer Services Councillor Richard Haddock</p>	<p>Customer Services: Customer Services & Connections ICT Library Services Revenue & Benefits Print & post Room Website Support</p>	<p><input type="checkbox"/> Director of Corporate Services and Operations</p> <p><input type="checkbox"/> Executive Head of Customer Services</p>

Executive Lead	Portfolio/Service Area:	Main Director/Assistant Director/Executive Head/Lead Officer
<p>Executive Lead for Adults and Health and Wellbeing</p> <p>Councillor Jackie Stockman</p>	<p>Public Health: Health Improvement Strategy and Policy Intelligence</p> <p>Adult Services (NHS Trust Provider): Adult Mental Health Adult Safeguarding Care Homes Commissioning & Management Community Alarms Community Equipment Domiciliary & Day Care</p> <p>Adult Social Care Commissioning: Community Engagement Healthwatch Housing Strategy & Development NHS Advisory Service Performance Management</p> <p>Public Health: Domestic Abuse</p> <p><input type="checkbox"/> (Mental Health Champion)</p>	<p><input type="checkbox"/> Director of Adult and Housing</p> <p><input type="checkbox"/> Assistant Director Adults Services (NHS Trust Provider)</p> <p><input type="checkbox"/> Director of Public Health</p>

Executive Lead	Portfolio/Service Area:	Main Director/Assistant Director/Executive Head/Lead Officer
Executive Lead for Environment Councillor Vic Ellery	<p>Business Services: Flood Risk Management (client side) Natural Environment and Parks & Open Spaces</p> <p>Community Safety: Food & Safety Licensing & Public Protection Trading standards (DCC)</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Executive Head of Assets and Business Services <input type="checkbox"/> Executive Head of Community Safety

<p>Executive Lead for Children and Housing</p> <p>Councillor Cindy Stocks</p>	<p>Housing: Housing Strategy & Development Housing Options Housing Standards</p> <p>Community Safety: Anti-Social Behaviour and Vulnerability (town centres only) Safer Communities (town centres only)</p> <p>Children’s Safeguarding: Early Help Targeted Support Services Multi Agency Safeguarding Hub Single Assessment Children in Need/Child Protection Children Looked After/Care Leavers Children with Disabilities Fostering Adoption Independent Reviewing Youth Offending Services Integrated Youth Support Services Quality Assurance Professional Support to Torbay Safeguarding Children Board</p> <p>Education Learning and Skills: Early Years and Childcare Pupil Place Planning Special Education Needs & Disability School Admissions School Improvement and Commissioning School Transport Virtual School Children’s Centres</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Director of Adults Services and Housing <input type="checkbox"/> Executive Head of Community Safety <input type="checkbox"/> Director of Children’s Services <input type="checkbox"/> Assistant Director of Children’s Safeguarding
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Executive Lead	Portfolio/Service Area:	Main Director/Assistant Director/Executive Head/Lead Officer
	<i>Delegated Decision: contract for housing pathway for single vulnerable adults</i>	

3.
 - (i) The Deputy Mayor (Councillor Derek Mills) will be responsible for the discharge of all executive functions relating to the regeneration of the Castle Circus area of Torquay as the elected Mayor owns properties in this area and has a pecuniary interest.
 - (ii) The Executive Lead for Children and Housing (Councillor Cindy Stocks) will be responsible for the discharge of all executive functions relating to the contract for housing pathway for single vulnerable adults.
 - (iii) The Deputy Mayor will be responsible for the discharge of executive functions if the elected Mayor:
 - (a) is absent (e.g. on holiday) for a period of time or in cases of urgency where the Chief Executive is satisfied that the elected Mayor cannot be reasonably contacted;
 - (b) is incapacitated through illness; or
 - (c) has a pecuniary interest in any matter requiring determination.
 - (v) If the elected Mayor or the Deputy Mayor (Councillor Derek Mills) are unable to act on a matter requiring a decision then the Chief Executive shall have the power to determine any matter requiring a decision.
4. The elected Mayor has established two Executive Committees namely the Policy Development and Decision Group (Joint Operations Team) and the Policy Development Group (Joint Commissioning Team) which meet in public on a monthly basis in accordance with the Standing Orders – Executive, Committees, Access to Information and Budget and Policy Framework. Their membership and Terms of Reference are included in Schedule 4 – Terms of Reference of the Constitution.
5. No executive functions have been delegated to area committees, any other authority or any joint arrangements at the present time.
6. The elected Mayor has also (so far as lawful) delegated to officers the discharge of those functions that are referred to in Schedule 7 and are executive functions in the manner set out in that Schedule, in accordance with (and subject to) the Council's Standing Orders in relation to the Executive.
7. So far as the Constitution requires officers to consult with "the relevant member", the areas of responsibility of the Executive Leads are as set out paragraph 2 above.