

Meeting: Cabinet/Council

Date: 5 December/7 December 2023

Wards affected: All

Report Title: Future structure and operation of TorVista Homes

When does the decision need to be implemented? As soon as possible, to allow consultation to commence with tenants.

Cabinet Member Contact Details: Councillor Alan Tyerman, Cabinet Member for Finance and Corporate Services

Director Contact Details: Malcolm Coe, Director of Finance and Alan Denby, Director of Pride in Place

1. Purpose of Report

- 1.1 TorVista Homes (TVH) is a subsidiary of Torbay Economic Development Company (trading as "TDA") which in turn, is a wholly owned company of Torbay Council which was established in 2019.
- 1.2 The original objective of the company, as stated to Council in September 2016, was '**to develop and own homes with the overarching aim of maximising income back to the Council**'. This was then superseded by a secondary objective to help the Council deliver against its Housing Strategy. This was updated in a Council report in December 2018, which included the recommendation '**that in principle there appear to be clear benefits in merging the Housing Rental Company (RentCo) into the TDA, or a subsidiary of the TDA to enable relevant affordable housing schemes to be delivered at pace**'. However, for a number of reasons, including changing market conditions, escalating construction costs and the Covid pandemic, these objectives have not been realised.
- 1.3 As part of the original set up, TVH was able to access a 'working capital' loan from the Council, in order to establish TorVista Homes and set up all the governance and operational functions and cover its operating costs until it achieved a critical mass of properties to fund a sustainable operating model. The intention was for the company to ultimately payback the loan to the Council, in its entirety, through its rental income. However, this has not materialised, and Council in September 2023 approved a write-off from reserves of £1.5m, being the full operational costs incurred by that point.
- 1.4 In September 2023, the Council also approved a revenue commitment of £115k to fund TVH for the remainder of the 2023/24 financial year. With a stated on-going cost of

£223,700 per annum, this report recommends how the Council can achieve its strategic objectives through a more cost effective, sustainable approach, that includes moving the current TVH units into the Council's direct ownership and management.

- 1.5 In making the recommendation to dissolve TVH, gratitude should be given to those on the Board who have demonstrated commitment and made significant contributions to the work of TVH to date.

2. Reason for Proposal and its benefits

- 2.1 The ability for Torbay Council to influence the local housing market, particularly in priority areas, directly links to the Council ambition for the Bay to:

be a place where we have turned the tide on poverty and tackled inequalities; where our children and older people will have high aspirations and where there are quality jobs, good pay and affordable housing for our residents.

With further links to the corporate themes of:

- thriving people, thriving economy;
- a Council fit for the future; and,
- tackling poverty, deprivation and vulnerability

- 2.2 This report aligns with the "Future Options on the structure and operations of Torbay Economic Development Company" which was approved by Council in September 2023.

- 2.3 The assets and liabilities of TVH are underwritten by the Council. Having recently written-off £1.5m of operational costs, the Council needs to determine whether there is a more cost effective and financially sustainable model of delivering its strategic housing objectives.

3. Recommendation(s) / Proposed Decision

That Cabinet recommends to Council:

1. That TorVista Homes be dissolved with effect from 1 April 2024, (or immediately following transfer of all social housing units, if this is beyond this date), with mandatory de-registration to the Regulator of Social Housing by TorVista Homes in advance and:

The Director of Pride in Place be instructed to:

- a. Commence tenant consultation (in line with current requirements by the Regulator of Social Housing) in relation to the proposal to transfer the social housing units, income and liabilities into Torbay Council;
- b. Instruct TVH to maintain a continuous level of service to their tenants (in accordance with all requirements for Registered Providers of social housing,

to at least the same standard as they currently receive), including continuing to achieve mandatory compliance standards until transfer of the homes has been completed; and

- c. Develop detailed delivery plans setting out how the Council will accelerate;
 - i. the provision of new Affordable Housing, targeted to meet Torbay's local housing need,
 - ii. The provision of accommodation for strategic priority areas, including;
 - 1. Extra care
 - 2. Supported housing (for various client groups)
 - 3. Temporary accommodation; and
 - 4. Care experienced young people.

The Director of Finance, in consultation with the Monitoring Officer and Cabinet Member for Housing, Finance and Corporate Services, be given delegated authority to:

- a. Subject to satisfactory completion of all necessary due diligence, (and tenancy engagement), enter into the Capital funding grant agreements with Homes England and to transfer all social housing units, assets, liabilities and income from TVH into the ownership and management of Torbay Council; and
- b. Upon completion of all satisfactory due diligence, transfer any land or development assets owned by TDA or TVH into the ownership of Torbay Council, as required; and

The Head of Strategic Housing and Delivery, in consultation with Cabinet Member for Housing, Finance and Corporate Services, be given delegated authority to:

- a. Subject to completion of a satisfactory procurement, agree a suitable scope and extend the Council's existing Temporary Accommodation and property maintenance contract for a further 12 months, with additional provision to include the maintenance and compliance of any homes currently owned by TVH that transfer to the Council, should this be required; and
- b. Apply for Investment Partner status on behalf of the Council, and secure Homes England funding for any eligible future directly provided affordable housing scheme.

- 2. That Council approve an annual revenue budget of £150k for 2024/25 for the Council to fund and provide in house, the management and operation of activities previously undertaken by TVH.

Background Documents

Details of previous decisions:

- (a) Council September 2016: approved in principle, the creation of a Housing Company with the objective of income generation;
- (b) Council December 2018: approved in principle the benefits of TDA creating a Housing Company to enable relevant affordable housing schemes to be delivered at pace;
- (c) Cabinet July 2019: gave delegated authority to the Chief Finance Officer to approve financial aspects of detailed business cases submitted by the TDA to be funded from the Council approved £25 million of Prudential Borrowing, in principle, to facilitate the work of the Housing Company, in the form of a loan for a capital purpose.
- (d) Council July 2019: approved a loan of up to £1 million to TDA, if required, to allow access to the necessary working capital required to set up the Housing Company with the terms of the loan delegated to the Chief Finance Officer to agree, in consultation with the Cabinet Member for Finance;
- (e) Council October 2022: approved an extension to the 'working capital' loan facility from £1m to £1.5m;
- (f) Council September 2023: approved write off of £1.5m 'working capital' loan and reduce operating costs of TorVista Homes

1. Introduction and Context

- 1.1 TVH was set up in 2019 as a wholly owned company of Torbay Council, reporting into Torbay Economic Development Company. The initial objectives of the company, as reported in September 2016, was to ***develop and own homes with the overarching aim of maximising income back to the Council***.
- 1.2 A secondary objective superseded this and was to help the Council deliver against its Housing Strategy. This was reaffirmed in a Full Council report in December 2018 which included the recommendation ***‘that in principle there appear to be clear benefits in merging the Housing Rental Company (RentCo) into the TDA, or a subsidiary of the TDA to enable relevant affordable housing schemes to be delivered at pace’***.
- 1.3 In July 2017, Council approved an initial loan facility of up to £25m to develop and deliver specific housing schemes subject to individual business cases to be submitted and approved by the Council’s Section 151 Officer (in consultation with Cabinet member). However, whilst planning permissions have been achieved at Preston Down Road, Crossways, Torre Marine and St Kilda’s for circa 300 homes (as at November 2023), only £3.2m of loans have so far been drawn-down, to deliver 32 homes. These are as follows:
- Bishops Place Apartments, Paignton - 9 homes
 - Totnes Road, Paignton – 9 homes
 - Various individual properties to support the government’s ‘Next Steps Accommodation Programme’- 14 homes
- 1.4 The ability for TVH to increase the supply of affordable housing has been negatively impacted over recent years by the increases in construction costs and rising interest rates which, even factoring in the use of Homes England grant funding, can make the viability of some developments challenging.
- 1.5 Whilst viability has been an issue for some time, the Council needs to consider how it can continue to influence and drive priority housing developments, whilst considering the level of on-going revenue it is able to commit within its overall approved budget.
- 1.6 In September 2023, Council approved a write-off of £1.5m, being the accrued operational costs at that time. Although TVH’s on-going costs were reduced from circa £370k per annum to £223,700, the Council has subsequently explored whether these costs could be reduced further, whilst maintaining a focus on delivering required housing outcomes.
- 1.7 To this end, the Director of Finance convened appropriate officers to determine clarity as to the objectives that any proposed operating model needed to deliver, which were then tested

with the Cabinet Member for Finance, Corporate Services and Housing, and determined to be;

(a) Retaining the ability for the Council to influence the local housing market in strategic priority areas through the delivery of affordable housing products, including (but not limited to):

- (i) Extra Care Housing,
- (ii) care experienced young people
- (iii) supported living
- (iv) temporary accommodation

(b) Maintaining a quality, safe landlord service for Council owned and commissioned housing units, and

(c) A model that delivered at the minimum possible cost so as to ensure it is financially sustainable.

2. Progress made since September 2023 Council meeting

2.1 The Council has explored whether it is able to manage and maintain the existing units held by TVH, in line with the requirements of the Regulator for Social Housing, and the conditions as set out in Homes England grant agreements, without having to maintain a separate wholly-owned company model. Additionally, it has sought to establish whether it is able to deliver wider strategic housing projects such as the proposals for St Kilda and Torre Marine, alongside any further initiatives the Council may develop in the future.

2.2 In considering this, discussions have been held with:

- Existing Management within TorVista Homes;
- The Regulator of Social Housing;
- Homes England; and
- External Auditor (Grant Thornton);

2.3 The main points from stakeholder and wider engagement so far, are:

(a) Torbay Council is – by default – a Registered Provider (RP) of Social Housing in its own right. It is also the Local Housing Authority for Torbay.

(b) As Local Housing Authority, the Council has the power under section 17 of the Housing Act 1985 to purchase (and therefore own) houses (and homes more generally), and the surrounding land those homes occupy.

- (c) The Council is able to hold up to 199 houses without the need to create a separate Housing Revenue Account (HRA);
- (d) Homes England grant awarded to TVH to support delivery of the 32 homes it owns, can be transferred to Torbay Council as another RP of social housing, once the necessary approvals and consents have been secured. Discussion with senior Homes England colleagues has begun, and work will continue to enable the transfer of grant liability, in the coming weeks;
- (e) Torbay Council is not an active Homes England Investment Partner (IP). An IP is not required for the transfer-in of existing grant-funded homes. However, it will be necessary for the delivery of other priority projects in the future, such as St Kilda's, Torre Marine and Crossways. The Council will commence this process in the coming weeks. This will enable the Council to access the same grant funding, as is available to TVH;
- (f) Where there is a transfer of units from TVH to Torbay Council, it is good practice to undertake consultation with tenants, as set out in the 'Tenant Involvement and Empowerment standard';
- (g) The newly appointed 'Head of Strategic Housing and Delivery' is experienced in the direct delivery of all forms of social housing, securing and administering Homes England grant funding, and achieving relevant compliance standards for new social housing. This additional senior post provides the Council with additional capacity and expertise to consider the most appropriate long-term solution for the purchase and management of Council-owned homes.
- (h) Revenue costs would be reduced through dissolving TVH, by not having to maintain a designated Board, adopting simplified support requirements (e.g., not maintaining or auditing separate Group Accounts), and reducing recharging arrangements.

3. Management of housing stock and future housing developments

- 3.1 The Council has multiple pressures with regards to priority housing needs. These include: urgent provision of temporary accommodation and "move-on" housing; managing escalating homelessness demand and need on Devon Home Choice; demand for Extra Care Housing; and provision of supported living for adult and children's social care clients.
- 3.2 Officers consider that there may be synergies and benefits of joining up:
 - a) the identification of overall housing demand,
 - b) delivery of Council-led schemes,
 - c) supporting external partners to deliver homes to help solve the Torbay housing crisis, and

d) creation of a housing 'client' to oversee the performance of Torbay Council-owned homes.

- 3.3 In the long-term, the Council will need to bring forward detailed proposals as to the management and maintenance of all homes that it owns, to ensure a consistent, good quality, fully compliant service is being provided to its secure and non-secure tenants. Options include self-management of homes (as is common for council-owned housing) or commissioning a third party organisation (another RP or private company), to provide this function on the Council's behalf. Detailed analysis of the options will need to be objectively considered and brought to Cabinet in due course.
- 3.4 In the short-term, there is a need to ensure suitable management and maintenance arrangements are in place for homes that come into the Council's ownership. The Council must provide an emergency/out-of-hours service to tenants, reactive, cyclical and programmed maintenance, and achieve mandatory compliance standards for gas safety, electrical testing, asbestos management, fire safety and legionella (for example). This provision must be in place at the point of transfer-in of the units, to protect tenants, and the Council.
- 3.5 Members will be aware of the need to comply with required compliance standards in social housing stock. The Council provides such services to the non-secure tenants of its Temporary Accommodation, via a third-party provider, which is a cost-effective route for the management of such homes. The contractual period for this service is approaching expiration and needs to be renewed; to ensure there are sufficient safeguards in place for both Temporary Accommodation and homes that transfer in, it is prudent to extend the contractual period of this arrangement, and add the ability to extend such arrangements to stock that is transferred in, should it be necessary.
- 3.6 Looking forward, there are a number of projects that TDA and TVH were leading on, which – as a direct result of the recommendations of this paper – will need to be led by Torbay Council. This includes the development of schemes at St. Kilda's, Crossways and Torre Marine, amongst others.
- 3.7 The Council has now recruited additional senior capacity in-house, with experience in the key areas below:
- Business planning, and management of large capital programmes;
 - Direct delivery of social housing and the acquisition of both land and new homes;
 - Delivering joint ventures with the private sector, and other RPs,
 - Direct delivery of specialist housing (modular, age-restricted, homeless and adapted housing)
 - Best practice in relation to social housing delivery, and supporting other public sector/third party organisations to deliver such growth;
 - Securing grant from Homes England & DLUHC to support delivery; and,

- Experience in creating and leading teams of development and other housing/enabling staff.

3.8 This will pull together the different strands of housing and create expertise under holistic leadership within the Council. This will support delivery of the Council’s ambitious Housing Strategy, and the various delivery projects that the Council intends to deliver itself and through others in the coming months. The Head of Strategic Housing and Delivery is also well-placed to support the transition of TVH and associated activity into the Council. There are also obvious synergies with wider ambitions such as provision of specialist housing for Adults and Children’s Services.

4. Financial efficiencies and resilience

- 4.1 The Council will be able to achieve efficiencies by bringing together the homes already owned with those that will be transferred into the Council from TVH; as well as the delivery of new housing projects to meet strategically important housing needs. Furthermore, it will ensure that a consistent, cost-effective approach is taken in regards to mandatory compliance and rent collection and delivery of Key (quality) Performance Indicators.
- 4.2 In the September 2023 Committee report the operational costs of running TVH had been reduced from £370k per annum to the stated minimum of £223,700, by removing the development activity of TVH, as detailed below:

Budget / Spend Area	(Income) / Cost £000	Comment
Income from Rent	(195.9)	Income received from 32x units
Housing Company Directors	18.1	Legislative requirement
Housing staff employed	93.0	2x FTE employees
Torbay Economic Development Company recharges	79.7	Influenced by TDA decision
Property Related Payments	81.0	Mainly service charge and maintenance
Administrative costs	31.0	Including audit, bank and ICT costs
Loans repayment and interest	116.8	Based on £3.2m loan drawdown
Revised on-going costs	223.7	

- 4.3 Whilst it is recognised that the core costs of maintaining housing stock and furnishing loans will continue, there will be some immediate savings from integrating within the Council

compared with maintaining the existing wholly owned company model. Initial indications are that the following savings can be realised from 2024/25:

	<u>£000s</u>
• Removal of the existing paid Board structure:	18.1
• 50% reduction in TDA recharges to TorVista:	39.9
• 50% reduction in administrative costs:	<u>15.5</u>
	<u>73.5</u>

4.4 Thereby, the Council would need to commit a revenue budget of circa £150k for 2024/25, compared with the stated cost of £223,700 under the existing TVH model. Further operational and management efficiencies, capitalisation and synergies will be explored, as the integrated service develops within the Council.

4.5 In addition to reduced operating costs, an integrated model will give the Council greater transparency and control over accrued and emerging costs, through the early stages of project feasibility and development. The current model requires the TVH development committee and main Board to sign off Business Cases, with delegated authority to the Council's Section 151 Officer to approve the corresponding funding model and loan drawdown. However, in a climate of escalating construction costs, the Council requires greater visibility and challenge of projects in a structured way, to ensure that financial liabilities and risks are adequately considered and addressed throughout development.

Landlord service functions

4.6 Social housing owned by the Council must be offered as secure tenancies and is subject to Housing Act legislation, the Regulator of Social Housing & the Housing Ombudsman (and the Capital Funding Guide, where funded by Homes England grant). The Council also owns properties for use as temporary accommodation. These properties are let on license and are exempt from Housing Act legislation on social tenancies. The management functions for Temporary Accommodation are subject to Homelessness Act legislation which is focused on assessing housing needs and supporting homeless households to find settled accommodation.

4.7 Due to different legislation and statutory duties for these two types of housing stock, it remains effective to retain specialist areas, but with the newly created capacity, there are opportunities to expand partnership-working to achieve better outcomes.

4.8 Integrating TVH units with Temporary Accommodation stock, will assist the Council to consider the most effective and efficient model for holding and managing units moving forwards. As an RP, the Council is able to maintain up to 199 housing units, without the need for maintaining a separate HRA. However, as early stakeholder engagement has highlighted, there may be some benefits associated with the re-opening of an HRA, which

could be explored in the future to maximise opportunities to address the outstanding strategic housing need in Torbay. A report will be brought back to Cabinet and Council in the future, that objectively considers such matters in greater detail. To be clear however, there is currently no need (nor pressure from DLUHC) to consider this at this point as Torbay Council is (and will be) below the 199-home threshold for the medium-term.

4.9 Whilst influencing and effecting local housing development is a key priority for the Council, further work needs to be completed to explore whether the Council is best placed to provide the 'day to day' landlord functions of stock-ownership which include:

- Maintenance and repairs of properties;
- Out of hours service;
- Income and debt collection, and tenancy management;
- Tenancy support;
- Leaseholder management;
- Mandatory property compliance

4.10 Long-term options for landlord functions (both in-house and externalised) will be considered and appraised in detail and reported to Cabinet and Council at a future date, with a recommendation as to how to proceed in the most cost effective, compliant and suitable model for the Authority.

5. Financial Implications

5.1 In September 2023, the Council approved the write off, (through reserves), of £1.5m accrued TVH spend against the previously approved 'working capital' loan arrangement. A further 'in year' revenue allocation of £115k was approved to fund TVH up to 31 March 2024.

5.2 Recommendations within this report will require the Council to commit a revenue budget of £150k for the 2024/25 financial year, with future operations to be reviewed subsequent to integrating the service under the newly created capacity.

6. Legal Implications

6.1 Legal advice has been sought in developing the recommendations and options within this report. Further advice (legal, and from other suitable industry experts) will be sought, with regards to issues such as:

- Establishing the practicalities and obligations of transferring TVH assets into Council ownership;
- Advice on transferring existing tenancies and drafting a Torbay Council tenancy; and

- Ensuring that a suitable 'all risks' system of mandatory compliance is put in place for new and transferring-in homes.
- Entering into Homes England Capital Grant agreements

7. Engagement and Consultation

- 7.1 Engagement has taken place with the Managing Director of the Torbay Economic Development Company / TVH, along with Senior Council Officers with responsibility of establishing housing needs for adult services, children's services and homelessness.
- 7.2 Consultation / engagement has also taken place with Homes England (regarding grant funding), the Regulator for Housing (with regards to process) and Grant Thornton (with regards to legality and accounting treatment).
- 7.3 Costing information has been shared and verified through this consultation.
- 7.4 Cabinet Members and Directors have been fully engaged throughout the development of the options and recommendations within the report.

8. Tackling Climate Change

- 8.1 Energy efficiency is considered within the business cases for all Council led housing developments with strategic direction outlined within the Local Planning Framework.
- 8.2 Scheme with the benefit of planning permission have been designed in a way to meet NDSS and also to have non fossil fuel heating.

9. Other options considered

- 9.1 Consideration was given to continuing to operate TVH as a subsidiary of Torbay Council and to transfer its housing stock within TVH, but it is not believed that this provides any advantage as compared to the proposed option and would result in a higher financial cost to the Council.

10. Associated Risks

- 10.1 The Council will need to bear in mind that holding stock of more than 199 units requires the opening and operation of a new Housing Revenue Account. Many Authorities have been down this route in recent years, and there are advantages in terms of protecting the General Fund, and ring-fencing debt/securing advantageous financial arrangements. However, it is not an immediate risk/concern as Torbay Council will be well-within this threshold for the foreseeable future.

- 10.2 The Right to Buy is often highlighted as a risk for Local Authorities. The reality, however, is that there is protection from Right to Buy in current legislation through what's known as the 'cost floor' which prevents the sale of any home within the first 15 years for less than the cost of provision (whilst generating income throughout this time). There are also strict eligibility requirements, and new council tenants are unlikely to have eligibility for some time. Furthermore, some homes are exempt, including sheltered and some designated older person's housing. Leaseholds properties – by their nature – are also inherently less attractive for someone to purchase, too. The risk is therefore considered small.
- 10.3 With the dissolving of TVH, there will be an immediate loss of expertise which is provided through the existing Board arrangement, which is mitigated by the establishment of new Governance arrangements that satisfy the Regulators requirements and in part by the appointment of the Council's Head of Strategic Housing and Delivery and bringing in house a range of skills and expertise from other staff.

11. Equality Impacts - Identify the potential positive and negative impacts on specific groups

	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people	the Council will continue to focus on, and influence, specific housing developments such as extra care and care leaver accommodation.		
People with caring Responsibilities			X
People with a disability	the Council will articulate how best to influence housing under the new Head of Strategic Housing and Delivery.		
Women or men			X
People who are black or from a minority ethnic background (BME) (Please note Gypsies / Roma are within this community)			X
Religion or belief (including lack of belief)			X
People who are lesbian, gay or bisexual			X

People who are transgendered			X
People who are in a marriage or civil partnership			X
Women who are pregnant / on maternity leave			X
Socio-economic impacts (Including impact on child poverty issues and deprivation)	Consideration will be given as to how the Council can influence the local housing market to increase the delivery of affordable housing (including increasing the volume of social rent housing)		
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	Consideration will be given as to how the Council can influence the local housing market to increase the delivery of affordable housing (including increasing the volume of social rent housing)		