Meeting: Council **Date:** 22 June 2017

Wards Affected: Roundham with Hyde

Report Title: Harbour Light Building, Paignton Harbour

Is the decision a key decision? Yes – Reference I031759

When does the decision need to be implemented? Immediately

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1. Proposal and Introduction

1.1 It is proposed that the Council should fund the redevelopment of an asset at Paignton harbour through the use of the harbour reserve fund and prudential borrowing. The Harbour Light building is an underperforming asset but it has the potential to transform the north side of Paignton harbour. The building, which is mainly occupied by the Harbour Light Restaurant, is a listed building, which is currently used as a restaurant, shops and quayside stores. It has been fully let for many years and produces a modest rental income.

1.2 The Harbour Committee has been considering the redevelopment potential of this asset for some time. On the 20th March 2017 the Committee considered an updated business case, provided by the Torbay Development Agency (TDA), following the production of revised architectural drawings, a structural survey and subsequent costings from a chartered quantity surveyor. The TDA were also asked to consider the market position in terms of future use.

1.3 Having considered the most recent exempt report (attached as Appendix 1), which included a revised business case and associated supporting information, the Harbour Committee made the following resolution :-

"That the Council be recommended that consideration is given to the redevelopment of the Harbour Light Restaurant in accordance with the Port Masterplan, subject to vacant possession, as set out in the submitted exempt report."

2. Reason for Proposal

2.1 This proposal is being recommended by the Harbour Committee. The Committee's terms of reference include a requirement to provide strategic direction to the Executive Head of Business Services and the Mayor in relation to those assets

within Tor Bay Harbour and the harbour estate that are managed by Tor Bay Harbour Authority.

2.2 This opportunity would be in line with the strategy identified in the Council's Port Masterplan by increasing the use and vitality of Paignton harbour, drawing people to the harbour from the beach and the town centre. This will help to make Paignton harbour more sustainable and it also aligns with the emerging Neighbourhood Plan.

2.3 In realizing this development potential the Harbour Authority/Council will be maximising the use of one of its buildings, resulting in either a capital receipt or increased revenue, depending on how any deal is structured.

2.4 It is also anticipated that a project of this scale will stimulate further investment and regeneration around the area of Paignton harbour.

3. Recommendation(s) / Proposed Decision

3.1 That, the Executive Head of Business Services be asked to obtain vacant possession of the Harbour Light building at Paignton harbour.

3.2 That Council approve funding of up to £600,000 to redevelop the Harbour Light building and that a contribution of £100,000 should be made from the harbour reserve fund with the balance of the funding obtained through prudential borrowing.

3.3 That, the Executive Head of Business Services, supported by the Torbay Development Agency, be asked to secure tenants for the redeveloped building, on favourable terms, which represent best value.

Appendices

Appendix 1 Exempt Harbour Committee Report & Revised Business Case – March 2017

Background Documents

See Harbour Committee exempt report presented to 27 June 2016 meeting - http://www.torbay.gov.uk/DemocraticServices/ieListDocuments.aspx?CId=188&MId=7089&Ver=4

Section 1: Background Information	
1.	**What is the proposal / issue?** It is proposed that the Council should fund the redevelopment of an asset at Paignton harbour through the use of the harbour reserve fund and prudential borrowing over 25 years. The first floor would be refurbished and let as a family friendly pub or licensed restaurant and the ground floor would be refurbished and let as a cafe, without any alcohol being sold, and some retail units. A first floor balcony would be constructed on the eastern end of the building, which would offer a 270 degree view, including Paignton beach, Torquay, Thatcher Rock and out towards the cliffs at Roundham. Activity on this level would be visible from Paignton beach and Paignton Green and this would assist in attracting people to the harbour area. The redevelopment costs have been estimated at £557,000. A contribution of £100,000 could be made from the Harbour Reserve fund with the balance of £457,000 being met through prudential borrowing. The Council's Port Masterplan has identified the potential for redevelopment of the existing Harbour Light restaurant as being *"achievable, viable and making a positive contribution to tourism, recreational sailing and businesses in Paignton."* References in this report to develop and redevelop do not mean the demolition of the build (it is listed and of historic value); they mean to reconfigure the existing building. It property terms "develop" and "redevelop" mean to invest in the building and to create a new use or uses and this is precisely what is meant in this report.
2.	**What is the current situation?** The Harbour Light Restaurant building is a Grade II listed building. It was listed in March 1951, and English Heritage's details of the building suggest that it probably dates from the 17th century and was most likely built as fish cellars and net stores associated with the seine fishing industry. The Harbour Light building is an underperforming asset but it has the potential to transform the north side of Paignton harbour. The building, which is mainly occupied by the Harbour Light Restaurant, is a listed building, which is currently used as a restaurant, shops and quayside stores. It has been fully let for many years and produces a modest rental income. The building is in need of some significant maintenance, including external repairs & painting, as well as further fire proofing measures and the installation of a fire detection and alarm system. This level of investment in the asset is expected to cost between £50k and £100k The Harbour Committee has been considering the redevelopment potential of this asset for some time. On the 20th March 2017 the Committee considered an updated business case, provided by the Torbay Development Agency (TDA), following the production of revised architectural drawings, a structural survey and subsequent costings from a chartered quantity surveyor. The TDA were also asked to consider the market position in terms of future use. This opportunity would be in line with the strategy identified in the Port Masterplan by increasing the use and vitality of Paignton harbour, drawing people to the harbour from the beach and the town centre. This will help to make

	Paignton harbour more sustainable and it also aligns with the emerging Neighbourhood Plan.
3.	**What options have been considered?** Other options for the Harbour Light building that were considered include the following :- • Freehold disposal – this would be incompatible with the management of the harbour estate as the Council would lose control of the area. • Redevelop the building and dispose on a long lease to a single use restaurant occupier – the flood risk in this area is unlikely to permit alcohol sales on the ground floor. • Do nothing – the building needs maintenance in any event, including external repairs & painting, as well as further fire proofing measures and the installation of a fire detection and alarm system. This level of investment in the asset would fall between £50k and £100k and could result in a renegotiation of the existing leases with a possible uplift in rental income. However, this option will not improve the tourism offer in the area and/or increase footfall.
4.	**How does this proposal support the ambitions, principles and delivery of the Corporate Plan 2015-19?** This proposal will clearly support the Council's Corporate Plan ambition for a 'Prosperous' Torbay as it represents further investment on the waterfront. This proposal will support the following principle within the Council's Corporate Plan: • Use reducing resources to best effect This proposal will also support two of the Council's Corporate Plan Targeted Actions: • Working towards a more prosperous Torbay • Ensuring Torbay remains an attractive and safe place to live and visit
5.	**Who will be affected by this proposal and who do you need to consult with?** The proposals to refurbish the Harbour Light Restaurant building have been consulted on and discussed as part of the public consultation for the Tor Bay Harbour Port Masterplan, including public events in October 2012 and February 2013. Following the Harbour Committee meeting in December 2013 the Executive Head of Tor Bay Harbour Authority wrote to each of the tenants informing them of the Council's intentions. In 2014 the TDA met with various tenants on site. This development opportunity has also been discussed at several meetings of the Torquay & Paignton

	Harbour Liaison Forum. A consultation meeting was held with tenants and other stakeholders at Paignton Sailing Club on Monday 15th December 2014. Further reports on this development opportunity were presented to the Harbour Committee in June 2016 and March 2017. All of the existing tenants were advised of the outcome of the March Harbour Committee meeting by way of a letter in April 2017. Redevelopment of the building will require planning consent and this process will involve further public consultation.
6.	**How will you propose to consult?** See section 5 above.

Section 2: Implications and Impact Assessment	
7.	**What are the financial and legal implications?** At present the building is fully let and produces a total gross income to the Harbour Authority of £19,270 pa. Assuming that the works set out in the revised Business Case (see Appendix 1) are carried out to the building, the new rental value that can be expected would be in the order of £41,000 pa. The redevelopment costs have been estimated at £557,000. A contribution of £100,000 could be made from the Harbour Reserve fund with the balance of £457,000 being met through prudential borrowing. On the assumption that every £1m of prudential borrowing equates to an annual payment of £75,000 for 25 years, £457,000 of borrowing equates to an annual finance cost of £34,275. The rent of £41,000 will cover the finance costs and leave a balance of £6,725, which will result in a net loss of rent of circa £12,500. Rental income will be lost during the redevelopment period. All of the existing tenants will need to vacate the premises and they will be entitled to statutory compensation under the Landlord & Tenant Act 1954. On completion the new development should increase the rateable value of the building and this will help the Council's overall income in future years. The Council, as the landlord, will need to follow the appropriate legal process under the Landlord & Tenant Act 1954 to gain vacant possession of the building.
8.	**What are the risks?** **<u>If the recommendation is not approved:</u>** • That the existing tenant(s) seek legal advice and decide to renew their protected leases. The Council would only be able to refuse an application for a new lease if it can demonstrate serious intent to redevelop the premises and that it could not reasonably do so without recovering possession. • The status quo would continue. The Council would continue to be responsible for the external repairs to the building and the existing uses would continue namely a restaurant, shop and six stores. The income

	level would be broadly similar to the existing levels, although it might be possible to secure an increased rent when new leases are granted. • The Council could be criticised for not following through on the aspirations set out in the Port Masterplan; the public might suggest that the consultation was in vain. • The Council is accused of not managing its assets efficiently. • The existing tenants of the shop and restaurant might decide to surrender their lease instead of renewing it. The Council would then need to find a new tenant who would most likely negotiate a rent-free period or require that the landlord carry out some works to modernise the premises. There might be a rental void (no income) during this period. • The Council will need to undertake significant maintenance work on the asset, including external repairs & painting, as well as further fire proofing measures and the installation of a fire detection and alarm system. This work is expected to cost between £50k and £100k **<u>If the recommendation is approved:</u>** • The tenants apply for a new lease under the Landlord and Tenant Act 1954 and the courts grant them a new lease due to the courts deciding that there is insufficient intent on the part of the landlord to carry out the works. This can be overcome by obtaining planning consent. • If vacant possession were not obtained through the Landlord and Tenant Acts then a financial arrangement would have to be agreed with the tenants. This risk should, with proper management, be totally mitigated.
9.	**Public Services Value (Social Value) Act 2012** Not applicable.
10.	**What evidence / data / research have you gathered in relation to this proposal?** The TDA have had a number of meetings and discussions with a local property agents, including inspecting part of the premises and the wider area. The advice they have received has been consistent with regards to the likely level of interest, rents and investment yields. Feedback has indicated that the licenced property market has seen increased demand in recent years. The local agent confirmed with the TDA that national pub / restaurant operators are highly unlikely to be interested in taking just the first floor premises; they would need the ground floor as well and need to sell alcohol from the ground floor. Unfortunately, this is not possible due to the inability to secure the sale of alcohol in a flood risk zone. However, the agents have advised that there are some established and successful regional restaurateurs that might be interested in a first floor only option. The agents' advice is that the first floor is likely to appeal as a destination restaurant for lunch and dinner and as such, a coffee shop on the ground floor should work as it would not conflict with the first floor business. Retail uses already exist at ground floor level and the TDA believe that refurbished units will

	add to the vitality of the area and increase the variety of the offer. Furthermore, these uses will not conflict with the proposed first floor pub / restaurant.
11.	**What are key findings from the consultation you have carried out?** Consultation undertaken as part of the Port Masterplan process and emerging Neighbourhood Plan has demonstrated support for this kind of redevelopment in the Paignton harbour area. Understandably, a number of the existing tenants are concerned that they may not be able to find alternative premises.
12.	**Amendments to Proposal / Mitigating Actions** There are limited options for all of the tenants that will need to move out of the building so that the Council can gain vacant possession. All of the tenants should be entitled to statutory compensation under the Landlord & Tenant Act 1954. Furthermore, the tenants will be entitled to submit bids for occupation of the refurbished building in new units. However, storage units will not be replaced. The stores are currently occupied by local passenger boat operators and a fisherman. Similar stores do not exist at Brixham or Torquay harbour for passenger boat operators and the businesses can function without any difficulties. Storage units for fishermen are always limited in any event and many local fishermen manage without stores on the harbourside. Some new stores might be created if and when the south side of Paignton harbour is redeveloped.

Equality Impacts

13	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) *(Please note Gypsies / Roma are within this community)*			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
14	**Cumulative Impacts – Council wide** (proposed changes elsewhere which might worsen the impacts identified above)	N/A		
15	**Cumulative Impacts – Other public services** (proposed changes elsewhere which might worsen the impacts identified above)	N/A		