

2. Recommendations(s) for decision

Harbour Committee:

- 2.1 That the Harbour Committee note the recommendations to the Mayor/Council set out below:

Recommendation to Council:

That the Mayor be recommended:

- 2.2 That the Chief Executive of Torbay Development Agency, in consultation with the Mayor and Executive Lead for Employment and Regeneration, the Commissioner for Place and the Environment, the Executive Head of Tor Bay Harbour Authority and the Chair of the Harbour Committee, be instructed to negotiate and agree terms for the sale of a long lease or leases of the Marina Car Park, The Pavilion and Cary Green to the Nicholas James Group (or a subsidiary company) ('the Developer'). Such terms to include an obligation on the Developer to obtain planning consent and carry out and complete the redevelopment of the Marina Car Park, the restoration of The Pavilion and the redevelopment of Cary Green.**
- 2.3 That before any agreement is entered into, the Torbay Development Agency shall obtain a satisfactory independent valuation from a firm of Chartered Surveyors with the requisite experience in valuing such developments, demonstrating that the proposed terms represent best value that Torbay Council can reasonably obtain.**
- 2.4 That the Executive Head of Commercial Services, in consultation with the Chief Executive of Torbay Development Agency and the Executive Head of Tor Bay Harbour Authority, be authorised to enter into such documentation as may be necessary with the Council's present tenant, Marina Developments Limited ('MDL'), to allow the development to proceed, including but not limited to the acceptance of the surrender of part or all of MDL's existing leases and the grant of a new lease or leases to MDL or such other party on acceptable terms.**
- 2.5 That the new leases referred to in 2.2 and 2.4 contain provisions to ensure that Torbay Council as Harbour Authority continues to receive the existing levels of income from the development and the marina.**

3. Key points and reasons for recommendations

- 3.1 The proposal contained in this report represents an evolution of several proposals to regenerate Torquay's waterside. The initial proposals were aimed at restoring the promenade, Princess Gardens and The Pavilion (and possibly Princess Pier) with private sector funding. Following several public consultation events, guidance from the Mayor of Torbay and changes to the design by the developer, the current scheme is now focused on the Marina Car Park, The Pavilion and Cary Green. The scheme does not include Princess Gardens, the promenade or Princess Pier

- 3.2 Torquay's harbour and marina, along with the Princess Promenade, form part of Torquay's unique selling point and therefore any change needs to be sensitive and of very high quality.
- 3.3 The Marina Car Park is situated on the harbour estate and given its current use, in this location, it represents an under-utilised asset. The car park serves an important function in providing car parking spaces for the marina users, but it does not add to the appearance or vitality of the inner harbour. The current proposal is to create a 4 star resort hotel and spa with new waterfront restaurants and cafes built around a new car park structure which will retain the same number of parking spaces for the marina users plus create additional spaces for the hotel guests. The development will significantly improve the areas of public realm around the inner harbour. The increased vitality of the area will lead to an increased use of Princess Gardens and encourage more interaction between the marina users and visitors, and the town.
- 3.4 The Pavilion was constructed in 1911 and is in urgent need of extensive repairs. The current estimate for the cost of restoration and refurbishment is in excess of £2m. The building is let to Marina Developments Limited for 125 years from 1985. The proposal would oblige the Nicholas James Group to restore The Pavilion. The Pavilion would form part of the hotel and as such put to a viable use, thus safeguarding its future.
- 3.5 The redevelopment of Cary Green and Palk Street will create shops and restaurants on the ground floor (with residential above) which will increase the connectivity of The Pavilion, Princess Gardens and the marina to Fleet Street. The increased pedestrian footfall will add to the vitality of the area and to assist with the funding of the regeneration project.
- 3.6 Collectively the above development will create in excess of 200 direct jobs which will add approximately £4m per annum to the local economy. In addition analysis suggests that there will be further economic benefits estimated at around £5m per annum from visitors and additional indirect employment created elsewhere in the local economy.
- 3.7 The Harbour Authority will continue to receive the same percentage of the marina and car park revenue which may result in increased revenues due to the greater use of the car park and increased demand for the marina berths as a consequence of the improved marina facilities. Torbay Council will receive increased revenue by way of additional business rates.
- 3.8 Furthermore, Torbay Council will receive a New Homes Bonus for any new residential elements of the proposal. Central government will pay the Council the equivalent of a Council Tax bill for a band D property for each new home that is built in its constituency. Assuming 75 new residential units (as opposed to holiday apartments which attract uniform business rates) and a council tax band D bill of £1,489 pa, this will result in an income of over £110,000 pa from Central Government, on top of the council tax that the Council will receive from the owners / occupiers of the new units. The New Homes Bonus will be received annually, subject to Central Government continuing to fund the scheme. Please note that the number of residential units has been assumed from assessing the scale of the proposals. The final number will be different.

- 3.9 The regeneration and development proposed for the Marina Car Park, The Pavilion and Cary Green is consistent with the strategy of capitalising on Torbay's maritime heritage and will compliment the development of the Bay as a national events destination.
- 3.10 The agreement with the Nicholas James Group will be subject to further reports to the Development Control Committee and the receipt of detailed planning consent.
- 3.11 The TDA is aware of Nicholas James Group's extensive experience in developing and operating quality hotels in the south west of England.

For more detailed information on this proposal please refer to the supporting information attached.

Steve Parrock, Chief Executive of Torbay Development Agency

Supporting information to Report

A1. Introduction and history

- A1.1 The current scheme has evolved following a number of public consultation events and guidance from the Council.
- A1.2 Marina Developments Limited (MDL) has long leases on The Pavilion (125 years from 1985) and the Marina Car Park and Marina (125 years from 1987). The Nicholas James Group has an agreement with MDL to develop their leased assets, subject to reaching an acceptable agreement with Torbay Council.
- A1.3 The Nicholas James Group approached the TDA with their aspirations for a new hotel and car parking and highlighted how their development could be part of the comprehensive Mayor's Vision for this area.
- A1.4 Previous schemes by the Nicholas James Group were more comprehensive and sought to address many of the Council's repairing liabilities in the area. As such the current proposal is linked, historically, to previous Council reports covering the wider area of Princess Promenade and repairs to Princess Gardens. Please see Torbay Council Reports 41/2011 and 194/2010 further details regarding the history of Princess Gardens and Princess Promenade.
- A1.5 The TDA highlighted the scale of the repairing liability at Princess Gardens and the surrounding area at a meeting of the Tormohun Community Partnership on 22nd February 2010. The Nicholas James Group also presented their proposals at this meeting, and again on 26th May 2010 following further design. At that juncture English Heritage and the Torbay Civic Society both, in principle, supported the existing developer's proposals.
- A1.6 In 2011 the TDA suggested the Nicholas James Group consider an alternative option, being a smaller scheme which did not include development on the promenade. The result is the current proposal. However it should be appreciated that this scheme will not fund the Council's repairing liabilities in the immediate area.
- A1.7 In October 2011 Torbay Council approved the funding of the repairs to Princess Promenade and the "banjo." As such there is no need for the current development proposal to address these repairing liabilities. Consequently, and by design evolution of the scheme, the proposals now focus on the Marina Car Park, The Pavilion and Cary Green. They do not incorporate Princess Gardens or the Princess Promenade.
- A1.8 In October and November 2011 the TDA sought expressions of interest along with outline proposals for the leasing of part or parts of Torbay Council's prime waterside assets in the vicinity of The Pavilion. Advertisements were placed in the Western Morning News and the Estates Gazette. A number of parties initially expressed an interest but only one party (other than the Nicholas James Group) has supplied any proposals for the site. The party in question is only interested in a small piece of land and is not proposing the wider regeneration of the area. The TDA has advised the party that such a small proposal will not be considered as it may prejudice the desired outcome of a more comprehensive regeneration proposal. However if, following detailed design from the Nicholas

James Group, it is possible to include this smaller proposal, then it will be considered.

A1.9 After completing the exercise in A1.8 above, the TDA advises that Torbay Council now enters into negotiations with the Nicholas James Group in order to secure the proposed regeneration.

A1.10 The harbour estate includes marina and the Marina Car Park. The Harbour Authority receives a percentage of the income from the marina and Marina Car Park site, being a percentage of MDL's turnover.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

A2.1.1 There are several technical risks associated with the delivery of the proposed regeneration of the Marina Car Park, Pavilion and Cary Green, including risks relating to Planning Consent. As mentioned in 3.10 above the proposal will be subject to detailed planning consent.

A2.1.2 The risks associated with this report relate primarily to the granting of the new leases, which shall be subject to Planning Consent. The primary risk is that satisfactory terms might not be agreed with the Nicholas James Group and MDL, in which case the deal will not progress. The agreed terms will be verified and subject to an independent valuation. See 2.2 above.

A2.2 Remaining risks

A2.2.1 If the recommendations are implemented the Council should be aware that delivering the redevelopment could take a number of years. Obtaining planning consent is likely to attract a lot of interest, and any development in this area will require careful planning and sensitive design. The construction process may span more than one summer season. During this process access will be affected but by careful project management, sufficient access can be maintained.

(Note: A full risk assessment of the proposals is available from the report author.)

A3. Other Options

A3.1 Do nothing. The Marina Car Park will remain as it is. The repairing liability for The Pavilion will need to be addressed which may result in a repair bill in excess of £2m.

A3.2 Consider a smaller scale redevelopment project. However, as noted in A2.1.7 above a smaller scheme may not be viable and may not deliver the desired physical and economic regeneration or the restoration of The Pavilion

A3.3 Following on from A3.2 above the Council could consider a smaller scheme and make a capital contribution towards the repairs of The Pavilion.

A3.4 The land in question has been included within the LABV documentation as a contingency site. The Council could transfer the site to the LABV and the LABV's

private sector partner could help to finance the development and, from the profits, fund the repairs to The Pavilion. However, the LABV would need to acquire the leases from MDL, at market cost, which may render this option unviable.

A4. Summary of resource implications

- A4.1 TDA resources will need to be allocated for the work on this project. One Senior Development Surveyor will need to be assigned and a considerable proportion of his/her working capacity will be required to proactively progress the solution. Significant input from the Council's planning, highways and engineering departments, and the Harbour Authority, Residents and Visitor Services and Legal Services, will also be required.
- A4.2 The Council's harbour revenue will be disrupted during the construction phase, and the Harbour Committee may need to identify short term resources to compensate for any loss.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

- A5.1 The recommendations will not have any detrimental effect on equalities, environmental sustainability or crime and disorder. Moreover the TDA expects that the development will increase the level of activity in the area both during the daytime and in the evening. This, coupled with the improved lighting and access ramps generally, will make the area more accessible in the evening to people of all ages. Such activity is likely to reduce anti social behaviour and encourage sustained community use.

A6. Consultation and Customer Focus

- A6.1 The TDA highlighted the scale of the repairing liability for The Pavilion, Princess Promenade and Gardens and the associated infrastructure at a meeting of the Tormohun Community Partnership on 22nd February 2010. MDL's developer, the Nicholas James Group, also presented their proposals at this meeting, and again on 26th May 2010 following further design. At the time the proposals were aimed at privately funding the vast majority of the Council's £10.5m repairing liability, and as such the proposals were on a larger scale. English Heritage and the Torbay Civic Society both, in principle, commended the developer's proposals at this meeting.

The developer held a 3 day public consultation event in May 2010 and feedback on the proposals was invited. Some 72% of the respondents provided positive feedback and welcomed some private sector development to fund the works. However, following on from this there was a petition signed against the development proposed at the time.

- A6.2 In February 2011 the TDA updated Torquay Town Centre Community Partnership on the status of the proposals surrounding The Pavilion and Princess Promenade.

- A6.3 In October 2011 the TDA and the Nicholas James Group presented to the Tormohun Community Partnership. The proposals were now of focused on the Marina Car Park and The Pavilion: no development was suggested on Princess Promenade. A second proposal, for development of “the banjo” only was also presented at this meeting.
- A6.4 A questionnaire was provided at the October 2011 meeting, seeking feedback on the presentations. The results of the feedback are still being assessed by the Council’s consultation team but they will be made available in time for the Council meeting on 1st February 2012.
- A6.5 Throughout the consultation process the TDA has also run a number of press releases and the proposals have been covered by the Herald Express and Palm FM on several occasions.
- A6.6 Throughout the process there has been underlying support for some development in the area. The initial, larger scale proposals did raise concern about the building height and massing. These concerns have been adopted into later versions of the design. The current proposals represent the evolution of the design, taking on board previous concerns.
- A6.7 The TDA will continue to engage with and consult with the public regarding the latest design proposals.
- A6.8 The TDA has presented to the Harbour Committee in January 2011 and, in November 2011, the Torquay Harbour Users’ Groups and the Harbour Liaison Forum. The TDA will also be presenting the latest proposals to the Harbour Committee on 30th January 2012.
- A6.9 The agreement with the Nicholas James Group will be subject to further reports to the Development Control Committee and the receipt of detailed planning consent. Further public consultation will be carried out as part of the planning application.

A7. Are there any implications for other Business Units?

- A7.1 The Tor Bay Harbour Authority will be affected by the recommendations. It receives an income from one of the MDL leases. MDL pay a rent as a percentage of the turnover for the marina, Marina Car Park and rents it receives from other properties on the harbour estate. The Council’s Executive Head of Tor Bay Harbour Authority has advised that the Harbour Committee will wish to see their annual income protected. Any variations to MDL’s leases will therefore need to reflect this. The Executive Head of Tor Bay Harbour Authority is aware that the income to the Harbour Authority may be disrupted during the construction phase.

Appendices

Documents available in members’ rooms

None.

Background Papers:

The following documents/files were used to compile this report:

- Torbay Council Cabinet Report no. 194/2010
Torbay Council Cabinet Report no. 41/2011