

Record of Decision

Torbay Council's Housing Rental Company

Decision Taker

Cabinet at its meeting on 9 July 2019

Decision

- (i) That in consideration of the Council's previous decision made in July 2017 and set out below;

'That Council approve £25 million of Prudential Borrowing, in principle, to facilitate the work of the Housing Rental Company, in the form of a loan for a capital purpose. Detailed business cases are required to be presented to the Housing Rental Company Committee for approval, in order to trigger any draw down against this amount. The terms of the loan to be determined at the point of draw down by the Head of Finance'

that the Chief Finance Officer be delegated authority to approve the financial aspects only of detailed business cases submitted by the TDA (thereby approving a loan for a capital purpose) to be funded from the approved prudential borrowing of £25 million, to be drawn down at 0.25% above the prevailing Public Works Loan Board rate subject to review of the financial aspects of each scheme to ensure compliance with state aid, the Prudential Code, and scheme viability in consultation with the Cabinet Member for Economic Regeneration, Tourism and Housing, and the Interim Director of Place; and

- (ii) that the Chief Finance Officer be instructed to confirm/reject the prudential borrowing request from the TDA on financial aspects only, with a response not to be unreasonably delayed and in any event within 10 working days of the request.

That the Cabinet recommend to Council:

- (iii) that a loan of up to £1 million be approved 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;
- (iv) that the land at Torre Marine, edged red on the attached plan set out at Appendix 1 to the submitted report, be transferred to TDA for the delivery of affordable housing, subject to an appropriate nomination and grant agreement, at nil cost in return for 100% nomination rights in perpetuity;
- (v) that the decision made by the Council on the 19 October 2017 (Minute 103/10/17 refers) be rescinded and that the following be approved:

That the Chief Executive, in consultation with the Cabinet Member for Economic Regeneration, Tourism and Housing, be given delegated authority to allocate the Affordable Housing capital budget to the TDA or subsidiary thereof to facilitate the delivery of affordable housing in line with the commissioning agreement.

Reason for the Decision

This will enable the Council to expedite a programme of affordable housing development on Council-owned sites and retain the ownership and management of those sites in the long term. The potential advantages of TDA taking forward this role, as opposed to the existing Housing Company, are that it has existing governance arrangements and existing staffing, expertise and office accommodation available to it. The proposals also sought to address a number of governance issues and update previous decisions to reflect the new arrangements.

Implementation

The decisions in (i) and (ii) will come into force and may be implemented on Monday, 22 July 2019 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

The Cabinet recommendations in (iii) to (v) will be considered at the Council meeting on 18 July 2019.

Information

In December 2018 the Council accepted in principle the clear benefits of TDA creating a Housing Company to enable relevant affordable housing schemes to be delivered at pace subject to due diligence and TDA Board Approval.

The Assistant Director of Business Services (now the Interim Director of Place) was authorised to undertake the due diligence and, if appropriate, finalise a detailed commissioning agreement with the TDA for the delivery of affordable housing schemes in consultation with the Executive Lead for Adults and Housing, the Chairman of the Housing Committee and the Section 151 Officer.

Since December 2018 work has been ongoing to progress the due diligence and to agree a detailed commissioning agreement. The extent of the due diligence undertaken refers to the Council's intention to commission TDA, or a subsidiary company of TDA, which will be a company that the Council wholly owns. Whilst significant work has been undertaken, the commissioning agreement has not been finalised.

In July 2017 Council approved, in principle, £25 million of prudential borrowing to facilitate the work of the Housing Rental Company, in the form of a loan for a capital purpose. It was agreed that detailed business cases would be required to be presented to the Housing Committee for approval, in order to trigger any draw down against this amount. The terms of the loan would then be determined at the point of draw down by the Head of Finance.

During discussions regarding the detailed commissioning agreement, TDA raised serious concerns about the impact on the pace of delivery and the risk of abortive time, duplication, effort and cost, given the existing access arrangements to drawdown funds from the £25 million borrowing approval. The submitted report therefore set out a proposal to simplify the governance arrangements.

It was also proposed that land at Torre Marine be transferred to TDA for the delivery of specialised affordable housing in return for 100% nomination rights in perpetuity. This disposal, if approved, would mirror the previous decisions made by the Council in respect of 286-288 Totnes Road and St. Kilda's, albeit that these earlier decisions need to be updated to reflect the TDA or subsidiary thereof. The nature of these disposals require a Council decision as they fall outside of the Council's Policy Framework.

As a result of the proposed changes identified in the submitted report a number of decisions need to be updated which are set out above.

A revised officer recommendation was circulated prior to the meeting.

At the Cabinet meeting on 9 July 2019, Councillor Long proposed and Councillor Steve Darling seconded a motion which was agreed by the Cabinet (unanimously) as set out above.

Alternative Options considered and rejected at the time of the decision

Alternative options were set out in the submitted report.

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

12 July 2019

Signed: _____

Leader of Torbay Council on behalf of the Cabinet

Date: 12 July 2019