

Overview & Scrutiny Board

18 September 2019

Land Release Fund

1. Purpose

The purpose of this report is to remind and advise the Overview & Scrutiny Board of the background to and progress on the use of the Land Release Fund (LRF) money awarded to the Council.

The report also raises awareness of the key work areas, risks and anticipated Council decision timeline.

The report also headlines the Council's proposed approach for the next round of funding (One Public Estate Round 8).

2. Background

Government press release – August 2017

"DCLG's £45 million 'Land Release Fund', launched in partnership with the Cabinet Office and Local Government Association's One Public Estate Programme, will ensure local councils release some of their unused or surplus land for housing. This will help to meet the ambition to unlock enough council-owned land for at least 160,000 homes by 2020.

Councils can now bid for funding for land remediation and small-scale infrastructure, which will help bring sites forward for housing that would not have otherwise been developed."

In March 2018 Torbay Council secured the highest award of LRF (£3,976,000) in the Country. The disposal of land at Little Blagdon Farm, Collaton St Mary and Land at Preston Down Road, Paignton was discussed at the full Council meeting on 18 July 2019. At this time approval was sought to dispose of the Council's freehold interest in land at Little Blagdon Farm, Collaton St Mary (CSM) and at Preston Down Road, Paignton (PDR) by way of entering into a development agreement with a private sector housing delivery partner in order to deliver a fully planning policy compliant scheme for the provision of new housing at both CSM and PDR.

Also, in August 2019 the Council received confirmation that the Expression of Interest (EoI) for Future High Streets Funding had been successful. This will result, initially, in £150,000 of revenue funding to develop business cases for the projects included in the EoI – including the delivery of homes at Victoria Centre (Garfield Road). It will also allow Torbay a share of £1 billion Future High Streets capital funding. The business cases need to be submitted in April 2020 and include close liaison with MHCLG. If those business cases are successful (announcement in autumn 2020) it could unlock £15M of Future High Streets Funding for Paignton Town Centre and lever in around £25M of 3rd party investment. In the meantime, the award will help generate confidence, investment and momentum in Paignton.

3. Governance

LRF is overseen by the One Public Estate team, within the Local Government Association. It has very close links with Cabinet Office and Ministry of Housing, Community and Local Government. Land Release Funding is one of the One Public Estate funding streams. It forms part of the Government's agenda to speed up the delivery of new homes. See <https://www.local.gov.uk/topics/housing-and-planning/one-public-estate/land-release-fund-announcement>

The One Public Estate team works with county / area based partnerships. In Torbay's case that is the Devon & Torbay Partnership. The partnership is led by Devon County Council, which provides the administrative function, and spans 10 local authorities, serving a population of almost 1 million people. It includes partners from the National Health Service, and the Blue Light Fire Services, and it works closely with a number of central government departments, as indicated above. The partnership Board, and the proposals it submits under the One Public Estate agenda, aims to maximise the potential of the area's publicly-owned estate in order to drive economic growth, improve public service delivery and unlock greater efficiencies.

Torbay Council has an LRF Project Board, made up of senior officers and project leads. The Project Board meets on a monthly basis. At present there is no Member representation on the Board, but it is suggested that Swithin Long, given his Cabinet role, joins the Board.

3. Bid

The bid was made under One Public Estate Round 6 (OPE6). A copy of the Devon wide bid is attached as Appendix 1.

Torbay Council's element of that bid included 7 projects for LRF funding, namely:

- Five town centre regeneration sites: Victoria Centre, Brixham Town Centre Car Park, Torquay Town Hall Car Park, Temperance St, South Quay,
- Two greenfield sites: Collaton St Mary and Preston Down Road.

It also includes a OPE project, the health and well-being hub to the rear of Paignton Library.

The bid was submitted on 3 Nov 2017, for a total LRF package of around £6m to unlock the above sites (but not to deliver homes on those sites). The estimated number of homes unlocked by LRF was shown as 686 in Torbay (1101 across Devon).

4. Award

The award of LRF was confirmed in early March 2018.

Funding was allocated over 2 year period, the majority of which is to be spent this financial year (2019/20).

A total of £3,976,000 was awarded, for just three of the projects identified in the bid, as per the table below. Funding has been provided at two key points: March 2018 and March 2019.

Funding	Description	17/18 Funding	18/19 Funding	19/20 Funding
MHCLG Land Release Fund – £3,976,000				
£900,000	Victoria Square, Paignton	£0	£450,000	£450,000
£1,976,000	Collaton St Mary, Paignton	£0	£0	£1,976,000
£1,100,000	Preston Down Road, Paignton	£0	£0	£1,100,000
Total	£3,976,000			

Upon receipt of the LRF award, the Council considered whether to accept the award - and by doing so - considered whether the release of 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.

5. Funding / Criteria

The key LRF funding criteria are:

- The land to which the bid relates is fully owned by the local authority. For schemes of mixed land ownership funding would only be available to land owned by the local authority.
- Funding will enable the release of land for housing by 2020 or earlier, and is not available from any other source.
- The works for which funding is sought are deliverable within a time frame that will enable land to be realised by 2020, or earlier.
- All other OPE and LRF conditions of funding set out in the prospectus are met or agreed to.

6. Land Designations

All town centre sites are identified in the Council's Town Centre Masterplans, which were adopted by the Council as Supplementary Planning Documents (June 2015).

See <https://www.torbay.gov.uk/media/6894/ttcmasterplan.pdf> and <https://www.torbay.gov.uk/media/6895/ptcmasterplan.pdf>

Those town centre masterplans support and were supported by the Torbay Local Plan (adopted in December 2015). The masterplans have informed and are reflected in Neighbourhood Plans.

a) Victoria Centre (Garfield Road)

The site, subject of LRF funding, at Victoria Centre is the site of the older multi-storey car park which fronts onto Garfield Road. It does not include the multi-storey car to the rear of Lidl.



The Victoria Centre is included in the Local Plan, as a housing site.

Table 12 SDP1: Estimated source of housing within Paignton

Estimated delivery period (years)	1-5	6-10	11-15	16-18		
Policy / site name	Commitments and other deliverable sites	Commitments (continued delivery), Neighbourhood Plan sites and Future Growth Area			Total	Notes and key infrastructure requirements
SDP2 Paignton Town Centre and seafront	68	165	43	314	590	Investment in flood defence/resilience infrastructure +60 Victoria Square, +30 Station Lane / Great Western Car Park, +40 Paignton Harbour (130 total) Subject to sufficient car parking being retained.

The site is part of the larger Victoria Centre. The Council has identified, in its Transformation Strategy for Torbay's Town Centres (see <https://www.torbay.gov.uk/media/10450/transformation-project-town-centre-regeneration.pdf>), dated April 2017, that various options are being considered for Victoria Centre, including re-use of the site of the older of the two car parks and demolition of the older car park, to be replaced by residential development.

b. Collaton St Mary (CSM)

The following advice is as reported to Council in July 2019.

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 was approved at referendum on 2 May 2019 and subsequently "made" (i.e. adopted) by full Council on June 19th 2019. Whilst the Neighbourhood Plan does not allocate the Collaton St Mary Future Growth Area, (which is done by the Local Plan), it contains several policies that are relevant to the area. These include a range of overarching policies on design and similar matter in Policy PNP1, and Policy PNP24 "Collaton St Mary Village". Policy PNP24 requires that future development should be in accordance with the Collaton St. Mary Masterplan Supplementary Planning Document (SPD) – a plan which sets out a strategy for the delivery of approximately 460 homes within the Collaton St. Mary Future Growth Area.

c. Preston Down Road (PDR)

The following advice is as reported to Council in July 2019.

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 Adopted Paignton Neighbourhood Plan does not allocate this site for development, nor indeed any other sites for housing development in Paignton. Notwithstanding this, the findings of the Independent Examiner who assessed the Paignton Neighbourhood Plan 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.

7. 5 year Housing Land Supply

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

The National Planning Policy Framework (paragraph 73) requires the Council to maintain a supply of specific, deliverable sites sufficient to provide 5 years' worth of housing to meet housing requirements set out in Local Plans. The Council may well have less than 5 years' identified housing land, which includes Victoria Centre. If Victoria Centre is not brought forward for development this would reduce projected housing land supply, thereby putting the Council at risk of Government intervention to force the allocation of sites within the Torbay area.

Without a 5 year housing land supply, the Council 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.

8. Progress on delivery

a) Victoria Centre (Garfield Road)

The LRF Board has ensured there is a firm basis to work from in relation to unlocking the site e.g. achieving vacant possession. LRF funding has been, or is being, used to:

- Secure legal advice to map out, timetable and action plan what is needed, with existing tenants for example.
- Complete all necessary site investigation and survey work (ecology, contaminations, asbestos, ground conditions, tree, topographical and flood risk etc.)
- Preparation of a development brief which will be given teeth as a Supplementary Planning Document, to guide development and improve value. The emerging development brief, which community leaders have already been involved in, will be subject of public engagement in autumn and thereafter presented to Council for adoption.
- A parking capacity and needs study has been commissioned, focused on Paignton Town Centre, on a range of regeneration sites, and the impact of their loss / development on current and future parking provision.
- Consider development options and secure valuation advice, so that the Council is better informed about whether to develop, sell or lease the land.

The LRF Board has secured Council approval (as landlord) for the demolition of the old car park and has quotes from contractors for that demolition work.

The Garfield Road site has eight tenants, all of who the Council and TDA are working with to move them or their space / equipment with the support of LRF funds.

- a) Shop mobility
After many months of looking at options and sites the TDA has managed to find them alternative premises, on the seafront. They are agreeing heads of terms and looking to move before end 2019.
- b) CCTV
A capital programme is now being implemented, and making good progress, to ensure removal of all existing CCTV in the older of the car park by November.
- c) TOR2 - Local Waste Collection Operator
We have agreed the removal of the existing structure, and relocation to a new home off-site. Quotations for the new premises have been received, with a relocation expected by end 2019.
- d) Car Park Cabin
This contains PCs etc. The TDA and Council has found an alternative location, on another Council car park, to relocate the cabin.
- e) Coach Operators
A few operators currently occupy space within the ground floor area. The Board has agreed to relocate these out of Paignton town centre, providing drop off / pick facilities in the town centre.
- f) BAE Systems
BAE Systems lease the Vue Cinema building on the seafront. Customers have a right, under lease, to park anywhere in the Victoria Centre, including the old car park. A deed of variation has been prepared, and approval and change of use is being requested from BAE.
- g) Telecoms Operators (x 2)
There are two telecoms operators on the site (Arqiva and O2). Notice has been served on both of them, but further work to achieve vacant possession is proving to be slower than expected. (Note: further commercially sensitive information is set out in Exempt Appendix 2.)

The next lease review date is 6 Sept, when the Council could decide – if there is insufficient progress – to proceed to Court. If the Council (or one of the operators) proceeds to Court the Council will need to be able to demonstrate it meets four legal tests:

- 1) It has passed all the necessary resolutions to demolish (i.e. there is a record of decision). This has already been achieved.
- 2) It has the funding in place. The LRF covers this.

- 3) It has planning permission for demolition (which will follow a resolution) – This can be achieved within 2 – 3 months, with Council support, and can be progressed quickly thereafter.
- 4) It has a demolition contract in place (which will follow planning permission). As above, quotes are in place for this work.

Of the £900,000 allocated to Garfield Road site, £100,580 was spent in financial year 2018/19, with circa £799,000 available/estimated for the current financial year (2019/20).

2018/19					
	Q1	Q2	Q3	Q4	Annual Total
Budget					
Actuals	16,113	22,385	29,644	32,438	100,580
Total	16,113	22,385	29,644	32,438	100,580

2019/20					
	Q1	Q2	Q3	Q4	Annual Total
Budget	-	16,105	355,546	355,000	726,651
Actuals	68,324	3,648	-	-	71,972
Total	68,324	19,753	355,546	355,000	798,623

£46,000 for a new and enhanced CCTV system has been spent / transferred for implementation (Q1, 2019/20).

Key areas of 2019/20 spend is forecast as below;

- £300,000 contractor / demolition.
- £21,000 to relocate Shop Mobility.
- £200,000 for potential legal challenge from telecom operators.
- £46,000 for other professional fees including valuation and design work.
- £55,000 for compensation claims.
- £15,000 for other Rights to Lights and other survey work.

- £55,000 flood alleviation contribution.

The Board has explored and continues to explore development options for Garfield Road.

It had been hoped to provide 120 student beds on site, with associated facilities, which would have been excellent for the town centre. But South Devon College are now going through a procurement process, taking it outside the LRF timeframe.

The development brief shows that 15 town houses or between 75 and 100 apartments could be delivered on site.

There is ongoing work to assess site suitability for a 65+ bed care home. This option could also deliver significant efficiencies for the Council. If that option is chosen, the Council will demonstrate those efficiencies and endeavour to show what housing is unlocked by the redevelopment of smaller care home sites.

The Board considers that the Council has at least three disposal/delivery options available to it in relation to the site at Garfield Road. These are:

- a) Sell the site to a developer which would be a relatively straight forward process by offering a speedy disposal route - avoiding any lengthy design/planning process – and providing a small but important capital receipt to the Council.

Vacant possession, a development brief, demolition of the older car park and the offer of the Council's Housing Company taking the affordable housing element, coupled with the wider development potential of the site, will all make the site more attractive.

A sale would also include 'pace' requirements relating to planning application submission, start-on-site and completion within specific timeframes.

If this option is chosen, the Board considers that it could be difficult to have a contract in place by end March 2020, especially given telecoms operator issues and in turn delayed VP / demolition, but sufficient progress may have been made by end March 2020 to satisfy the OPE / LGA team.

- b) An alternative option would be to hand over the site directly to the Council's Housing Company, for delivery of open market and affordable homes, or conceivably extra care.

The Board considers that there is every reason that, with successful registration provider status which is expected over the next few months, this could all be in place by end March 2020.

- c) The Council could fund, design and deliver a residential-led development on the basis of a pre-let to an operator e.g. of a care home.

This would ensure that the Council works closely with the selected operator whilst gaining full control over the contract to satisfy its design, quality and delivery ambitions, whilst also providing ongoing revenue potential to the Council.

If this option is chosen then we would expect to have, at least, heads of terms or a contract with an operator completed by end March 2020.

b) Collaton St Mary

The Disposal of Land at Little Blagdon Farm, Collaton St Mary was discussed at the full Council meeting on 18 July 2019.

Approval was sought to dispose of the Council's freehold interest in land at Little Blagdon Farm, Collaton St Mary (CSM) by way of entering into a development agreement with a private sector housing delivery partner via an OJEU compliant process.

The intended outcome of disposal via the development partner route is to deliver a fully planning policy compliant scheme for the provision of new housing at Collaton St Mary. The proposed disposal route shall:

- (a) Ensure that the Council's strategic policies are fully adhered to.
- (b) Ensure that the Council's statutory requirements are fully adhered to.
- (c) Provide the Council with an opportunity to shape scheme outputs.
- (d) Enable the Council to influence affordable housing split.
- (e) Provide the Council with a capital receipt to contribute towards the capital programme.

Another tangible benefit of progressing via the development partner route is that the Council will be able to influence the scheme to be delivered to a greater extent than if the sites were just sold on the open market. It is possible that any straight forward land disposal could see the developer apply to reduce their planning contributions and affordable housing obligations as part of their planning application.

At its meeting on 18 July 2019 the Council resolved:

- (i) that the disposal of the freehold interest at Collaton St Mary and Preston Down Road (identified in Appendices 1 and 2 to the submitted report), be approved and the Chief Executive be given delegated authority to agree and finalise any Heads of Terms in consultation with the Cabinet, Group Leaders and the Section 151 Officer. Any future capital receipts from the disposals will in the first instance be used to offset the £2.4 million cost for acquiring the sites, with any surplus being used to support capital projects linked to priorities around employment, town centre regeneration and heritage assets;
- (ii) that delegated authority be given to the Chief Executive, in consultation with

the Cabinet and Group Leaders, to select and then enter into a development agreement with a development partner for the effective delivery of the Scheme;

- (iii) that in furtherance of (i) above, the Chief Executive be given delegated authority, in consultation with the Cabinet and Group Leaders, to negotiate and agree terms for the acquisition by agreement of any land, interests or rights as may be required for delivery of the Scheme; and
- (iv) that the Chief Executive invite the Torbay Community Partnership Company to appoint a community representative to assist in identifying the selection criteria of the procurement of a development partner and to sit on the selection panel for the development partner.

In accordance with (iv) above, a Cabinet meeting was held on 3 September 2019, with a nominated community representative present, to discuss and agree the Selection Criteria for the procurement of a development partner.

The Council has obtained detailed legal, commercial and procurement advice and is on target to procure a development partner via an OJEU compliant procurement route in accordance with agreed LRF timescales.

A full planning application (ref: P/2019/0478 entitled Little Blagdon Farm Highway Junction/Demolition, Little Blagdon Farm, Totnes Road, Paignton) was submitted to Torbay Council on 2 May 2019. This application was approved on 9 September 2019.

In direct accordance with LRF grant conditions the LRF Board has commissioned the following enabling works:

- a) Undertaking site surveys and investigations including topographical surveys; tree surveys; ecology surveys; asbestos surveys and desktop due diligence.
- b) Undertaking a Traffic Impact Assessment to support a planning application (submitted 2 May 2019) for creation of a new highways junction off Totnes Road.
- c) Undertaking a drainage strategy review for the site.
- d) Agreeing methodology for demolition of the vacant former farm buildings to the north of the site.
- e) Undertaking detailed legal due diligence to cleanse the title including advice on encroachments and unauthorised use and occupation of the land.
- f) Obtaining strategic development, legal, contract procurement and commercial advice to support the Council in procuring a private sector partner via a Competitive Dialogue OJEU process.
- g) Preparation of a Business Plan for submission to the Environment Agency, and working up the detailed specification to support the delivery of a comprehensive drainage strategy, to include installation of new flood attenuation tanks, to benefit the wider Collaton St Mary area.
- h) Analysis of development options and securing valuation advice to enable the Council to determine the best route to achieve its strategic objectives.

Next steps comprise completing site surveys and investigations, concluding ecology surveys and implementing their recommendations in direct liaison with statutory bodies, demolition of the vacant buildings and progressing the procurement of a development partner.

c) Preston Down Road

The Disposal of Land at Preston Down Road, Paignton was discussed at the full Council meeting on 18 July 2019.

Approval was sought to dispose of the Council's freehold interest in land at Preston Down Road by way of entering into a development agreement with a private sector housing delivery partner via an OJEU compliant process.

The intended outcome of disposal via the development partner route is to deliver a fully planning policy compliant scheme for the provision of new housing at Preston Down Road. The proposed disposal route shall:

- (a) Ensure that the Council's strategic policies are fully adhered to.
- (b) Ensure that the Council's statutory requirements are fully adhered to.
- (c) Provide the Council with an opportunity to shape scheme outputs.
- (d) Enable the Council to influence affordable housing split.
- (e) Provide the Council with a capital receipt to contribute towards the capital programme.

Another tangible benefit of progressing via the development partner route is that the Council will be able to influence the scheme to be delivered to a greater extent than if the sites were just sold on the open market. It is possible that any straight forward land disposal could see the developer apply to reduce their planning contributions and affordable housing obligations as part of their planning application.

At its meeting on 18 July 2019 the Council resolved:

- (i) that the disposal of the freehold interest at Collaton St Mary and Preston Down Road (identified in Appendices 1 and 2 to the submitted report), be approved and the Chief Executive be given delegated authority to agree and finalise any Heads of Terms in consultation with the Cabinet, Group Leaders and the Section 151 Officer. Any future capital receipts from the disposals will in the first instance be used to offset the £2.4 million cost for acquiring the sites, with any surplus being used to support capital projects linked to priorities around employment, town centre regeneration and heritage assets;
- (ii) that delegated authority be given to the Chief Executive, in consultation with the Cabinet and Group Leaders, to select and then enter into a development agreement with a development partner for the effective delivery of the Scheme;
- (iii) that in furtherance of (i) above, the Chief Executive be given delegated

authority, in consultation with the Cabinet and Group Leaders, to negotiate and agree terms for the acquisition by agreement of any land, interests or rights as may be required for delivery of the Scheme; and

- (iv) that the Chief Executive invite the Torbay Community Partnership Company to appoint a community representative to assist in identifying the selection criteria of the procurement of a development partner and to sit on the selection panel for the development partner.

In accordance with (iv) above, a Cabinet meeting was held on 3 September 2019, with a nominated community representative present, to discuss and agree the Selection Criteria for the procurement of a development partner.

The Council has obtained detailed legal, commercial and procurement advice and is on target to procure a development partner via an OJEU compliant procurement route in accordance with agreed LRF timescales.

In direct accordance with LRF grant conditions the LRF Board has commissioned the following enabling works:

- a) Undertaking site surveys and investigations including topographical surveys; tree surveys; ecology surveys; and desktop due diligence.
- b) Undertaking a drainage strategy review for the site.
- c) Undertaking detailed legal due diligence to cleanse the title including advice on encroachments and unauthorised use and occupation of the land.
- d) Obtaining strategic development, legal, contract procurement and commercial advice to support the Council in procuring a private sector partner via a Competitive Dialogue OJEU process.
- e) Analysis of development options and securing valuation advice to enable the Council to determine the best route to achieve its strategic objectives.

Next steps comprise completing site surveys and investigations, concluding ecology surveys and implementing their recommendations in direct liaison with statutory bodies, and progressing the procurement of a development partner.

9. Key Risks

If there is not ongoing support for the actions required to dispose of or develop the sites then the following risks apply:

- (a) The Council may have to repay LRF monies received.
- (b) There will be a reputational risk for the Council which may impact upon the Council's ability to access future funding, such as Future High Streets capital funding.
- (c) Future grant income streams may be adversely affected.

- (d) In the absence of LRF grant aid, the Council would need to fund all of the exploratory works required to bring the sites forward for development.
- (e) If the sites are not brought forward for development they will not be able to contribute towards the Council's 5-year housing land supply. Consequently this increases the risk to the Council of unwelcome planning applications from sites not identified in the local plan.
- (f) If the Council is not in contract with a development partner by March 2020 there is a risk that unspent monies may have to be repaid to MHCLG. However, open dialogue has been maintained with MHCLG throughout the development process whom are supportive of the Council's aspirations and its progress achieved to date.

All risks are reported to and discussed by the LRF Board on a monthly basis.

10. Liaison with OPE / LGA and OPE8

The Council is required to submit quarterly progress reports to the OPE / LGA team. The TDA does this on the Council's behalf.

Attendance by the Council (Kevin Mowat) of Devon & Torbay Partnership Board meetings helps ensure the Council is engaged with the wider partnership and the OPE / LGA team.

The next round of OPE funding (OPE8) is due to be open in autumn 2019. The OPE / LGA team has advised that the Council / TDA submission for OPE / British Property Federation funding, which focused on the upper end of Torquay's High Street, provides a good basis for a OPE8 bid. Advice from the OPE / LGA team suggests a need to better promote:

- the Council's 'big picture' ambitions, for growth and change;
- the big issues for the Council, specifically in relation to town centres, children's services and adult social care;
- the role of public sector organisations, resources and assets in resolving those issues;
- integrated solutions, that deliver on 'big picture' ambitions.