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Date: Monday, 04 December 2017

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Dear Member

COUNCIL - THURSDAY, 7 DECEMBER 2017

I am now able to enclose, for consideration at the Thursday, 7 December 2017 meeting of the Council, the following reports that were unavailable when the agenda was printed.

Agenda No	Item	Page
10.	Oxen Cove Fish/Shellfish Processing Facility	(Pages 115 - 136)
11.	Application for Designation of Neighbourhood Forums and Areas for Torquay, Paignton and Brixham Peninsula	(Pages 137 - 174)
12.	Transformation Project - Torbay Libraries - Appointment of Supplier	(Pages 175 - 201)
13.	Transformation Project - Review of Public Toilets	(Pages 202 - 224)
18.	Review of Political Balance	(Pages 225 - 231)
20.	Provisional Calendar of Meetings for 2018/2019 Executive Motion	(Page 232)

Yours sincerely

June Gurry
Clerk



Meeting: Harbour Committee & Council

Date: 5th & 7th December 2017

Wards Affected: All Wards

Report Title: Oxen Cove Fish/Shellfish Unit

Is the decision a key decision? Yes

When does the decision need to be implemented? Immediately

Executive Lead Contact Details: Elected Mayor Gordon Oliver, mayor@torbay.gov.uk 01803 207001.

Supporting Officer Contact Details: Kevin Mowat, Executive Head of Assets and Business Services, kevin.mowat@torbay.gov.uk 01803 292429.

1. Proposal and Introduction

- 1.1 The Council is being asked to authorise funding to carry out the design works to RIBA Design Stage 4, for a potential capital scheme at Oxen Cove, Brixham Harbour at a cost of £400,000. If the scheme does not proceed then the harbour reserve fund, in combination with the capital contingency budget, will underwrite these at-risk costs but otherwise the cost of these works will be recovered as part of the budget for the capital project.
- 1.2 Proceeding to the end of Design Stage 4, (tenders received by client), is a specific requirement of the grant funding process, which are an essential part of the funding package for this proposal. The works which have to be undertaken include obtaining all necessary planning/legislative consents, carrying out ground and utility investigation studies and subsequently designing a building to be located in the Oxen Cove area of the harbour estate. Market testing of the potential tenant occupiers will also be undertaken, as well as tendering the completed design for the building. In tandem with this, a formal grant application will be submitted to the Marine Management Organisation (MMO) for funding from the European Maritime and Fisheries Fund (EMFF).
- 1.3 Subject to a satisfactory outcome, the results will then be reported back to the Harbour Committee and the Council, seeking approval to proceed.
- 1.4 A growing demand exists for new infrastructure in support of the shellfish sector of the fishing industry in Brixham. The Council, at its meeting on the 19th October 2017, approved a feasibility stage and then, if appropriate, the construction a new shellfish landing jetty adjacent to Oxen Cove. This report concerns the proposal, for a high quality industrial unit on Oxen Cove, which will provide the space for the value added, secondary activity after the landing and sale of the catch.

- 1.5 Recent discussions with the MMO have indicated that provided the scheme can be completed within the 2019 calendar year, individual EMFF grants of up to £2m may be available.
- 1.6 This scheme is not currently listed within the Council's agreed Capital Plan.
- 1.7 At its meeting held on the 26th June, 2017, the Harbour Committee agreed to support proposals for the development and future use of Oxen Cove to provide facilities connected with the shellfish industry. Furthermore, the Committee authorised the Executive Head of Business Services, to work up detailed proposals for a unit in Oxen Cove to be used to add further value to fish landings.
- 1.8 The Minutes of the Harbour Committee also stated that, "*subject to a viable business case, the Executive Head of Business Services is asked to submit detailed proposals in a further report to the Harbour Committee and Council, to enable development commence*".
- 1.9 An appropriate business case for the feasibility study into this potential capital project is set out in Appendix 1.

2. Reason for Proposal

- 2.1 The future use of Oxen Cove for employment purposes, is clearly identified in a number of the Councils strategic plans, In particular, the Torbay Local Plan, the Tor Bay Harbour Port Masterplan and the emerging Brixham Peninsula Neighbourhood Plan.
- 2.2 A growing demand exists for new infrastructure in support of the shellfish sector of the fishing industry in Brixham. Within the last six months, three separate groups have come forward asking if space could be made available in Oxen Cove.
- 2.3 Due to a slow take up of potential European Union grant funding by the UK fishing industry, the MMO finds itself with significant amounts of funding and a rapidly arriving deadline for it to be spent. Within the last few weeks the MMO has increased the maximum grant for each local authority project from £1m to £2m. They have also indicated that where appropriate, they may consider more than one application for each project. Senior funding officers from the MMO have visited site and have confirmed they would be very happy to receive applications for a project such as this, as long as it can be delivered within the required timescales.

3. Recommendation(s) / Proposed Decision

- 3.1 That the proposal to construct a shellfish/fish unit in Oxen Cove is approved as detailed in the business case set out in Appendix 1 to the submitted report, and that the scheme be included in the Council's Capital Plan.
- 3.2 That a budget of £400,000 be authorised so that the Executive Head of Assets and Business Services can commission specialist professional support to undertake the necessary design work and also submit a bid for grant funding from the European Maritime and Fisheries Fund (EMFF), in addition to seeking tenants for the proposed new shellfish/fish unit, via a marketing campaign.

- 3.3 That subject to a successful application(s) for grant funding, a further report is submitted to the Council with the outcome of the RIBA Design Stage 4 work and the marketing campaign for potential tenants. A future report to the Council will, if necessary, request an appropriate level of prudential borrowing in support of a viable scheme.
- 3.4 That the Executive Head of Assets and Business Services be asked to work with Brixham Town Council and other local stakeholder groups to establish the likely impact on parking capacity in Brixham, should this scheme proceed, and identify appropriate and reasonable mitigating actions that could be implemented.

Appendices

Appendix 1: Business Case for Oxen Cove Fish/Shellfish Unit (2017)

Appendix 2: Oxen Cove Fish/Shellfish Unit – Conceptual Drawing (2017)

Background Documents

Report to Council on 19th October 2017 - Oxen Cove Landing Jetty

<http://corp-modgov1/documents/s43510/Oxen%20Cove%20Landing%20Jetty.pdf>

Report to Torbay Council's Harbour Committee - Employment Use at Oxen Cove (26th June 2017)

<http://www.torbay.gov.uk/DemocraticServices/ieListDocuments.aspx?CId=188&MId=7420&Ver=4>

Tor Bay Harbour Authority Port Masterplan – July 2013

www.tor-bay-harbour.co.uk/harbours/aboutus/portmasterplan

Torbay Local Plan 2012 ~ 2030

www.torbay.gov.uk/localplan

Brixham Peninsula Neighbourhood Plan Submission Document (August 2017)

www.brixhampeninsula.com/submission/

Section 1: Background Information

1. What is the proposal / issue?

A growing demand exists for new infrastructure in support of the fishing industry in Brixham and in particular the shellfish sector. The Council, at its meeting on the 19th October 2017, approved undertaking the feasibility stage of a proposal to construct a new shellfish landing jetty adjacent to Oxen Cove. This report concerns the proposal for a high quality industrial unit on Oxen Cove, which will provide the space for the value added activity after the landed catch has been sold. This scheme will need to be included in the Council's Capital Plan and an appropriate level of borrowing approved.

The future use of Oxen Cove and/or the Freshwater Quarry area of Brixham, for employment purposes, is clearly identified in a number of strategic plans. In particular the Torbay Local Plan, the Tor Bay Harbour Port Masterplan and the emerging Brixham Peninsula Neighbourhood Plan.

2. What is the current situation?

Brixham harbour remains the largest fishing port in England and Wales in terms of the value of the fish landed and/or sold on the market. In 2016/2017 the total value of the fish sold on Brixham fish market amounted to £35.7m with some £805k passing through the harbour account in the form of fish tolls.

A £22m regeneration scheme in 2010/11 led to the construction of a new fish market and landing facilities, which were formally opened by HRH Princess Royal in March 2011. This investment in modern and fit for purpose facilities has seen an increase in the number of vessels landing at Brixham and an associated growth in the value of fish sold on the market.

In recent years both existing and new shellfish operators have expressed an interest in developing specific facilities for the landing, handling, storage, depuration and processing of their products. The investment and regeneration of the fish market and associated facilities in 2010/11 was not particularly aimed at the shellfish sector although early proposals did see buildings designed with salt water extraction and these were to be located in Oxen Cove. However, this element of the regeneration scheme was later removed as a cost reduction measure.

During soft market testing of this proposal, a number of local companies have expressed interest in the proposed facility. One in particular, Offshore Shellfish Ltd (OSL), have had extended discussions with the Harbour Authority regarding their desire to invest in new facilities. The detail surrounding the operations and future ambitions of OSL were covered extensively in the report to Council in October (see Background Information).

Other expressions of interest have been received from the Dartmouth Crab Company Ltd, Brixham Sea Farms Ltd, Waterdance Ltd and Brixham Seafish Ltd. All of these local companies are looking at opportunities to expand and/or consolidate their operations in Brixham, which is very challenging given the limited availability of suitable employment land. The Stage 4 Design costs include a sum for marketing this opportunity to a wider industry audience in addition to those local companies that are known to be interested.

The expanding shellfish sector have an urgent need for additional but related onshore infrastructure that will facilitate the storage of a buffer stock that will enable better continuity of supply of live product to customers during periods of poor weather. Such a facility will also allow the sector to rest and re-water their products after the stress of harvesting; this will reduce losses and improve quality and shelf life, making long distance live transport more practical. In addition to facilitating better quality product for the bulk markets, the wet storage units will feed directly into adjacent primary and secondary processing, packing and chilling facilities.

These proposals will bring significant employment and other economic benefits to the Brixham and Torbay area.

It is intended that a formal open marketing campaign will be undertaken to establish the level of demand and to secure a tenant on a pre-let/agreement to lease basis before a final business plan and report to Council is submitted.

Oxen Cove is currently used for a variety of different purposes including car parking, coach parking, boat storage and other miscellaneous storage. Freshwater Quarry is also used for car parking and the South West Coastal Footpath runs along the seaward edge of both areas.

In the Torbay Local Plan, Policy SS5 identifies Oxen Cove & Freshwater Cove for mixed use harbourside development with a focus on marine related employment uses. Policy SDB1 sets out the growth for the Brixham Strategic Delivery Area, with a clear indication that Oxen Cove provides an opportunity for the Neighbourhood Plan to include the site as a source for employment floor space, indicating 2,000m². There are several other references within the Local Plan that suggest that Oxen Cove is allocated for employment, targeted at the maritime sector.

The Tor Bay Harbour Port Masterplan suggests that a new reclaimed area along the south western side of the Outer Harbour should provide “*a berth for Pelagic fishing vessels, facilities for a hatchery and shellfish storage and depuration, a boat maintenance facility, a recreational slipway (to replace the Oxen Cove slipway), boat repair businesses, boat building & marine related retail premises, additional car parking and boat storage, a Facilities Building for a new marina and improved access to Oxen Cove*”. Reclaiming land may well be cost prohibitive but without additional space, the existing area of Oxen Cove is simply not large enough to accommodate all of the activities identified in the above statement. Even a smaller footprint of 1650m², set aside for employment use, will occupy the majority of the available space in Oxen Cove. The Port Masterplan goes on to say that Oxen Cove is a good site for marine related industry.

	<p>Policy J7 within the emerging Brixham Peninsula Neighbourhood Plan sets employment land and Oxen Cove is identified, along with Freshwater, as collectively allocated for 2000m² of floor space. The draft Plan also refers to a short re-alignment of the route of the South Devon Coastal Path to accommodate the change to employment use, which is eminently sensible and for safety reasons it is entirely necessary.</p>
<p>3.</p>	<p>What options have been considered?</p> <p>To do nothing. This option would represent a missed opportunity to diversify the fishing industry in Brixham, create new jobs and provide clear economic benefits. Furthermore, a rare opportunity to capitalise on a significant level of external grant funding (up to 75% of the project cost capped at £2m, potentially with multiple applications) would be missed.</p> <p>By approving this business case and including the scheme in the Capital Plan, the Council will be supporting this proposal and endorsing the Harbour Committee’s recommendation for the delivery of fish/shellfish unit on the harbour estate at Oxen Cove, Brixham harbour.</p> <p>To seek approval for the Executive Head of Assets and Business Services to commission specialist professional support services to undertake additional ground investigation work, including design, cost estimates, statutory consents, tendering and project management for the construction of a fish or shellfish unit. Also, for the Executive Head of Assets and Business Services to submit an application for external grant funding and to secure a tenant for the building. This is the preferred and recommended option.</p>
<p>4.</p>	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan 2015 - 19?</p> <p>This proposal supports the Council’s ambition to be a ‘Prosperous’ Torbay.</p> <p>This proposal supports the principle “Use reducing resources to best effect” by addressing “new ways to generate income using our current resources”.</p> <p>A new fish/shellfish unit at Oxen Cove, Brixham Harbour, will provide additional port infrastructure in support of the shellfish industry. This proposal therefore aligns with three specific actions from ‘Targeted Action 2’ within the Corporate Plan Delivery Plans, namely;-</p> <ul style="list-style-type: none"> • Continue delivery of the Port Masterplan • Continue delivery of the Local Plan and associated growth • Deliver the Corporate Capital Plan, maximising the use of Council assets for development with the aim of increasing revenue to the Council

<p>5.</p>	<p>How does this proposal contribute towards the Council's responsibilities as corporate parents?</p> <p>This proposal has no direct link to the Council's responsibilities as corporate parents.</p>
<p>6.</p>	<p>How does this proposal tackle deprivation?</p> <p>This proposal will provide future employment opportunities.</p>
<p>7.</p>	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>The Torbay Local Plan, the Tor Bay Harbour Port Masterplan and the emerging Brixham Peninsula Neighbourhood Plan have all undergone extensive public consultation exercises. Furthermore the Brixham Harbour Liaison Forum is aware of proposals for the Oxen Cove area.</p> <p>As part of the ground investigation works local stakeholder groups will be contacted regarding these specific proposals, however, the allocation of space in the Oxen Cove for employment related use (a departure from the existing uses) represents a policy that is well established in a range of strategic plans.</p> <p>The new unit will, potentially, require a marine license issued by the Marine Management Organisation for sea water extraction. Also, the development will require planning consent. Both of these consent processes will incorporate further public consultation.</p> <p>The fishing industry and other harbour users will be affected by this proposal. Some nearby residents and users of the SW coastal footpath may also be affected. Consultation has been undertaken with the Harbour Committee, Brixham Harbour Liaison Forum, Ward Councillors and Brixham Trawler Agents.</p>
<p>8.</p>	<p>How will you propose to consult?</p> <p>Consultation has been undertaken with the Harbour Committee, Brixham Harbour Liaison Forum, Ward Councillors, Brixham Trawler Agents and the Council's Senior Leadership Team. A number of statutory consents will be required before any work can proceed and further public consultation will be required as part of those consent processes.</p>

Section 2: Implications and Impact Assessment

9. What are the financial and legal implications?

An outline of the breakdown of the expected costs are shown in the table below and further details can be seen in the attached Appendix 1

Activity	Costs (A)	Costs (B)	Costs (C)
Construction	£2,600,000	£2,600,000	£2,600,000
Contingency (15%)	£390,000	£390,000	£390,000
Professional fees & Site investigation	£410,000	£410,000	£410,000
Total	£3,400,000	£3,400,000	£3,400,000
MMO single grant funding (up to 75% max £2m) **	£2,000,000	£1,500,000	£1,000,000
Balance	£1,400,000	£1,900,000	£2,400,000
Borrowing Total	£1,400,000	£1,900,000	£2,400,000
Borrowing & capital costs pa (40 years) ***	£72,320	£98,148	£123,977
New rental income pa	£130,000	£130,000	£130,000

** The Marine Management Organisation (MMO) manage the European Maritime and Fisheries Fund (EMFF). The EMFF follows the European Fisheries Fund (EFF) and will run until 2020 or until all available money has been allocated. The MMO started to accept applications for EMFF funding from early 2016. The UK has €243 million (around £190 million) of the programme of which England has a split of €92.1 million. In particular the EMFF will support projects investing in fishing ports, auction halls, landing sites and shelters. The grant rates as a percentage of eligible costs for such projects is up to 75% from the EMFF, up to a maximum value of £2m.

*** Existing approved prudential borrowing rate of 4.30%. The Treasury Management Strategy is being reviewed and it is possible that this may translate to the rate being lowered for new schemes.

10. What are the risks?

A budget of approximately £400,000 will be required to undertake site investigation works, along with the scheme design, external grant funding application and various consent fees, including a planning application. There is a possibility that the scheme may not reach the construction phase and therefore the funding for this work is being undertaken at risk. It is being recommended that

the harbour reserve fund, in combination with the capital contingency budget, be used to underwrite the at-risk costs on the understanding that all costs will otherwise be recovered as part of the capital budget for the delivered scheme. This risk will be mitigated by reviewing the at-risk spend in line with the forecast harbour income and harbour reserve balance, at monthly milestone intervals.

There is a risk that marine licensing and land use planning consent is not forthcoming but this matter is mitigated by clear policy statements within a range of existing and emerging strategic plans.

Development in Oxen Cove for employment use may upset local residents and ramblers using the South West Coastal Footpath. Local residents should be aware of the policies within the local strategic plans and it is an established practice to divert public footpaths around areas where the operational needs of the harbour have primacy.

There is a risk that a significant opportunity will be missed for the local fishing industry, as well as the local economy and local employment, if the Council do not explore further the potential for a dedicated fish or shellfish unit in Oxen Cove.

In the unlikely event that no expressions of interest are received from any fish or shellfish companies then the process can be aborted. The marketing exercise will be undertaken immediately to ensure that, if required the feasibility work can be stopped early in the process, which will minimise the risk exposure.

The unit will not be constructed without an agreement to lease being secured in advance, however, if for whatever reason the unit becomes void in the future, the facility will be to a standard design and will therefore be suitable for a variety of different uses.

The proposal would result in the loss of 84 car parking spaces and some, if not all of the coach parking in Oxen Cove. Currently this car park generates a net income of £64,000 per annum. A number of the users of these spaces may well relocate to other Council car parks. For example, with the exception of the busy summer period, the adjacent Freshwater Quarry car park has the spare capacity to take a large number of these displaced users. Parking may well be displaced to other parking capacity in Brixham. The potential for any loss of income is therefore likely to be considerably less than that indicated above. Furthermore, as part of the design process a number of potential alternative provisions will be investigated. These will include options for parking on top of the proposed unit, or building a deck above the existing spaces and thereby raising the proposed unit, or to construct a single deck of additional parking in the adjacent Freshwater Quarry car park. Having recently consulted with the Brixham Chamber of Commerce, the Executive Head of Assets & Business Services will also investigate options for increasing capacity at the Brixham central car park.

Discussions will continue with local stakeholder groups, including Brixham Town Council, to establish the likely impact on parking capacity in Brixham, should this scheme proceed. The purpose of these discussions will be to identify appropriate and reasonable mitigating actions that could be implemented.

11.	<p>Public Services Value (Social Value) Act 2012</p> <p>Issues connected with Social Value will be given appropriate consideration when the contract work is procured.</p>
12.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>Research has been undertaken by examining UK wide mussel landings data to determine the likely first sale value of live mussels. Also, for evidence of demand and other supporting data please refer to the full report presented to the Harbour Committee on 26th June 2017.</p> <p>http://www.torbay.gov.uk/DemocraticServices/ieListDocuments.aspx?CId=188&MId=7420&Ver=4</p>
13.	<p>What are key findings from the consultation you have carried out?</p> <p>These proposals have been discussed with the Harbour Committee, the Mayor, his Executive Group, local Ward Councillors, the Brixham Harbour Liaison Forum and the Council's Senior Leadership Team. Following such discussions/briefings the proposals have been supported.</p>
14.	<p>Amendments to Proposal / Mitigating Actions</p> <p>The new unit will be to a standard design and could therefore be used for a variety of different uses.</p>

Equality Impacts

15.	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people			No differential impact.
	People with caring Responsibilities			No differential impact.
	People with a disability			No differential impact.
	Women or men			No differential impact.
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			No differential impact.
	Religion or belief (including lack of belief)			No differential impact.
	People who are lesbian, gay or bisexual			No differential impact.
	People who are transgendered			No differential impact.
	People who are in a marriage or civil partnership			No differential impact.

	Women who are pregnant / on maternity leave			No differential impact.
	Socio-economic impacts (Including impact on child poverty issues and deprivation)			No differential impact.
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			No differential impact.
16.	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	None		
17.	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	None		



Capital Scheme Business Case

Oxen Cove – Fish and/or Shellfish Unit

Version:	1.0
Date:	16/11/2017
Author:	Kevin Atkinson
Director/Executive Head:	Kevin Mowat
Project Manager:	TDA
Business Unit/Service:	Assets and Business Services

1. Executive Summary

The Council is being asked to authorise funding to carry out the design works to RIBA Design Stage 4, for a potential capital scheme to construct a fish and/or shellfish unit to be located at Oxen Cove, on the harbour estate at Brixham.

The design stage will include obtaining all necessary planning/legislative consents, carrying out ground and utility investigation studies and subsequently designing a suitable building. Soft market testing of the potential tenant market will also be undertaken, as well as tendering the completed design. In tandem with this, a formal grant application will be lodged with the Marine Management Organisation (MMO).

Subject to a satisfactory outcome, the results of the design stage will then be reported back to Harbour Committee and/or the Council, seeking approval to proceed with a scheme.

A growing demand exists for new infrastructure in support of the shellfish sector of the fishing industry in Brixham. The Council, at its meeting on the 19th October 2017, approved a design stage and then, if appropriate, the construction a new shellfish landing jetty adjacent to Oxen Cove. This business case concerns the proposal, for a high quality industrial unit on Oxen Cove, which will provide the space that will allow the industry to increase the value added on the landed catch.

Recent discussions with the MMO have indicated that provided the scheme can be completed within the 2019 calendar year, European Maritime and Fisheries Fund (EMFF) grants of around £2million could be made available.

This scheme is not currently listed within the Council's agreed Capital Plan.

At its meeting held on the 26th June, 2017, the Harbour Committee agreed to support proposals for the development and future use of Oxen Cove to provide facilities connected with the shellfish industry. Furthermore, the Committee authorised the Executive Head of Business Services, to work up detailed proposals for a fish/shellfish facility in Oxen Cove.

The Minutes of the Harbour Committee also stated that, ***"subject to a viable business case, the Executive Head of Business Services is asked to submit detailed proposals in a further report to the Harbour Committee and Council, to enable development to commence."***

2. Strategic Fit

2.1 Scheme objective

A growing demand exists for new infrastructure to support the shellfish sector of the fishing industry in Brixham. The Council, at its meeting on the 19th October 2017, approved a design stage and then, if appropriate, the construction a new

shellfish landing jetty adjacent to Oxen Cove. This proposal, for a high quality industrial unit on Oxen Cove, will provide the space that the fishing industry can use to add extra value to the landed catch.

Soft market testing of the possible demand for such a unit has been undertaken, with very positive results. Three organisations have expressed interest. When the opportunity is advertised on the open market, it is possible further interest will come forward.

The future use of Oxen Cove for employment purposes, is clearly identified in a number of the Councils strategic plans, In particular, the Torbay Local Plan, the Tor Bay Harbour Port Masterplan and the emerging Brixham Peninsula Neighbourhood Plan.

2.2 Statutory Framework

Under Clause 33 of the Harbour, Docks and Piers Clauses Act 1847, Tor Bay Harbour is subject to what is called the “Open Port Duty”. This means that the harbour must be open to anyone “for the shipping and unshipping of goods and the embarking and landing of passengers”, on payment of the rates and other conditions set by the Council. A harbour authority has a duty to conserve the harbour so that it is reasonably fit for use as a port, and a duty of reasonable care to see that the harbour is in a fit condition for a vessel to use it.

2.3 Policy Framework

This proposal supports the Council’s ambition to be a “Prosperous” Torbay. It also supports the principle “Use reducing resources to best effect” by addressing “new ways to generate income using our current resources”.

The creation of a fish or shellfish unit at Oxen Cove, will provide additional port infrastructure in support of the shellfish industry. It will also create new job opportunities, many of which will potentially be suitable for the under employed youth sector of the Brixham employment market.

This proposal therefore aligns with three specific actions from “Targeted Action 2” within the Corporate Plan Delivery Plans, namely;

- Continued delivery of the Port Masterplan
- Continued delivery of the Local Plan and associated growth
- Deliver the Corporate Capital Plan, maximising the use of Council assets for development with the aim of increasing revenue to the Council.

2.4 Equality, Diversity and Deprivation

No differential impact – this scheme will create a facility for the storage and handling of fish and/or shellfish products. It will create a number of new jobs within the Port.

2.5 Condition of the asset

This business case supports the construction of a new asset.

2.7 Interfaces and Critical Dependencies

Rental income from the new unit will be critical to support the prudential borrowing costs. The scheme is also dependent on external grant funding to help reduce the level of borrowing.

The soft market testing exercise identified that potential tenants would be prepared to pay a market rate for the accommodation provided. This will be confirmed as part of the open market testing carried out during the design stage.

Recent meetings and subsequent discussions with the MMO have indicated that provided the scheme can be completed within the 2019 calendar year, they would welcome applications from this project.

The proposed development would remove Car and Coach parking spaces as well as the winter boat storage facility which currently operate within Oxen Cove on the harbour estate. Whilst the design stage for this project is underway, the Council will need to assemble a team to work with Brixham Town Council and other local stakeholder groups to establish the likely impact on parking capacity in Brixham and identify appropriate and reasonable mitigating actions that could be implemented.

2.8 Critical Success Factors

Obtaining an external grant of between £1m and £2m from the European Maritime and Fisheries Fund (EMFF) and a market rental from a tenant are both critical to the delivery of this new infrastructure. The project will be considered a success if the new unit is used for the intended purpose and subsequently helps deliver a new income stream which will be used to support the cost of borrowing. If the maximum grant can be secured, the project could also produce a new revenue stream for the Council.

Further critical success factors include completion of the works without major disruption, on time and within the forecast budget. Wider success factors will relate to the creation of new jobs, inward investment and delivery against a number of strategic objectives, not least the consolidation of Brixham's position as a leading fishing port.

3. Options Appraisal

Options considered	Brief explanation of options (including justifying options exclusion where applicable)
Do nothing	This option would represent a missed opportunity to diversify the fishing industry in Brixham. Shellfish landed from the new jetty would be loaded onto lorries and, likely, taken out of Torbay. Shellfish handling often needs access to seawater, which cannot be economically obtained, for example, on the Ring Road Industrial estates. With the lorries would go new local jobs and other clear economic benefits such as increased Torbay GDP. Furthermore, a rare opportunity to capitalise on a significant level of external grant funding (up to 75% of the project cost capped at £2m) would be missed.
For the Council to endorse the Harbour Committee's support of the proposal for a new fish or shellfish unit in Oxen Cove by approving this business case and including the scheme in the Capital Plan.	The Executive Head of Assets and Business Services should be asked to commission the TDA and/or other specialist professional support services to undertake additional ground investigation work, including design, cost estimates, statutory consents, tendering and project management for the construction of a fish or shellfish unit. Also, for the TDA and the Executive Head of Assets and Business Services to submit an application for external grant funding and to secure a tenant for the building. This is the preferred and recommended option.

4. Financial Aspects

4.1 Financial Investment

	Option 1	Option 2	Option 3	Years 1 ~ 3	Years 4 ~ 7
Total Capital Investment	£3,400,000	£3,400,000	£3,400,000		
Made up of:					
External Grant Funding	£2,000,000	£1,500,000	£1,000,000		
Capital Receipt					
Allocated Capital Grant					
Unringfenced Capital Grant					
Prudential Borrowing	£1,400,000	£1,900,000	£2,400,000		
Ongoing Revenue Costs:					
Repairs and Maintenance				Nil	£5,000 pa
Staffing				Nil	Nil
Other (cost of borrowing)	£73,320	£98,148	£123,977	£98,482 pa *	£98,482 pa *
Total Costs	£73,320	£98,148	£123,977	£98,482	£103,482

* Average cost of borrowing of Options 1 to 3

4.2 Financial Savings

	Option 1	Option 2	Option 3	Years 1 ~ 3	Years 4 ~ 7
Rent	£130,000	£130,000	£130,000	£130,000	£130,000
Total Costs	£73,320	£98,148	£123,977	£98,482	£103,482
Lost Winter Storage Income	£10,000	£10,000	£10,000	£10,000	£10,000
Net additional income	£46,680	£21,852	- £3,977	£21,518	£16,518

It has been assumed that all car/coach parking income will be displaced into other Council owned car parks

5. Outcomes, Benefits and Dis-benefits

The creation of a fish and/or shellfish unit will bring significant economic benefits to Torbay and specifically Brixham. This scheme also provides an opportunity to diversify the fishing industry in Brixham and create new jobs. Furthermore, it presents a rare opportunity to capitalise on a significant level of external grant funding (up to 75% of the project cost capped at £2m).

The soft market testing undertaken to date has indicated that the proposed unit is likely to create between 50 and 80 new jobs based in Brixham.

6. Risk Summary

6.1 Risk of not implementing the scheme

Risk Description	Risk Mitigation
A budget of £400,000 will be required to undertake the site investigation works, along with the scheme design, external grant funding application and various consent fees, including a planning application. There is a possibility that these proposals may not reach the construction phase and therefore the funding for this work is being undertaken at risk.	<p>Completion of the proposed scheme.</p> <p>It is being recommended that the harbour reserve fund, in combination with the capital contingency budget, be used to underwrite the at-risk costs on the understanding that all such costs will otherwise be recovered as part of the capital budget for the delivered scheme.</p> <p>This risk will be mitigated by reviewing the at-risk spend in line with the forecast harbour income and harbour reserve balance, at monthly milestone intervals.</p>
There is a risk that a significant opportunity will be missed for the local industry, as well as the local economy and local employment opportunities, if new shellfish landings are taken out of Torbay to an alternative handling facility.	Completion of the proposed scheme.

6.2 Risk of delivering the scheme

Risk Description	Risk Mitigation
The scheme costs exceed the available budget.	Total scheme costs include a contingency allowance of 15%. By undertaking the design works to RIBA Design Stage 4 it will be possible to identify any below ground anomalies which will be included in the Tender documentation. A decision to proceed will only be made after the results of the construction tender process are known. TDA's project management team are

	well known to the Council and have a track record of bringing in its schemes, on time and on budget.
There is a risk that the mussel landing income is not achieved.	<p>Soft market testing has shown that three groups are interested in taking space in the new fish or shellfish unit. One, whose interest was furthest developed in the time available, also indicated that the projected rentals were in the right area. Further, formal, marketing will take place during the design stage.</p> <p>In the unlikely event that shellfish companies decline to take the space, the new facility is itself, a standard design and will therefore be able to be used for a variety of different uses.</p>

6.3 Strategic Risk Register

To be reviewed if the scheme progresses.

7. Project Delivery

7.1 Project Roles

The **Project Sponsor** will be Kevin Mowat, Executive Head – Assets and Business Services.

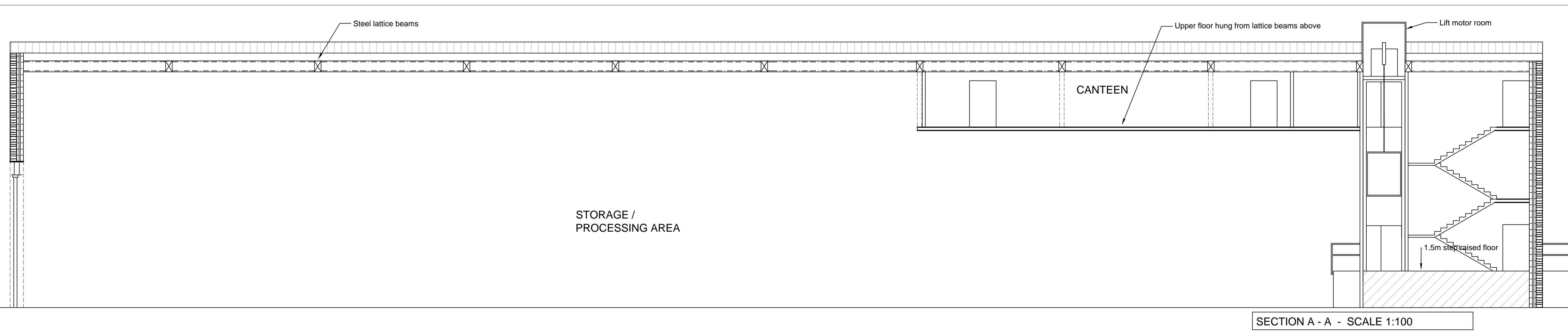
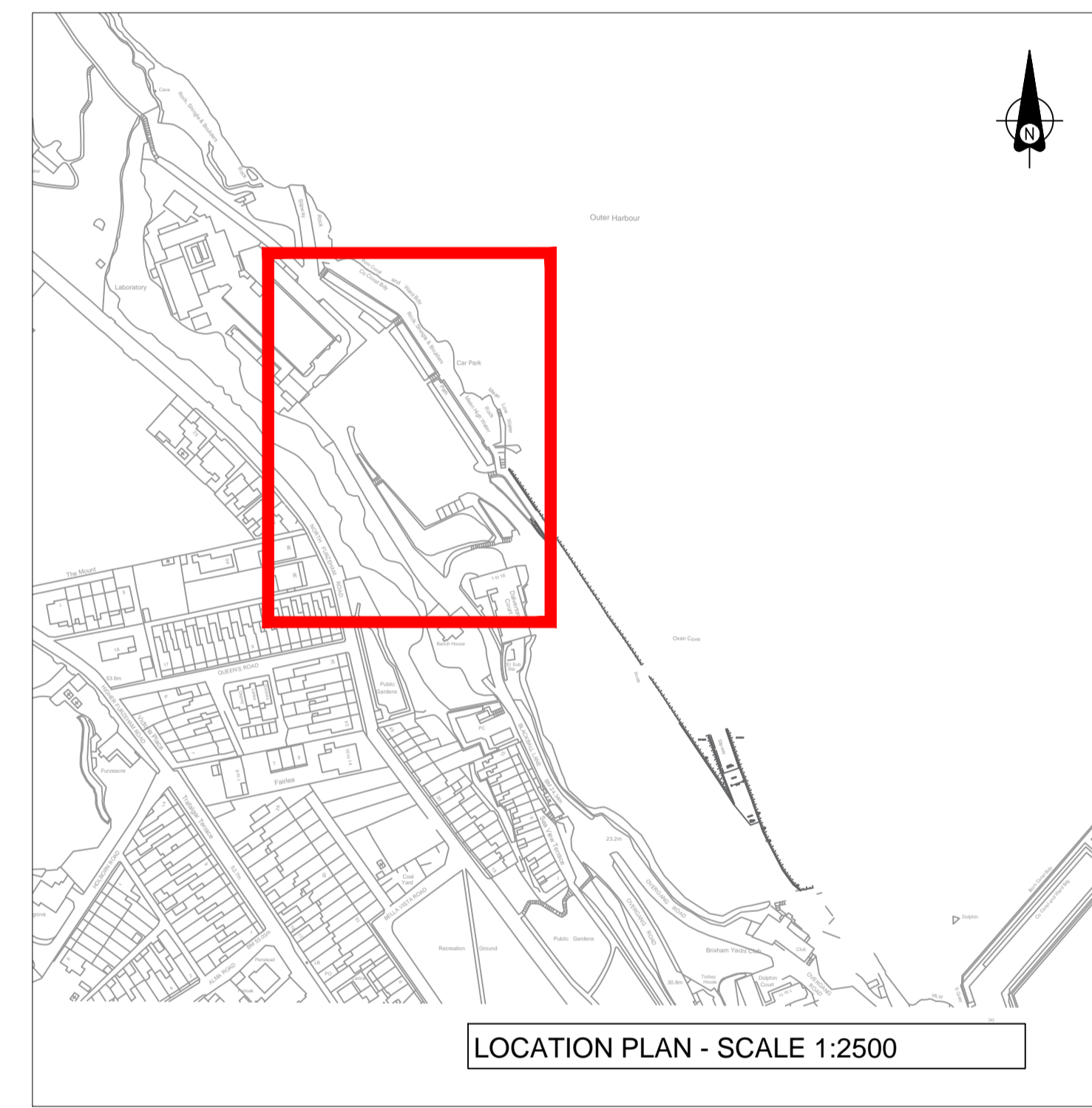
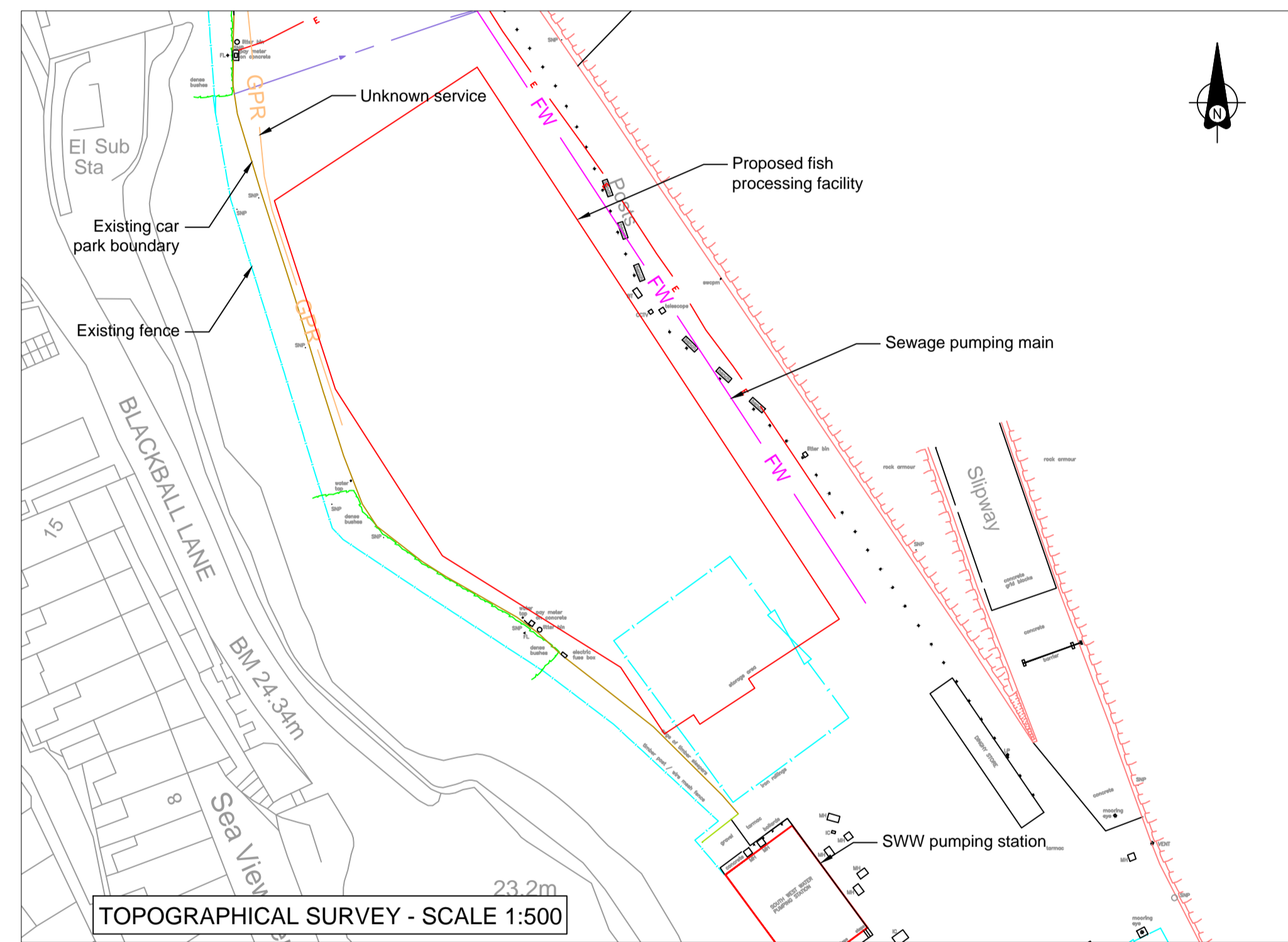
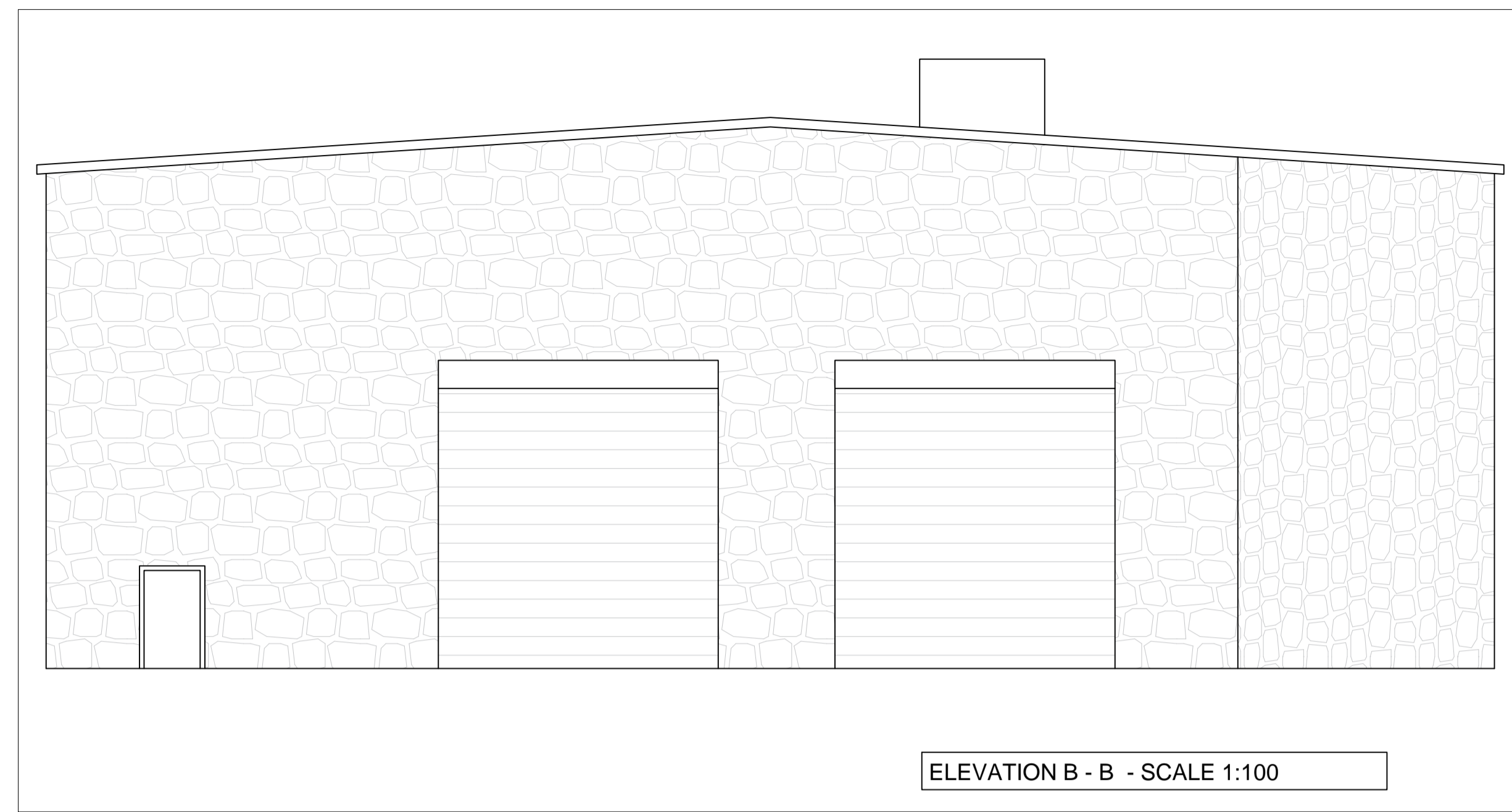
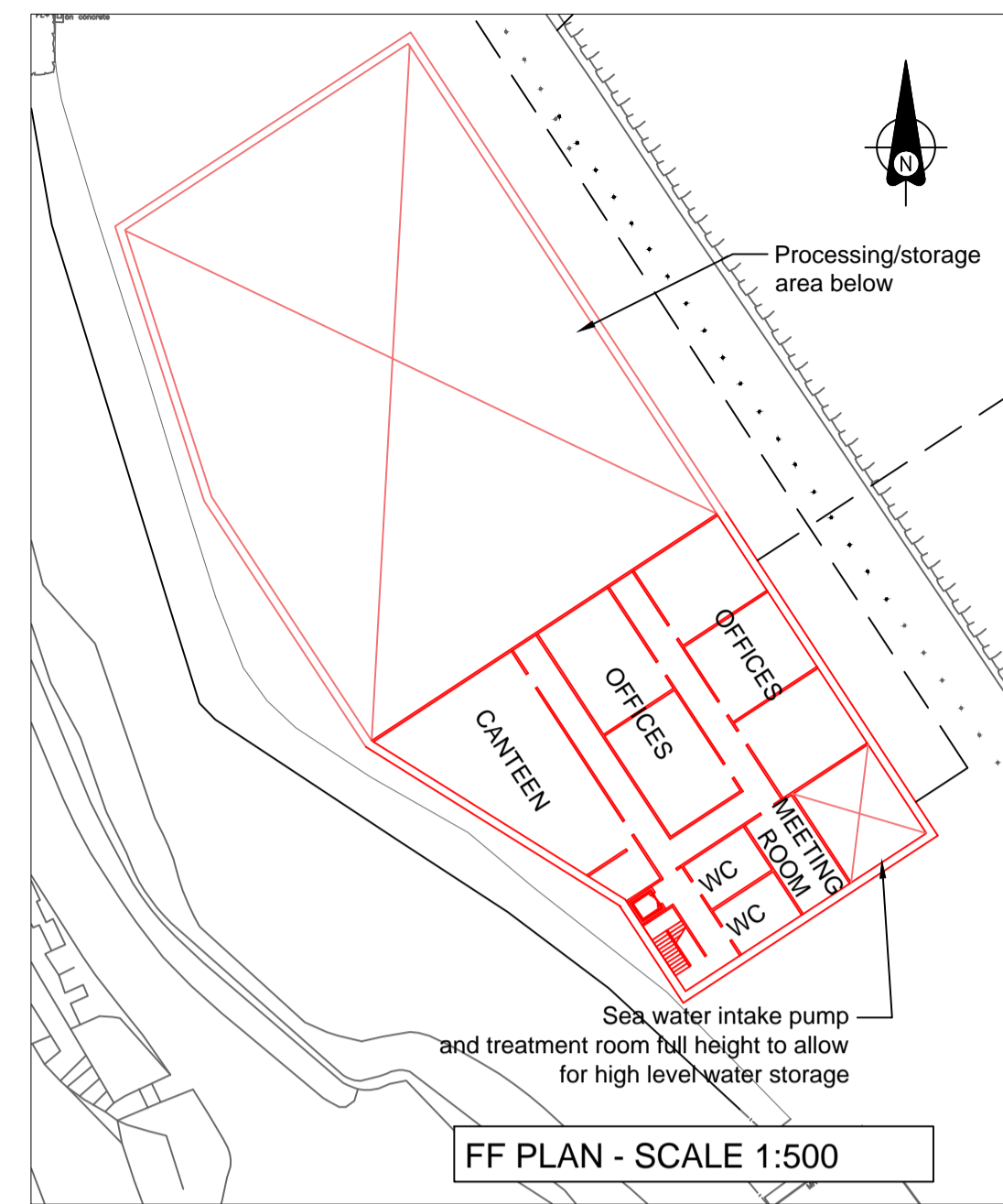
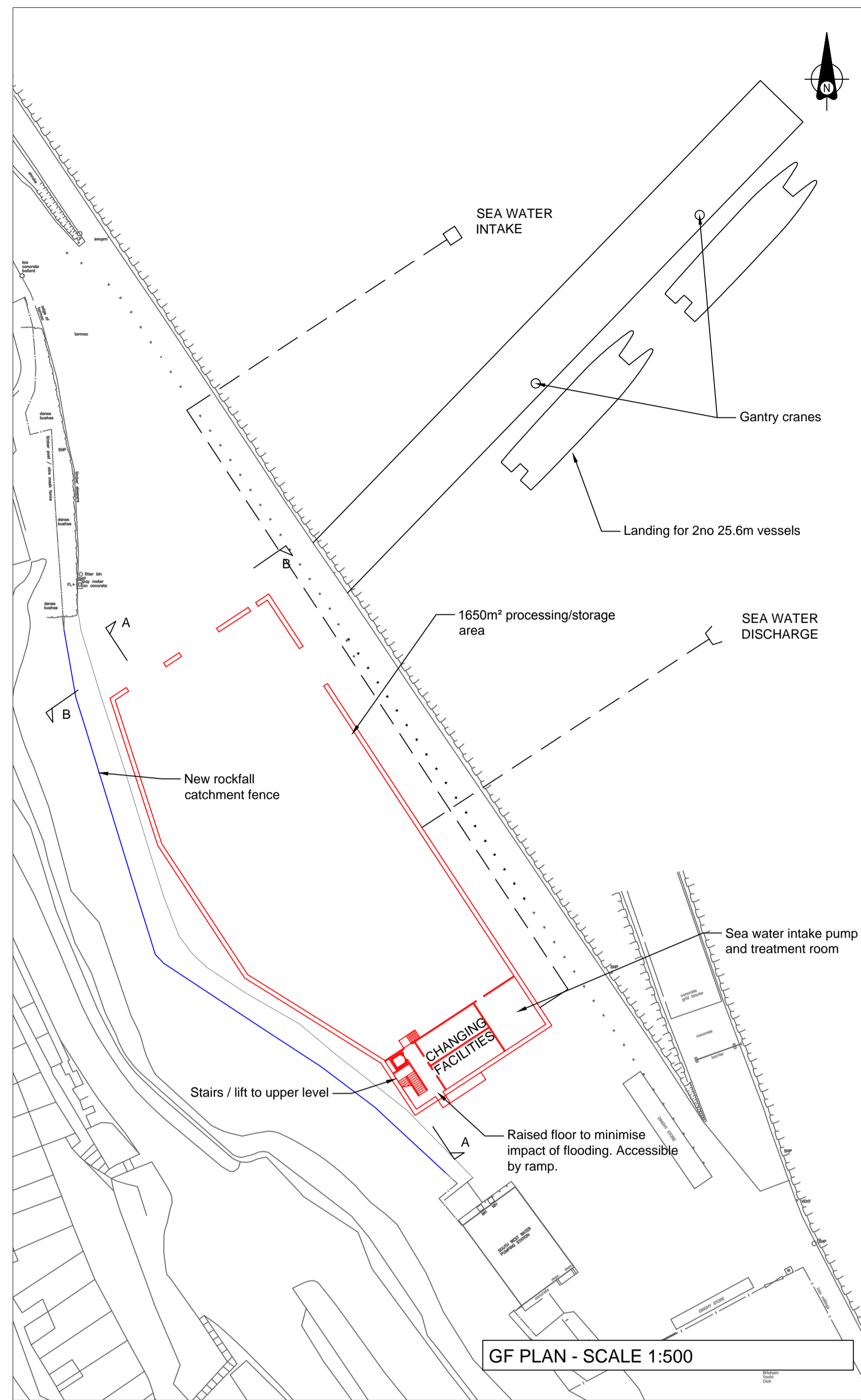
The **Project Manager** will be allocated by the Torbay Development Agency.

7.2 Milestones

Milestone	Date	Dependency/Interface
Council decision whether to proceed	December 2017	
Planning Application Approved	Summer 2018	
EMFF grant aid approved	Summer 2018	

Construction Tender process complete	Summer 2018	
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This section will be completed if the scheme is agreed.



REVISIONS				
no.	date	by	checked	details

rev. B
drawing number 10/6/7/ocd - 05

NOTES	
no.	details
	GF reception / changing facility, etc. area - 90m ²
	FF office, etc area - 575m ²

drawn	TR	scales	As Shown @ A1
checked		date	01/11/2016



SCHEME TITLE
OXEN COVE FISH PROCESSING FACILITIES

DRAWING TITLE
OPTION 1

drawing number	10/6/7/ocd - 05	rev.	B
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Meeting: Council

Date: 7 December 2017

Wards Affected: All Wards

Report Title: Application for Designation of Neighbourhood Forums and Areas for Torquay, Paignton and Brixham Peninsula

Is the decision a key decision? Yes

When does the decision need to be implemented? Prior to 5th January 2018

Executive Lead Contact Details: Councillor Derek Mills, Deputy Mayor and Executive Lead for Planning, derek.mills@torbay.gov.uk

Supporting Officer Contact Details: Kevin Mowat, Executive Head of Assets and Business Services, kevin.mowat@torbay.gov.uk

1. Proposal and Introduction

- 1.1 Applications have been received to re-designate the three Neighbourhood Forums as “qualifying bodies” (Reg 8)¹ as well as the neighbourhood areas (Reg 5). These require separate decisions for each application. The current designations, both neighbourhood areas and qualifying bodies, for each of the three current designations expire on 6 December 2017. Torbay Council, as Local Planning Authority (LPA), must consult on the applications for designation and make a decision within 13 weeks of publicising the application. The proposals are due for consideration by Council on the 7th December 2017, which is the last Council meeting within the 13 week deadline to determine applications. The consultation period has been completed.
- 1.2 The primary function of the Neighbourhood Forums is to prepare neighbourhood plans. In addition to preparing neighbourhood plans, Forums are also consultees on planning applications in their area². The Localism Act 2011 also allows them other planning functions such as bringing forward local development orders. Forums also have a role in commenting on other plans and strategies in the area and may choose to update their plans.
- 1.3 This report sets out the background, legal framework and considerations that apply to the applications to designate the Neighbourhood Forums and their associated areas. A joint statement by the Forums in support of their application for re-designation is reproduced at Appendix 2.

¹ Unless stated “the Regs” refer to the Neighbourhood Planning (General) Regulations 2012 (as amended).

² The Neighbourhood Planning Act 2017 requires Forums to be notified of planning applications in their area.

2 Reason for Proposal

- 2.1 Neighbourhood Forums were created by the Localism Act 2011. Neighbourhood planning is intended to “provide a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. When ‘made’ (adopted) Neighbourhood Plans will form part of the Development Plan for the area upon which planning applications will be determined. Neighbourhood Plans should therefore (amongst other basic conditions) be in general conformity with the strategic priorities of the Local Plan” (NPPF 184).
- 2.2 Torbay is very unusual in that it opted in 2011/12 to have district wide Neighbourhood Plan coverage, comprising three Forums (Torquay, Paignton and Brixham Peninsula), and to rely on Neighbourhood Plans to deliver a significant part of the Bay’s housing and development requirements. This was in line with the “localism agenda”. The Local Plan strategy was structured around the three areas, setting clear minimum growth targets for each area.
- 2.3 The three Neighbourhood Forums and Areas were approved by full Council on 6 December 2012. Forum designation lasts for five years and therefore their status expires in December 2017. The publication and consultation on Forum and area designations has been carried out between 6 October and 20 November 2017. These are larger than the size of areas suggested by the Planning Practice Guidance, which suggests that LPAs should consider Forums based on parish or ward boundaries, of around 5,500 people (PPG 41-033-20140306). However, the PPG is only advice and was not in any event available to the Council when it previously approved the Forums and their associated areas in 2012.
- 2.4 The Forums have submitted a joint statement supporting the applications for the renewal of their status and their areas, which is attached at Appendix 2. A key purpose in applying to re-designate their status is in order to make any modifications to the Submitted Plans that might be required post Examination (likely to be held early 2018). The Forums were consulted on an earlier version of this report, and asked for comments on the tone and accuracy of this report.
- 2.5 There is no legislative process for re-designation. The legislation only makes provision for a new designation. This may have been because it was not anticipated that a qualifying body was required to continue their role once a plan had been produced. In this case, the new applications are made to designate in accordance with the regulations. There is also no provision for varying the term of the Forum status except that a Forum can choose to voluntarily withdraw the designation. It would be expected therefore that any such re-designation would be in place until December 2022, whether or not the submitted plans are approved through examination, referendum, and Council.
- 2.6 When determining neighbourhood area applications, a Local Authority can choose to designate as submitted, make modifications to the area proposed, or refuse the application. However, where a valid application is made, there is no overlapping with another designated area, and the authority are minded to refuse because the area is not appropriate, the authority must ensure that area is included in one or more other areas.

- 2.7 These applications directly relate to the areas set out within the Local Plan and are strategically important in the distribution of growth across Torbay. The designation of an area does not expire and as such will be maintained in accordance with the December 2012 decision.
- 2.8 Representations have been submitted which propose amendments to the boundaries. The main focus of concern is whether Brixham Town Council should have a designation that only includes the parish boundary, excluding the Churston, Galmpton, Broadsands and Waterside areas from the current Brixham Peninsula area. The various representations propose that these areas are included within Paignton, or are separated with parts to be included within Paignton and a fourth Forum area designated. A concern has also been raised about the scale of the areas concerned, with particular reference to Torquay.
- 2.9 In this case the areas are considered to support the Local Plan. Whilst there may be benefits from designating smaller areas (in accordance with Planning Practice Guidance advice), it would not offer benefit to modify the designated areas at this stage, not least following the submission of the plans. The scale is significant and whilst unusual, Torbay is not unique in designating large scale areas. Again, there is little justification to propose alternative boundaries. This is a separate matter from Forum designation.
- 2.10 The Localism Act 2011, specifies where a LPA may designate a “qualifying body” (i.e. a Forum) and area³. In summary, in order to be eligible for designation as a Forum, a group must:
- Include the town or parish council where they exist in an area (i.e. Brixham Town Council)
 - Be the only Forum in a particular area, and boundaries cannot overlap.
 - Be established for the express purpose of promoting or improving the social, economic and environmental well-being of the Forum area.
 - Be open to individuals who live or work in the area or are elected to it.
 - Have at least 21 members who live in, work in or are elected to an area.
 - Have a written constitution.
 - Meet other conditions as may be prescribed (by Government).
- 2.11 The Localism Act (as inserted into the T&C Planning Act 1990) indicates that local planning authorities must, when determining applications for Forum designation have regard to the desirability of designating an organisation or body:
- (i) which has secured (or taken reasonable steps to attempt to secure) that its membership includes at least one individual falling within each of individuals that live in the area, work in the area or are elected members in the area concerned.

³ Schedule 9 Section 61F of the Localism Act 2011, inserted into the Town and Country Planning Act 1990.
<http://www.legislation.gov.uk/ukpga/2011/20/schedule/9>

- (ii) whose membership is drawn from different places in the neighbourhood area concerned and from different sections of the community in that area, and
- (iii) whose purpose reflects (in general terms) the character of that area

- 2.12 All three Forums have submitted Plans to Torbay Council for publication and independent examination. The three plans are out for public consultation between 1st November 2017 and 18th December 2017. As stated in Paragraph 1.2, the primary function of the Forums is to prepare the Neighbourhood Plans. Following submission and LPA led consultation, the LPA must appoint an examiner who will consider the Plan and prepare a report. Once this report has been submitted to the LPA, and any modifications are made, the report must be put to referendum. Finally it will be for Council to “make” or approve the document as part of the development plan.
- 2.13 When considering applications for designating Forums the Planning Practice Guidance advises against pre-judging plan proposals and accordance with “basic conditions”: *“a local planning authority should avoid pre-judging what a qualifying body may subsequently decide to put in its draft neighbourhood plan or Order. It should not make assumptions about the neighbourhood plan or Order that will emerge”*⁴.
- 2.14 In this case, the plans have been submitted and, although not examined, the intent of the qualifying bodies is made clear in the proposal. This is an exceptional circumstance where the application for designation overlaps the period between submission and Council deciding or refusing to make a Neighbourhood Development Plan. Council officers have made representations to earlier draft publications of the Neighbourhood Plans and is considering the response to the current submission. Discussions are ongoing with the Forums about the criteria which should apply to appointing an independent examiner. This slight delay is unfortunate but it is important that agreement is reached about fair criteria for appointing the independent examiners.
- 2.15** Concerns raised about the submitted Plans to date are set out in more detail in Appendix 1. However, in summary there is a concern that the combined effects of the policies in the Submitted Plans, coupled with the Forums’ role as a consultee on planning applications and other strategies, would result in a more restrictive planning regime than set out in the Local Plan. All three Plans make significant provision for additional landscape protection and demanding criteria for any new development, potentially impacting on the deliverability and viability of development opportunities. It is recognised that both Brixham and Torquay Neighbourhood Plans do make site allocations, which appear, subject to testing at examination, to be in accordance with the requirements of the Local Plan for housing and employment. Paignton Neighbourhood Plan is accompanied by a detailed statement indicating why it considers further allocations are not required⁵. However, although meeting the Local Plan target is the principal step, there was a hope, or an aspiration, that in accordance with consistent messages from Government and knowing that the Local Plan conformity would not prevent it, additional provision could be included. Government have stated that they consider housing to be the single biggest challenge of our age and

⁴ PPG 41-035-20161116. This is guidance and not law. It relates to creating forums rather than renewing them, and assumes that plan proposals have not been prepared.

<https://www.gov.uk/guidance/neighbourhood-planning--2>

⁵ Document 1 Basic Conditions Statement, Appendix 4 pp 16-54

that all Councils are expected to do their bit. This must include the Neighbourhood Forums and the Plans that they produce, which are integral to our development plan policies for the years to come.

- 2.16 It could reasonably be argued, for the reasons set out in 2.15 above, that the Forums have not necessarily met the requirements of the Localism Act (61F (5) (a)) i.e. 'established for the express purpose of promoting or improving the social, economic or environmental well-being of an area'. Indeed a significant number of representations also support the re-designation because the Forums are a good way of supporting the community aspirations to resist development. This could be interpreted as being in at odds with the Corporate Plan objective of **"Working towards a prosperous Torbay"**; but equally it would support the objective **"to ensure Torbay remains an attractive and safe place to live and visit"**.
- 2.17 Following the public consultation, representations have also been received which challenge how representative the Forums are and/or have been, both in quantum and diversity. The applications each confirm that the minimum requirements are met. However, a request for further clarification on membership has been submitted to each Forum.
- 2.18 It has also been noted that Forums have a role, recognised in law, as a consultee on planning matters. This would include all planning applications and new policy documents, such as the updated Local Plan and other Supplementary Planning Documents. Approval by Council to re-designate would give the Forums the opportunity to submit representations as a qualifying body, until December 2022. Experience to date has shown that this has had a significant impact on Council resources day to day, not least through the current Local Plan making process. Council officers have given considerable amounts of time to support the Forums to produce and submit their plans. The advice given has not always been accepted and has resulted in the concerns raised about the plans to date.
- 2.19 The issue of Neighbourhood Plan renewal was discussed at PDDG on the 6th November 2017, where Members expressed a general view of support for Forum renewal, notwithstanding the ongoing public consultation, and expressed thanks to the large amount of volunteer time that had gone into preparing the submitted Neighbourhood Plans.
- 2.20 Representations received on the Forum and area renewal consultation (carried out together) are set out in Appendix 3. It will be noted that there were 142 representations in support of re-designation. The majority of these were from individuals although a number of local organisations also expressed support. Many of these saw the Forums as a way of resisting what they perceive as unsustainably high levels of housing. There were two objections to Forum and area renewal, one of which was from a developer. There were 3 objections to the boundaries of the Brixham Peninsula neighbourhood area and 1 letter suggesting that Paignton's area should be enlarged. The total response equates to approximately 0.13% of Torbay's electorate.
- 2.21 It will be noted that the criteria for considering Forum creation, set out at 2.10 and 2.11 above, require regard to be had to the desirability of creating Forums which meet the specified criteria. It is also noted that, in the event of the Forums not being renewed, Brixham Town Council would, in any event, remain authorised to act as the "designated body" within the parished area of Brixham.

2.21 **The issues relating to the content of Neighbourhood Plans will be considered separately and by an Independent Examiner, this is not a matter for this report.** Each Plan will be assessed on the basis of how far they meet “basic conditions” (which include being in general conformity with the Local Plan and having regard to national policy). As stated above this is a separate issue to Forum and Area renewal however the intentions of the Forum should be noted by Members and given consideration when reaching a decision.

2.22 **The recommendation from the Executive is set out below and all of the options for Members to consider are set out in more detail in section 3 of Appendix 1.**

3 Executive Recommendation(s) / Proposed Decision

- 3.1 That the Council considers the three applications for area and Forum re-designation, in accordance with the specified criteria set out in the Localism Act 2011 (and summarised in this report), whilst recognising that this decision is without prejudice to any representation to, or considerations of, the submitted Plans.
- 3.2 That the Council recognises that the area status does not expire and will still be maintained in accordance with the decision made in December 2012.
- 3.3 That the application in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended), Regulation 8 for the qualifying body for Torquay be approved, and that the Council publicise this decision in accordance with Regulation 10.
- 3.4 That the application in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended), Regulation 8 for the qualifying body for Paignton be approved, and that the Council publicise this decision in accordance with Regulation 10.
- 3.5 That the application in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended), Regulation 8 for the qualifying body for Brixham Peninsula be approved, and that the Council publicise this decision in accordance with Regulation 10.

Appendices

Appendix 1: Supporting Information and Impact Assessment.

Appendix 2 Joint Statement by the Neighbourhood Forums

Appendix 3: Summary of representations received on the Regulation 5 and 8 consultations (which ran between 6th October- 20th November 2017).

Background Documents

Localism Act 2011 especially Schedule 9 Section 61(F) (Which is inserted into the Town and Country Planning Act 1990)

The Neighbourhood Planning (General) Regulations 2012 as amended. Particularly Regs 5 to 10

National Planning Policy Framework (NPPF)

(National) Planning Practice Guidance (PPG) Chapter 41

Submitted Neighbourhood Plans for Torquay, Paignton and Brixham and accompanying documents. Available at www.torbay.gov.uk/neighbourhood-plans

Torbay Local Plan 2012-30 A landscape for success. <http://www.torbay.gov.uk/newlocalplan>
Torbay Council Corporate Plan and delivery Plans 2015-2019.

Appendix 1: Supporting Information and Impact Assessment

Section 1: Background Information	
1.	<p>What is the proposal / issue?</p> <p>As outlined in the main report, the three Neighbourhood Forums have applied to renew both their “designated” status as Forums and the areas covered. Applications were received by Paignton on 15th August, Brixham Peninsula on 4th September and Torquay Neighbourhood Forum on 6th September. Note that they were advertised between 6th October 2017 and 20th November 2017. This delay was to consider if it was possible to advertise the Forum renewal at the same time as the Submitted Plans. In the end it was considered more appropriate to advertise the two matters separately.</p> <p>Forums are approved for five years, and the procedure for designating a Forum is set out in Reg 8 and an area in Reg 5 of the Neighbourhood Planning (General) Regulations 2012.</p>
2.	<p>What is the current situation?</p> <p>Torbay has three Neighbourhood Forums and areas, one each for Torquay, Paignton and Brixham Peninsula (which includes Brixham, Galmpton, Broadsands and Churston).</p> <p>Forums were approved by full Council on 6 December 2012. The Minute of this decision is as follows:</p> <p><i>“It was proposed by Councillor Thomas (D) and seconded by Councillor Morey:</i></p> <p style="padding-left: 40px;"><i>(i) that the Neighbourhood Plan areas and forums of Torquay, Paignton and Brixham, and their constitutions, be approved subject to the Executive Head for Spatial Planning (in consultation with the Group Leaders and Executive Lead for Strategic Planning, Housing and Energy) being able to withdraw this approval with immediate effect in respect of any Forum in the event of any of the following applying to that Forum;</i></p> <p style="padding-left: 40px;"><i>(a) the Forum is not able to demonstrate that they have at least 21 members who live or work in the area, or are elected councillors;</i></p> <p style="padding-left: 40px;"><i>(b) the Forum is not acting in accordance with its constitution; and</i></p> <p style="padding-left: 40px;"><i>(c) the Forum has failed to comply with a reasonable direction of the Executive Head, Spatial Planning within a reasonable period from such direction being made;</i></p>

(ii) that all Neighbourhood Forums be instructed that the Council may choose not to advertise a submitted plan or put it forward for examination, if the matters referred to in paragraph 3.9 of the submitted report and (i) above are not addressed to the satisfaction of the Executive Head for Spatial Planning in consultation with the Group Leaders and Executive Lead for Strategic Planning Housing and Energy; and

(iii) that Local Councillors should take a lead role in ensuring each Neighbourhood Forum meets the terms of its constitution, the requirements of the Localism Act and National Planning Policy Framework and meets or exceeds the requirements of the new Local Plan.

On being put to the vote, the motion was declared carried (unanimous)".

3. What options have been considered?

The matter of Forum renewal was reported to the Council's Senior Leadership Team (SLT) on 24th October and 21st November and PDDG on 6th November 2017.

The meetings considered the options of approving or refusing to approve the Forum designations. The option of approving the Forums with conditions has also been considered. This report also considers the case for changing the boundaries to separate Churston, Galmpton and Broadsands into a separate area or part of Paignton.

Option 1

The case for Approving Forums (re-designating). This is the Executive's Recommendation

In response to the PDDG meeting on 6th November, the Forums have been invited to submit a case to renew their status and area. (see Appendix 2)

The Case for (re) designating Forums

- All three Forums have submitted Plan proposals. This represents a huge amount of effort by unpaid volunteers as well as a significant commitment in terms of Council staff time.
- It is not the role of the Forum designation to consider the content of the Neighbourhood Plan proposals – which are assessed against “basic conditions” by an Independent Examiner. Nevertheless, Torquay and Brixham Peninsula's submitted plans do make site allocations (subject to examination) sufficient to meet the Local Plan requirement. Paignton's submitted plan sets out why it considers that further allocations are not needed at present.
- The Localism Act is written permissively i.e. Forums should be approved unless they fail to meet the specified conditions. This could be seen as a “presumption in favour” of approving Forum status and areas. The Localism

Act is still in force and the role of neighbourhood planning was reinforced by the Neighbourhood Planning Act 2017.

- The Forums have a recognised role in commenting on planning proposals and other policies, including the Council's wider plans and strategies. Paignton Neighbourhood Forum has made representations on a number of corporate strategies and planning proposals, in line with this purpose. In some instances their views have been upheld by wider Council (e.g. Parkfield School).
- Torquay and Brixham Peninsula Forums have been less active in commenting on broader strategies, but have made comments on planning applications of significance in their area.
- Whilst there are disagreements between the Forums and the LPA's officers and TDA, this is part of the democratic process. The contents of Neighbourhood Plans will be tested by an independent examiner and the LPA or TDA (on behalf of the Council's landholding and wider development agency) are able to make representations to the examiner, and powers under Reg 17A- 18 in considering his/her report.
- Refusing to designate one or more Forums could result in legal challenge if it was considered to be perverse or irrational; or a decision could be vitiated if not made on the basis of correct legal considerations (i.e. Schedule 9 Section 61F of the Localism Act 2011, inserted into the Town and Country Planning Act 1990). Conversely, there can be little doubt that it would be lawful to re-designate forums and areas.
- Not designating Forums would still require the submitted Neighbourhood Plans to be examined, and there will be no designated body to consider Modifications etc. A plan brought forward by the Council may struggle to receive support at referendum. There will be outstanding financial issues in terms of funding awarded to each of the Neighbourhood Forums.
- The Council will need to bring forward a site allocations document. However strategic issues are also likely to arise, which will require an early review of the Local Plan.

Option 2

The case for allowing the Neighbourhood Forum status to lapse

- The Council could choose to let the Neighbourhood Forum status for the three Forums lapse in December 2017 and continue to work with the Forums on a voluntary basis until the Neighbourhood Plan approval process has been completed. Once the Plans have been through the process the Council could then take a decision on whether or not to renew the Forum status at that time.
- This gives support to the Forums in terms of recognising the good work they have done in producing the Neighbourhood Plans and allows them to consider and react to any proposed changes during the examination/approval process.
- This would enable the Council to consider the future role and involvement of the Forums after the Neighbourhood Plans have been completed and any changes in legislation that may be in force at the time.

- This would reduce the amount of officer time required to formally consult the Forums on other planning issues as their role would just be in respect of the emerging Neighbourhood Plans.

The case against re-designating Forums and/or areas

- As the above has set out there are differences of opinion between the views of the Neighbourhood Forums and those of Council officers.

The Localism Act indicates that local planning authorities must, considering Forum designation, have regard to the desirability of designating an organisation or body:

Which has secured (or taken reasonable steps to attempt to secure) that its membership includes at least one individual falling within each of individuals that live in the area, work in the area or are elected members in the area concerned.

Whose membership is drawn from different places in the neighbourhood area concerned and from different sections of the community in that area, and

Whose purpose reflects (in general terms) the character of that area

The main reason the Council (as LPA) could have for refusing to re-designate Forums is that their actions are not representative of the community or its general purpose does not reflect the character of the area in that its actions were contradictory to its purpose of being “*established for the express purposes of promoting or improving the social economic and environmental well being of the area*” Any refusal to approve a request for Forum status must be ‘reasonable’ (in the ‘*Wednesbury*’ sense) in that it must not be perverse or irrational. Council officers and the Forums have different interpretations of the meaning of this ‘general purpose’ definition.

- As a separate but related issue, the Planning Practice Guidance has been published since the approval of areas in 2012. 41-033-20140306 (published in 2014) sets out considerations that “could” be taken into account when deciding neighbourhood area boundaries. It suggests (inter alia) that electoral ward boundaries, with an average population of 5,500 people, may be a useful starting point for discussions on the appropriate size of neighbourhood areas. The PPG is not law, but it does represent advice that was not available in 2012, the neighbourhood areas were envisaged to be significantly smaller than Torbay’s.
- The main source of tension between the Forums and Council can be summarised as over the growth agenda, and its consequences for various elements of the community. In this aspect, different factors apply to the three Forums. As set out below.

- **Torquay and Brixham Peninsula Forums** have submitted Plans that do make sufficient site allocations which (subject to testing at Examination) do meet the housing requirements specified in the Local Plan. However, both Plans do contain policies that would have a more restrictive impact on development than are set out in the Local Plan alone. For example Policies H8 and H9 of the Torquay Neighbourhood Plan impose phasing restrictions on greenfield development at Edginswell. Policy BH9 of the Brixham Peninsula Plan introduces criteria for exceptions sites, and E3 defines settlement gaps. Both Plans propose a network of Local Green Spaces, which is wider than supported by the TDA. These statements are made without prejudice to whether the Plans are in general conformity with the Local Plan or NPPF (which is a “basic conditions” matter). With regard to Local Greenspaces, an Examiner will have to consider the conformity of proposals with paragraph 77 of the NPPF, rather than the Council’s interests a landowner. As noted above, thee Forums have been less active than Paignton in commenting on wider corporate strategies. They have made representations on planning applications (e.g. Torquay Pavilion) and they have a legally recognised right to do so.

Paignton. The most fundamental point of difference between Paignton neighbourhood Forum and the LPA is that the submitted Plan does not make site allocations. The council as LPA has objected that Paignton Neighbourhood Plan is not in general conformity with the Local Plan, and does not meet national policy requirements. This could undermine the Council’s ability to demonstrate a five year housing supply. The Local Plan Inspector noted that *“if the Neighbourhood Plans are not in place soon the council is likely to find itself in a position where it no longer has a five year supply of housing land. The disadvantages of not having a five year supply should not be under estimated... (it would) seriously prejudice the way in which the Council is able to direct and control housing development in the public interest”*¹.

Paignton Neighbourhood Forum has submitted counter evidence that additional allocations are not at the present time needed because (inter alia) of the lack of new job creation in Torbay since 2012, the demographic profile of Torbay which is driven by inwards migration, and the disjunction between ONS population projections and the low rate of growth recorded in the 2011 Census. The Independent Examiner will need to consider these points as part of his or her considerations of the “basic conditions”.

Paignton Neighbourhood Forum has been the most active in making representations on planning applications as well as wider corporate strategies. As noted above Forums have a recognised role as a consultee on planning matters.

¹ Report on the Examination into Torbay Local Plan, Keith Holland, October 2015. Paragraphs 48- 57. <http://www.torbay.gov.uk/media/7598/ph24.pdf>

	<p>It is a reasonable statement that but Paignton in particular, and the other Forums to a lesser extent are promoting a more restrained growth agenda than envisaged by the Local Plan. This could be seen at odds with the Government’s wish to “increase significantly the supply of housing”.</p> <p>Neighbourhood Forums were approved by Council for Torquay, Paignton and Brixham Peninsula on 6 December 2012. The Forums were approved conditionally as set out in Appendix 2. It will be noted that condition (iii) required Councillors to take a lead in ensuring Forums meet their legislative and local plan requirements. However, in the light of subsequent legal advice, it appears that the latitude to impose conditions on the Forums at designation is more limited than thought in</p> <p><u>Option 3</u></p> <p>Re-designate the Forums Subject to conditions</p> <p>The scope to approve Forums with conditions has been considered.</p> <p>In the light of legal advice, it would not be possible to designate the Forums with a “sunset clause” that they cease to exist when the Plans are made, unless the Forums volunteered this.</p> <p>It may be possible to approve Neighbourhood Forums subject to additional safeguards, including requiring Forum to include Torbay Council or Brixham Town Council Codes of Conduct in their constitutions (which is an approach taken, for example, by Bath and North East Somerset). Such an approval would be without prejudice to the LPA’s views on the substantive nature of the submitted Neighbourhood Plans.</p> <p><u>Option 4</u></p> <p>Amend the Forum Areas</p> <p>Two representations have argued that the Forum area boundaries should be amended. One recommends that Paignton’s area should include part of Livermead as well as part of the area within Brixham Peninsula. The second argues that Churston, Galmpton and Brixham should not be linked to Brixham. Another representation argued that the Forum areas are larger than envisaged in Planning Practice Guidance.</p> <p>Because the Forums have submitted Plans, amending the boundaries would significantly complicate the Examination process and could lead to confusion over boundaries. However, the advice in the PPG is noted in the main report.</p>
<p>4.</p>	<p>How does this proposal support the ambitions and principles of the Corporate Plan 2015-19?</p>

	<p>A decision on Forum designation must be made on meeting legal tests rather than consistence with the Corporate Plan per se.</p> <p>The Corporate Plan (p9) notes that some services may need to be provided differently, with greater community support and/or with integrated working with our partners". It seeks to "<i>work in partnership with the community and voluntary sector to build resilience and ensure they are equal partners on service design and delivery</i>" (P10).</p> <p>Forums can (and have) been broadly supportive of Targeted Action 4: Ensuring Torbay remains an attractive and safe place to live and visit. The plan indicates (p7) that "<i>Torbay's natural environment is a wonderful asset which we need to ensure is protected, by providing attractive and safe open spaces we can encourage our communities to make the most of where we live and promote healthier lifestyles</i>": and Targeted Action 3 Targeted Action 3: Promoting healthy lifestyles across Torbay. <i>They have taken a strongly pro-town centre stance.</i></p> <p>There are more likely to be tensions with actions that fall under the remit of Targeted Action 2: Working towards a more prosperous Torbay, which seeks to capitalise on the investment in the South Devon Highway and build on its recent success. For example there could be disagreement with the Local Plan, Housing Strategy. Corporate Capital Plan and Corporate Asset management Plan (part of Action 4).</p> <p>Nevertheless, the Forums are likely to support Targeted Action 4 "Ensuring Torbay remains an attractive and safe place to live and visit" This could have a knock on effect on other objectives.</p>
5.	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>Whilst the Neighbourhood Plans will have a significant effect on people who live, work or visit Torbay; the issue of Forum and area designation is a relatively narrow one, relating to the legal criteria outlined above.</p> <p>Regulations 6 and 9 require Forum designations to be advertised on the Council's website and in any other such manner as they consider is likely to bring the applications to the attention of people who live, work or carry out business in the area.</p>
6.	<p>How will you propose to consult?</p> <p>The applications for the three forum and area designations is available on the Council's website at. http://www.torbay.gov.uk/council/policies/planning-policies/neighbourhood-plans/neighbourhood-forum-renewal/</p> <p>Interested bodies and individuals on the LPA's database were notified by email "Newsflash" about both the forum status and submitted Plan consultations.</p> <p>The three Forums have also undertaken their own publicity on Forum/ area designation.</p>

Section 2: Implications and Impact Assessment

7.	<p>What are the financial and legal implications?</p> <p>Forum and area designation procedures are set out in the Neighbourhood Planning (General) Regulations 2012.</p> <p>The substantive criteria for considering forum and area applications is set out in Schedule 9 Section 61F of the Localism Act 2011, inserted into the Town and Country Planning Act 1990 after Section 61D.</p> <p>A decision not to designate Forums could be judicially reviewed if the Council considered matters it is not entitled to, or could be portrayed as behaving in a perverse or irrational way.</p> <p>There will be an ongoing resource implication in officer time in supporting the three Forums. However, since the neighbourhood plans have been submitted the cost of progressing the plans will be incurred irrespective of whether the Forums area renewed.</p>
8.	<p>What are the risks?</p> <p>See above. There is a risk of legal challenge if the Forum and area renewal process is not considered against the correct legal criteria.</p>
9.	<p>Public Services Value (Social Value) Act 2012</p> <p>Not applicable</p>
10.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>See main report.</p>
11.	<p>What are key findings from the consultation you have carried out?</p> <p>Consultation on the Forum and Area designations ran from 6th October – 20th November 2017. The overwhelming majority of representations were in favour of Forum renewal.</p> <p>A full breakdown of representations is contained at Appendix 3</p>
12.	<p>Amendments to Proposal / Mitigating Actions</p> <p>See discussion at section 3 above.</p>

	<p>It may be possible to approve Neighbourhood Forums subject to additional safeguards, including requiring Forum to include Torbay Council or Brixham Town Council Codes of Conduct in their constitutions (which is an approach taken, for example, by Bath and North East Somerset). Such an approval would be without prejudice to the LPA's views on the substantive nature of the Submitted Neighbourhood Plans.</p>
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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	The demographic make-up of Forums tends to be older age groups, but are open to everyone.		The Forums all open to people of all age groups, ethnicities, sexual or gender orientation, and belief (or lack of).
	People with caring Responsibilities			No direct impact- see above
	People with a disability			No direct impact- see above
	Women or men			No direct impact- see above
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			No direct impact-see above
	Religion or belief (including lack of belief)			No direct impact-see above
	People who are lesbian, gay or bisexual			No direct impact-see above
	People who are transgendered			No direct impact- see above

People who are in a marriage or civil partnership			No direct impact- see above
Women who are pregnant / on maternity leave			No direct impact –see above
Socio-economic impacts (Including impact on child poverty issues and deprivation)	See third column	See third column	The Forum designation should not be conflated with the content of Neighbourhood Plans. However the Forums are likely to promote higher environmental standards, and more robust policies on affordable home for local people. However they are likely to resist higher growth levels with the concomitant economic and financial benefits and impacts that this would bring.
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	See third column	See third column	The Forum designation should not be conflated with the content of Neighbourhood Plans. However the Forums are likely to promote higher environmental standards, and more robust policies on affordable home for local people. However they are likely to resist higher growth levels with the concomitant economic and financial benefits and impacts that this would bring.

14	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	See main report- particularly section 4.
15	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	No direct impact



Joint Statement

1. Introduction

1.1 Each Forum has been asked by the Council to provide a two page statement on why our Neighbourhood Area and Forum Applications should be renewed.

1.2 This statement is submitted jointly by our 3 Forums to demonstrate how the community is working together and trying to reduce the resource burden on the Council. Full details of our Area and Forum applications have been published on the Council's website at:

www.torbay.gov.uk/council/policies/planning-policies/neighbourhood-plans/neighbourhood-forum-renewal/

2. Why the renewals are justified

2.1 Our Area and Forum applications require separate decisions, noting also that a Forum application cannot be determined in advance of an Area application where made.

The Area renewals

2.2 Our Neighbourhood Areas were first defined in 2012 and later included in the Torbay Local Plan submitted to the Secretary of State in 2014. We note that Area designations do not automatically expire after 5 years. However, it remains valid to review and confirm, or not, if each Neighbourhood Area remains appropriate⁽¹⁾.

2.3 There has been no change to any relevant consideration on this matter and having designated the areas twice before it would be extremely difficult to depart from the precedent clearly set without very strong reasons to do so. Furthermore, to refuse renewal of each Area would also undermine the now adopted Local Plan.

The Forum renewals

2.4 Successive governments have encouraged our communities to take up 'localism' and opportunities given by the Localism Act of 2011. None more so than becoming directly involved in producing our own distinctive neighbourhood plans which reflect the needs and aspirations of our communities⁽²⁾. All three of our Forums in Torbay are 'Front Runners' nationally. Each has received grant support and other help from central government. Support for Forum designation continues to be encouraged and stands currently at more than 2,000 nationally and continues to be fast growing in number.

2.5 In line with central government encouragement, there is a clear presumption that Local Planning Authorities are expected to approve Neighbourhood Forum applications where they meet the **legal tests** set out in the legislation. Refusal is open to legal challenge.

2.6 All three of our Forum applications continue to meet the legal tests, in particular⁽³⁾:

- each has a written Constitution that states it exists for the express purpose of promoting or improving the social, economic and environmental well being of the neighbourhood area;
- all three Forums have a membership individually that greatly exceeds the minimum requirement, has taken steps to ensure this includes membership drawn from different places in the neighbourhood area and that reflects the character of the area.

2.7 Despite extensive difficulties encountered over a long period, against all the odds, all three of our Forums have successfully prepared and submitted Neighbourhood Plans for independent assessment in one of the most challenging situations in the entire country.

2.8 Paignton's was the first to be submitted in August 2017, followed shortly after by the Neighbourhood Plans for Brixham and Torquay, all within weeks of statutory consultation periods having been completed by each Forum as required. All three Neighbourhood Plans are recognised nationally as being in the 'complex' category by virtue of their size and issues involved.

2.9 Timely and constructive discussion by all three of our Forums has taken place with Council officers to appoint the independent assessors. However, the Council delay has meant that the process of Assessor appointment and examination prior to Referendum is unable to be completed before the Forum 'approved body' status expires on 7 December 2017.

2.10 The renewal applications are the first of their kind in the country under these circumstances. If refused, they would unjustifiably deny each Forum from taking its defined lawful part in completing the remaining stages of the process. In addition to denying the right to agree the choice of Assessors and taking part, as of right, in the anticipated Hearing stage, it would deny our Forums the right to withdraw any of our Plans if agreement cannot be reached on modifications that may arise. The negative effect on the community of refusing to renew the Forum designations would be significant and capable of being viewed as undemocratic, perverse and unreasonable.

2.11 Whilst the Council has to date raised objection to some parts of the Neighbourhood Plan proposals, the process of independent assessment has yet to be completed. Government advice is clearly directed at not making assumptions about the outcome of the Neighbourhood Plan that will emerge⁽⁴⁾. Put simply, the redesignation process and Neighbourhood Plan determination are separate matters. The renewal decisions must not be driven by any Council objection to the submitted plans that may continue to exist.

3. The contribution since 2012

3.1 From the outset our Forums took to heart that covering the whole of Torbay was innovative and challenging. Each Forum has embraced this enthusiastically. A very considerable amount of volunteer time has been provided from a large number of the community. Each Forum has contributed positively under the most difficult of circumstances, in a very cost effective way and in organisational arrangements expressly determined by community wishes implemented democratically in each area.

3.2 In order of size, the following aspects are relevant:

Torquay

3.3 As the largest area and resident population, the Forum uses the nine established Community Partnerships as its foundation. The Steering Group includes representatives from other stakeholders in the town including businesses, Tourism, each of the three main party political groupings, housing developers, Trades Unions and environmentalist groups. This allowed the developing Plan to consider a consensus on a broad range of policies to meet housing needs, enhance the economy; and improve the quality of life of residents and the visitor experience. The Community Partnerships provided a ready conduit for developing community aspirations and community based consultations as the Plan developed; while wider public consultation events both formal and informal supported this process.

3.4 The Forum fully supports economic growth in Torquay, it has allocated housing development sites based on those identified within the Local Plan. Two sites were rejected but six sites were added to provide housing numbers in excess of that required within the Local Plan for Torquay. Employment space is protected and additional areas allocated to meet the requirements for jobs growth set out in the Local Plan. Policies were also developed to give detail to the strategic policies within the Local Plan, including: making sure highly valued community green spaces are protected; the maximum number of affordable homes is provided from major developments, Brownfield development is prioritized, sustainable communities are created and both the natural and built environment are protected. Overall, aspirations and policies were developed for the key areas of: Housing Jobs, Tourism, Transport, Health and Wellbeing, Sports, Culture, and the Environment.

3.5 The Forum also supported each Community Partnership to produce a community statement that forms part of the Plan. It expresses aspirations for their local area and a list of projects that they seek to implement with Community Infrastructure Levy funding as part of improvements to their quality of life.

Paignton

3.6 Community involvement has been extensive, inclusive and transparent, as evidenced by the membership information contained in the submitted Paignton Neighbourhood Plan and supporting documents. These show direct membership of the Forum has grown in all parts of the community area. Along the way, this has included distributing proposals to all 24,000 household and business premises throughout Paignton. A step even the Council has never achieved.

3.7 Paignton has the largest number of sites in Torbay with planning consent for growth. The Neighbourhood Plan includes an extensive assessment that found no need to identify further land in the area to accord with the Local Plan and rolling 5 year requirement. Any remaining concern the Council might have will be for the Independent Assessor to consider. It is not a matter relevant to the Forum renewal decision. The Council gave an undertaking to the Local Plan Inspector, now in the Local Plan, that if the Council is not satisfied with the assessment of sites, the Council has committed to bring forward its own site allocations Development Plan Document as the next step (LP Policy SS1). An appropriate safeguard is already therefore in place.

Brixham

3.8 Brixham Town Council, under the legislation, has the automatic right to be the approved body for preparing neighbourhood plans in its parish area. Given the very close associations between the area of Brixham Town and the surrounding village areas of Churston, Galmpton and Broadsands, at an early stage these areas chose to work together. This resulted in the establishment of the Brixham Peninsula Neighbourhood Forum as an independent

subcommittee of the Council which drew in members from across the wider area and also neatly fitted with the identification of the wider Brixham Peninsula area as per the Local Plan.

3.9 These combined working arrangements have been highly successful at engaging the community. Despite being the smallest in terms of geographic area and resident numbers, the consultation statement demonstrates how the Brixham Plan drew the highest number of respondents of any of the 3 plans across Torbay, the significant majority of these being highly supportive.

3.10 The internationally protected Greater Horseshoe Bat species and the internationally protected maternity roost site at Berry Head have been added issues of particular difficulty. The Forum and the Neighbourhood Plan have addressed these comprehensively with specialist survey evidence which has informed specialist habitat regulations advice and allowed site allocations to be made in the certainty that protected species will not be effected. Whilst highly cautious about the relationship between jobs and homes and very aware of the infrastructure pressures particularly from the road network at one end of the bay, throughout the Forum and the Plan has been pro-growth. Allocated housing sites and identified employment sites are both above the expectations of the Local Plan.

4. Future Forum involvement

4.1 When first established, Councilors wished to see the Forums develop close involvement of each community in development matters affecting each area in order to ensure sustainable development. More recently, the Council has debated how best to extend this into asset management, again in an innovative way.

4.2 The network of extensive community volunteer involvement and skill sets established by each Forum have produced Neighbourhood Plans that should be seen as the first stage in securing sustainable development at community level, not the last stage.

4.3 Each Forum has also taken an active and constructive involvement in helping to shape the Community Infrastructure Levy and other key decisions made by the Council that affect various locations of importance to each community. Where a difference of view has on occasions arisen, this should be recognised as a healthy democratic situation to foster, not one to be suppressed.

4.4 On a practical point, the Local Plan is required to undergo its first major Review in 2020/21. Renewal of the 'approved body' status to our Forums will help this to be achieved more cost effectively to the Council than if the Forum renewals are refused. The renewals are sought to complete the process of our submitted Neighbourhood Plans and to enable us to refresh or replace them, as appropriate, over the next designation period. There is no bar to this in the legislation. On the contrary, it accords fully with the continuing intent of the Localism Act and will make positive use of the skills and scale of community involvement successfully and democratically established by each Forum.

5. Summary

5.1 In summary:

- the boundary of each Neighbourhood Area previously designated remains appropriate for redesignation under Regulation 5⁽⁵⁾;
- the Forum renewal applications accord with the legal tests required to be applied and refusal could be viewed as undemocratic, perverse and unreasonable having regard to all the circumstances that exist;

- renewal of the Forum designations will be of assistance to the Council in strengthening the link between the Council and community in each of the three Neighbourhood Areas on matters that directly affect securing sustainable development in Torbay.

Leon Butler

Chair of Torquay
Neighbourhood Forum

David Watts

Chair of Paignton
Neighbourhood Forum

Jackie Stockman

Chair of Brixham
Neighbourhood Forum

November 2017

References:

- (1) *Town & Country Planning Act 1990 Section 61G introduced by Sch 9 Part 1 Localism Act 2011*
- (2) *National Planning Policy Framework (NPPF) paragraph 1 published by central government March 2012*
- (3) *Town & Country Planning Act 1990 Section 61F(7) introduced by Sch 9 Part 1 Localism Act 2011*
- (4) *National Planning Policy Guidance (PPG) Section ID:41 by central government last updated August 2017*
- (5) *Town & Country Planning Neighbourhood Planning Regulations 2012 as amended*

Appendix 3

Neighbourhood Forums and Areas, Reg 5 and 8 Renewal Applications: Summary of Representations received to public consultation between 6th October 2017 and 20th November 2017. (All received by email unless otherwise stated).

The table below sets out the results of the consultation into Forum and Area renewal. In summary the consultation received the following representations:

All Forums –Support for renewal from 6 organisations, 1 Councillor and 43 private individuals. No overarching objections.

Torquay Forum – Support from 3 organisations and 27 individuals. 1 objection to Forum and area.

Paignton Forum – Support from 3 organisations and 16 individuals. 1 objection, 1 general comment regarding the area.

Brixham Forum – Support, 43 individuals. 3 objections to areas -Waterside (2) and Brixham (1)

Neighbourhood Forums and Areas, Reg 5 and 8 Renewal Applications.		
Summary of Representations received to public consultation between 6 th October 2017-20 th November 2017. (All received by email unless otherwise stated).		
Name	Comments	Response
General (all Forums).		
CPRE Torbay (Carol Box for)	Support Forum re-designation. Many Torbay resident members have worked hard over the past 5 years to produce Neighbourhood Plans.	Noted.

Name	Comments	Response
Galmpton Residents Association (Jeremy Partridge and Christine Batten for)	Support renewal of neighbourhood forums. Forums/NPs are excellent bodies to foster and enhance sense of community. Retention of Forums and areas is necessary for the implementation of the Neighbourhood Plan and in view of the huge amount of volunteer time .on the Plans	Noted.
South Devon TUC and GMB (Paul Raybould for)	Forums should be allowed to continue the work started in 2011	Noted
Residents for Churston CIO (Ian Russell)	Forums should be renewed. Many CIO members have worked hard over the last 5 years on the Neighbourhood Plan.	Noted. Agree that a great deal of volunteer time has gone into Neighbourhood Planning.
Torbay Green Party (Dr H Boyles for)	Support Forum re-designation	Noted
Torbay Friends of the Earth (Alan Griffey for)	Support the three Neighbourhood Forums of Torquay, Paignton and Brixham and agree that they should be re-designated as the Qualifying Bodies and have their associated Neighbourhood Areas re-confirmed.	
Cllr Derek Mills	The Forums should be renewed. A huge amount of volunteer time has gone into them.	
43 individuals (recorded as they signed themselves and broad area, where known). Individuals have been initialised, where the representation identified a specific area this is recorded after the initials)	36 Representations from people writing in a private capacity in support of all three Forums being renewed. (Note that some of the responses to individual Forum/areas are also likely to be implicitly supporting all three forums. Reasons stated include: Forums critical to wellbeing and success of Torbay	Noted Agree that a great deal of volunteer time has gone into Neighbourhood Planning.

<p>AB, JS (Brixham), NG(Torquay), CD (St Marychurch), HB (Galmpton), RC (Brixham), JG (Roundham and Hyde), CL,LS,KP,CE (Paignton), MT(Paignton), MP,(Secretary of PNF),JG,DP,SK,JK,HG,AG,LW, SC, AR(Galmpton), PS (Galmpton), JS (Galmpton), EV,BV, BT,DM, HL(Galmpton) ,JL (Galmpton) ,RE, RM (Torquay), LS (Torquay) RC(Galmpton), JA(Brixham), AW,JW(Galmpton), RC, YC (Galmpton), FED,CB,CB, MG (Galmpton) Received 21/11/17</p>	<p>Three-plan structure supports effectively the sense of community.</p> <p>Forums will support the enhancement of greenspaces and biodiversity and give consideration to the provision of local food (i.e. through planning policies)</p> <p>Forums have done immensely valuable work. They should continue their contribution to protect our environment and promote the sympathetic development that we residents want to see within the town centres.</p> <p>Not renewing the forums would be a waste of public money and disregard of the hundreds of hours of volunteer time.</p> <p>The Forums and their Plans are also dedicated to an <u>environmentally sustainable</u> vision of Torbay's future which <i>protects</i> and <i>enhances</i> its unique natural assets rather than sacrificing them for short term financial gain in a way which will threaten the area's longer economic viability and attractiveness as a tourist destination. It would be heartening to see Torbay Council supporting these aims in accordance with, rather than in opposition to the communities which they have been elected to represent.</p> <p>Forum status should not be delayed to gain advantage for developers.</p> <p>Neighbourhood Forums/planning is the best way of representing the communities of Brixham Peninsula, Paignton and Torbay. I am aware of the dedicated efforts of groups of residents (the Neighbourhood Forums) who have expressed our and other local people's concerns in the</p>	
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	preservation and enhancement of the unique assets of Torbay.'	
Natural England	Set out general natural environment considerations for Neighbourhood Plans to consider.	Does not relate to Forum renewal, but the Forums have been engaged and consulted Natural England.
South West Water	No comment	

Torquay		
Shiphay and Willows Community Partnership (Darren Cowell for)	<p>Support re-designation of Torquay Neighbourhood Forum. A significant amount of Torquay's growth is within Edginswell (i.e. Shiphay with the Willows).</p> <p>Significant amount of volunteer time has gone into preparing the Plan, which does allocate employment and housing land and is general conformity with the Local Plan</p>	The issue of general conformity with the Local Plan will be tested through the examination.
Leon Butler, Chair of the Cockington Chelston and Livermead Community Partnership	Our Community Partnership has played an important role in developing the Torquay Neighbourhood Plan by being part of the Torquay Neighbourhood Plan Forum. The Forum has consistently engaged with all communities across Torquay to develop the current draft Plan which is close to submission and eventual referendum. We therefore fully support the renewal of the Torquay Neighbourhood Plan Forum as the best body to ensure that process is successfully completed.	
Leon Butler Chair of Torquay Neighbourhood Plan	As Chair of the Torquay Neighbourhood Plan Forum I am making a representation to continue the Forum's designation so that the process of making Torquay's Neighbourhood Plan can be completed. <u>The Torquay Neighbourhood Plan Forum has been a success story - we want to finish the job!</u> It has	

brought together communities with a shared vision that has been extensively consulted on. It has resulted in a submitted Neighbourhood Plan that is bottom up, 'by the community, for the community'.

It is not meant to slavishly duplicate the Local Plan it is a development Plan that allocates housing sites and adds detail to the Local Plan and strengthens policies where the communities have identified a need. It has been independently shown by Torbay Council that it supports sustainable development and protects European protected species.

It has not been plain sailing, Torquay is nationally the largest Forum population, the process has taken too long, it has been a parallel process with the developing Local Plan and communities wanted their voice heard. Remember this is a new process for everyone involved: a bringing together of centralised authority with grass roots enthusiasm.

We have not agreed with all the potential homes sites in the Local Plan but we have added new sites of our own to more than compensate the housing numbers. As expected in any process like this there have been differences of opinion on some of our detail; however it is reasonable to say this was amicably resolved. This is a healthy sign that the end result has been rigorously examined and is fit for purpose.

The submitted Plan provides policies that are judged to be in compliance with the strategic policies within the Local Plan and National Planning Policy Framework, if not then the

	<p>independent examination will reject those policies. Overall it is an expression of our communities' aspirations for Torquay.</p> <p>We support and given detail to the Local Plan (representation goes on to summarise Neighbourhood Plan proposals and objectives.</p>	
<p>Pegasus Group on behalf of ECVF Ltd, Sladnor Park Maidencombe</p>	<p>Object to Torquay Neighbourhood Plan Area and Forum. The area is too large and does not meet criteria in PPG. Neighbourhood Plan areas should reflect a neighbourhood level, i.e. be at parish or ward boundary level, circa 5,500 people. Torquay is circa 62,000 people. The numbers are too large to be representative of the disparate areas and interests in Torquay.</p> <p>LPA's have refused to designate large Forums in other areas i.e. Wirral and Manchester.</p>	<p>Issues noted. The online Planning Practice Guidance was introduced post creation of Torbay's Neighbourhood Forums in 2012.</p> <p>The PPG is not law and is intended to be guidance (i.e. less binding than the NPPF). PPG 41-033-20140306 indicates that the considerations around area size, population, catchment area etc. "could be considerations". It does not say they must be. Nevertheless the PPG is advice to LPA's that could not have been taken into account at the time that Forums were first approved in Torbay in 2012</p> <p>The above advice will need to be weighed up against the impact of not re designating the Forum/area in the light of a submitted Neighbourhood Plan. It would also need to be assessed in the face of the legal requirements under S61(F) inserted into the T&C Planning Act, and</p>

		<p>whether the Forum has taken reasonable steps to secure membership across different places and sections of the community.</p> <p>The decision on Forum status should not be used to prejudice (in either way) the outcome of the submitted Torquay Neighbourhood Plan's policy on Sladnor Park, or a future planning application. Consideration of these should take place at the Local Plan examination and/or a planning application, when submitted.</p>
<p>29 individuals</p> <p>PR, JC, RH (Maidencombe), CB (Maidencombe),LB (Maidencombe),HW(Maidencombe),KH (Maidencombe), VA,SA, MGJ, CS, CS, HG, PY (Maidencombe), HS,MB, MR,MR,WG (Maidencombe),SG,DE (Maidencombe),ME (Maidencombe),LMcM (Maidencombe),PN,RC,FED ,SM,DM,</p>	<p>27 individuals expressing support for the renewal of Torquay Neighbourhood Forum. Note that some could reasonably be considered to be supporting all three Forums/areas.</p> <p>Support re-designation of Forum</p> <p>Not renewing the status would be disrespectful to all those in the Forum and many others who have worked diligently and given significant voluntary time over recent years if Torbay Council fails to renew the status. It would also be in conflict with the Localism Act of 2011.</p> <p>Support sections of the Plan that deal with Maidencombe. The area is enhanced by having an effective neighbourhood Forum</p> <p>The Forum is a useful interface between the community and the local authority.</p>	<p>Issues noted. As above, it is agreed that a huge amount of volunteer time has gone into neighbourhood planning.</p>

	<p>The neighbourhood plan offers much needed protection from avaricious and inconsiderate development of the beautiful area in which we live.</p> <p>Neighbourhood Forums/planning is the best way of representing the communities of Brixham Peninsula, Paignton and Torbay. I am aware of the dedicated efforts of groups of residents (the Neighbourhood Forums) who have expressed our and other local people's concerns in the preservation and enhancement of the unique assets of Torbay.'</p>	

Paignton		
Save Victoria Park(Dr Sam Moss for)	Support Forum re designation	
Paignton Heritage Society (Eileen Donovan for)	Paignton Heritage Society unanimously support Forum renewal.	Noted.
Yalberton Valley Community Forum (Stephen Reed)	Support re-designation of Forum. The Forum has been a useful conduit between the Council and community and has a useful role to play in ensuring implementation of the Plan.	Noted
Jane Barnby (Cllr)	Object: The forum is entirely unrepresentative of the area It is dominated by people who want no change to Paignton whatsoever and has alienated other people. Please change the constitution to allow more voices to be heard.	Noted
ML(Paignton),DW,IC (Blatchcombe) AMC (Blatchcombe),RB, PB,RLL, ED,LG,PH,AGP, JM, HR, FED,VW, SM	16 individuals expressing support for the renewal of Paignton Neighbourhood Forum. Note that some could reasonably be considered to be supporting all three Forums/areas.	

	<p>Support re-designation of the Forum</p> <p>The Forum has complied with all requirements for creation and existence of a neighbourhood Forum in a non-parished area. Forum designation is needed until at least the referendum stage.</p> <p>Urge the Council to grant the Applications to continue the existence of the designated Area and Forum until such time as the Plan has been approved by Referendum or has been otherwise disposed of.</p> <p>This Forum is an effective way for the public to make their views known.</p> <p>The forum members have put in a great deal of work in order for the Paignton Neighbourhood Plan to reach its current state and it would be not only a great pity but more a travesty of justice if it were not allowed to carry on for another 5 year period in order to complete the plan and enable residents of the area to have a say in what is built, where and when. These rights were given as part of the Localism act of 2011 and are still current. There is no logical or rightful reason for not renewing the application.</p> <p>Paignton Neighbourhood Forum is a community-led welcoming open-minded transparently democratic group of local people planning for Paignton Neighbourhood Area, preserving the historic heritage of its past, enhancing its environment and economy in the present, and preparing and ensuring inter-generational equity and sustainability for its future.</p>	
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	<p>A substantial and meticulous effort has gone into ensuring the necessary balances of a stance that will be viable for the future of Paignton within the legal planning framework available. A stance which is essential to maintaining the health and beauty of the area, as one that values its historical green spaces and biodiversity by ensuring its protection and ensuring scope for further future enhancement, for the benefit of locals, employment, nature & tourism and to meet some of our responsibilities here in Torbay for tackling the scourge of AGW (Anthropogenic global warming).</p> <p>The Paignton Neighbourhood Plan been delivered on time and way below any comparable council budget adds great weight to the continuity of The Paignton Neighbourhood Forum and the geographical area it represents.</p>	
Paignton Heritage Society (Eileen Donovan for)	Paignton Heritage Society unanimously support Forum renewal.	Noted.
MN	Expand the plan area to include Preston School and Livermead across to Churston and Lupton House including the waters of Tor Bay and inland to South Devon College and University plus protection of wood land and farmland including Old Way Gardens and Mansions	Noted. This is not an objection per se. Some of these areas are not within Paignton and would blurr boundary lines. Consideration of protection policies for woodland and Oldway are matters for consideration as part of the Neighbourhood Plan (Reg 16) consultation.

Brixham		
Cllr Jackie Stockman	Support Forum an area designation.	
<p>42 representations in support from individuals</p> <p>CB, BE,MS,AC (Galmpton resident),RR,PR,ES(Churston), PD (Galmpton),IY (Galmpton),JR (Galmpton),JR (Galmpton), JC (Galmpton), RB (Galmpton) , DH,BH,JB,RWM,ST,JT (Galmpton), GT (Galmpton),JF, BJ (Brixham),HR (Galmpton), RS,JS (Brixham), SM (Brixham), BB (Galmpton),SB (Galmpton), BT(Galmpton), MT Galmpton), FS(Brixham),DA (Galmpton),JS,WB,NA, PR,DE(Galmpton), PS (Galmpton),WS (Galmpton),HG,AG,MB</p>	<p>41 individuals expressing support for the renewal of Brixham Peninsula Neighbourhood Forum. Note that some could reasonably be considered to be supporting all three Forums/areas.</p> <p>It is extremely important to protect our green spaces and natural environment, wildlife habitat etc. and the Forum is the best resource we have to ensure that the right development takes place in the right place.</p> <p>The Forum best represents the people of Brixham, Paignton and Torbay. The Plan is the result of considerable work by the residents who have concerns regarding the healthy and balanced development of our beautiful home territory.</p> <p>It is the result of years of dedicated effort by a group of residents anxious to ensure that the natural assets of the area are enhanced and protected from insensitive or inappropriate development.</p> <p>Sent from my iPad with best wishes.</p> <p>Brixham Town Council is the appropriate qualifying body to seek designation.</p> <p>The council has apparently delayed ratification of the Brixham Peninsula Neighbourhood Plan. A cynic might say that the delay had been deliberate in order to rush through major housing development plans before the said Plan (and others in Torbay) became legally enforceable. I</p>	Noted

still TOTALLY support the plan for a multitude of reasons - the same ones that I agreed with in the first instance. In my view adoption of the Plan it is the best way of representing the views of the local communities in matters relating to the preservation and enhancement of our local environment.

In the Reg 14 consultation, a very clear majority of residents who responded to the question as to whether or not they supported the plan were in favour.

The Forum has saved Torbay Council a considerable amount of work in providing the housing and employment allocations for the Brixham Peninsula

It seems scandalous that these local plans are being deliberately delayed in being accepted by the council just so that other large scale planning applications can be approved before these Neighbourhood Plans are adopted

We support the Neighbourhood Plan as the best way of representing the communities of Brixham Peninsula, Paignton and Torbay. We hope that the views of the local community are listened to as these additional developments will negatively affect all who live and/or work here.

We totally object to any further house building in this area as there is already over development here. The local infrastructure cannot support this. The roads, GPs, hospitals, education and job opportunities are already full to capacity and any further housing will only ruin the special environment in which Torbay stands.

<p>Gillian Baker (Widow of the late William Baker, who was a key author on the emerging Neighbourhood Plan: Name not redacted with Mrs Baker's permission).</p>	<p>As the widow of William Baker (an active and key member of the above Forum), I vehemently support and value the gruelling work that this group of volunteers have committed themselves to on behalf of the Brixham Peninsula. Their dedication has resulted in the production of a high quality detailed plan. Through consultation great care has been taken to represent the views of the population in the Brixham Peninsula. I am angry that the process has not yet been completed. There have been many hurdles to surmount resulting in so many hours of deliberation and redrafting, Will found this so frustrating I am certain the stress contributed to his heart condition and early death.</p> <p>FIVE YEARS WORK BY LOCAL RESIDENTS must NOT be wasted!</p> <p>I strongly support the renewal of the Brixham Peninsula Neighbourhood Forum and its area designations.</p>	<p>Noted with sympathy.</p>
<p>DH (Brixham)</p>	<p>Brixham should not be renewed. The Town Council is the elected body and should be the qualifying body- not some self-appointed well-meaning volunteers. Churston and Galmpton may need their own forum.</p>	<p>Since Brixham Town Council is the qualifying body for Brixham (as required by law), this appears to be a comment that Churston and Galmpton should be a separate forum and not an objection to the Forum per se.</p> <p>See comments above about size of Neighbourhood areas.</p>
<p>JD,MD (Waterside), AJ (Waterside)</p>	<p>Waterside area is on the edge of the Brixham Peninsula designation and relates more closely to Paignton. It should be part of Paignton Neighbourhood Forum.</p>	<p>Concerns noted. Whilst Waterside is on the boundary with Paignton, it is</p>

	<p>Contend that the inclusion of the areas of Waterside and Broadsands are totally inappropriate as the majority of the person living in of these areas assume they are resident in Paignton and so totally unaware that this is now to be part of Brixham. Churston, Galmpton and Broadsands Community Partnership is not active, so it would be more appropriate to locate these areas in Paignton.</p> <p>33 objections were made to Waterside Quarry (out of 381 total responses). These were rejected by the Forum. The Neighbourhood Forum does not seem to be taking into account the wishes of the People of Waterside, and the areas should consequently be part of Paignton.</p>	<p>allocated within the Brixham Peninsula Plan.</p> <p>However the substantive point appears to be an objection to the allocation of Waterside. This would not be removed from the submitted Plan if the area was amended.</p>
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Meeting: Council

Date: 7 December 2017

Wards Affected: All Wards

Report Title: Transformation Project – Review of Library Services & Appointment of Supplier

Is the decision a key decision? No

When does the decision need to be implemented? Immediately in order to facilitate Contract start date of April 2018

Executive Lead Contact Details: Cllr Richard Haddock - Executive Lead for Customer Services and Town Centre Regeneration Richard.Haddock@torbay.gov.uk, 01803 207115

Supporting Officer Contact Details: Bob Clark, Executive Head of Customer Services, Bob.clark@torbay.gov.uk, 01803 207420

1. Proposal and Introduction

- 1.1 The Council, like most local authorities, is experiencing unprecedented pressure on its finances and must make savings and efficiencies from its annual budgets.
- 1.2 The Council has a statutory duty as set out in the Public Libraries and Museums Act 1964 whereby they must provide a 'comprehensive and efficient' Library Service for the benefit of those living, working or studying in the area.
- 1.3 Over the last 5 years the Council has continued to reduce the Library Services budget to a point where any further budget reductions would seriously increase the risk of the service being unsustainable. Continued reductions in the Libraries budget could reach a position whereby the Council would be unable to fulfil its statutory obligation.
- 1.4 Against this background it was therefore necessary to explore a range of options for the future of Library Services, to examine whether or not there were different external ways of delivering Library Services which would reduce operating costs; provide sustainability across our existing service outlets and deliver a more modern and innovative Library service.
- 1.5 In July 2016 the Council ran an "Expression of Interest" process and "bidder's event" which allowed organisations (including mutuals and voluntary sector organisations) the opportunity to advise the Council how they could improve the Library service in Torbay and achieve savings.
- 1.6 The outcome of this event was that the Council agreed to proceed with a formal Library procurement exercise and seek a Service Provider to deliver Library

Services on behalf of and under the supervision of the Council, delivering value for money and resulting in a reduction in the Council's Library service budget.

- 1.7 The Council went out to Competitive Tender for the provision of Library services in February 2017. The tender exercise was undertaken using the "Competitive Procedure with Negotiation" process to ensure the most suitable service provider was selected based on service quality; sustainability and affordability.
- 1.8 Three potential bidders responded to the initial Stage one tender Pre-Qualification Questions (PQQ), however only two bidders fulfilled our PQQ requirements. The two remaining successful bidders were invited to the Stage 2 "Invitation to Tender" process in April 2017. Bidders were given 40 days to respond to the Council's Invitation to tender with their Initial tender responses.
- 1.9 Following receipt of the bidders Initial Tenders, a thorough evaluation and negotiation process with the bidders has been undertaken, with the bidder's final tenders being received and evaluated early October 2017, which has resulted in the identification of a preferred supplier, namely Libraries Unlimited. Libraries Unlimited is an independent staff and community owned social enterprise, established in April 2016 with the support of Devon County Council. It is a not-for-profit organisation which works for community benefit, any surplus income generated is reinvested into the organisation and its services. Libraries Unlimited runs Devon County Council's public library service – 50 libraries across the county and 4 mobile libraries.
- 1.10 If a contract is awarded, the preferred supplier will ensure the sustainability of the Library service within Torbay for the next 5 years (with an option to extend the contract by a further 5 years) whilst making a revenue saving of approx. £804k over the initial 5 year term of the contract. There will be some one-off upfront costs of £107k for Library ICT upgrades which would be necessary even if the Council were to retain its library provision in house. There will also be some staff transition costs of moving to the new provider which are estimated to be between £294k and £354k.
- 1.11 It is recommended therefore, that Torbay Council enter into a five year (+5 yr extension) contract with Libraries Unlimited for the delivery and management of the Library services within Torbay.

2. Reason for Proposal

- 2.1 It is recommended that the Council enter into the contract with Libraries Unlimited in order to;
 - 2.1.1 **To achieve revenue savings** - Budgetary pressures affecting the Council mean that the Library Services has to be delivered more cost effectively and in a different way in order to sustain the current level of service whilst achieving further savings to the Revenue budget. The proposed new Library Service provider would achieve a Revenue Budget saving of around £804k over the initial 5 year term of the contract and provide a sustainable service in terms of operational service delivery.
 - 2.1.2 **To create a sustainable Library staff structure.** - The current Library service has an ageing staff profile, with limited opportunities for career development and is at risk of potential staff shortages due to early retirements, sickness and holiday clashes. A new larger service provider,

with a larger local staff base, will offer more flexibility in terms of staff cover and career development.

- 2.1.3 **To provide a Library service which meets the needs of the Community** - The library service has to meet the needs of Torbay's public and business community in an effective and efficient manner. The new service provider will enable people who live, work and study in the borough to have continued access to all existing library services, including books, archives and other resources (including electronic resources) to meet their information, learning and leisure needs. Opportunities to participate in activities, events and learning programmes relating to the resources will also be provided.
- 2.1.4 **To ensure the Council retains control over Library accommodation assets** - The Council will not lose control over the current Library accommodation assets. The contract with a new Library Service provider will not impede any future developments which may impact on our current Library sites. The Council would retain the opportunity to change or relocate Library sites if it so wished.
- 2.1.5 **To enable the Council via its new partner to raise additional funding through grants and sponsorship** - The proposed new service provider is a Social Enterprise company and registered charity. As a charity, they can access a wider range of fundraising sources than the Council and can benefit from Gift aid to support the development of Torbay's libraries into the future. Libraries Unlimited have been very successful in rising additional grant funds from the Arts Council for Devon County Council Libraries.

3. Recommendation(s) / Proposed Decision

- 3.1 That Council approve the proposal to enter into a Service delivery contract with an external Library Service Provider to deliver and manage Torbay Libraries;
- 3.2 That the Director of Corporate Services and Operations be given delegated authority to enter into a five year contract (with an option to extend for a further five years) to be awarded to the preferred bidder, 'Libraries Unlimited', with the contract to commence in April 2018; and
- 3.3 That Council note that the upfront costs of entering into this contract of £107k for Library ICT and estimated to be between £294k and £354k for staff transition costs, both of which will be funded from the Comprehensive Spending Review Reserve.

Appendices

Appendix 1 – Financial Analysis (EXEMPT)

Appendix 2 – Tender evaluation – Reason for choosing Libraries Unlimited

Section 1: Background Information

1.	<p>What is the proposal / issue?</p> <p>Torbay Council has budgetary pressures and limited resources to continue to provide a sustainable Library service which meets our statutory obligations.</p> <p>Following a successful procurement exercise it is proposed that the Library service be managed and delivered by a new external Library service provider from April 2018.</p>
2.	<p>What is the current situation?</p> <p>Torbay's libraries offer a wide range of services, and satisfaction levels are consistently high. However over the last 5 years the Council has continued to reduce the Library Services budget to a point where any further budget reductions would seriously increase the risk of the service being unsustainable. Continued reductions in the Libraries budget could reach a position whereby the Council would be unable to fulfil its statutory obligation.</p> <p>Against this background it was therefore necessary to explore a range of options for the future of Library Services, to examine whether or not there were different external ways of delivering Library Services which would reduce operating costs; provide sustainability across our existing service outlets and deliver a more modern and innovative Library service.</p> <p>Since unitary status in 1998, the Library service has successfully been delivered in-house by a dedicated team of Library professionals. The library service is responsible for management and development of four static libraries in Torbay, each offering the same range of core services. These include a range of physical book stock to suit all ages, DVD and CDs for hire, free access to library computers and WiFi and a number of activities and events to meet local need.</p> <p>Torquay Library is the 'headquarters' for the service.</p> <p>Paignton Library and Information Centre (PLAIC) is a part lottery funded multiagency hub offering library services, the Council's Connections and Registrar services, South Devon College Adult and Community Learning, South Devon Health Care Trust Carers service, Healthwatch, Devon and Cornwall Police, and a cafe.</p> <p>Churston Library is the smallest in the Bay with the lowest footfall in terms of physical visits but a high rate of stock issues.</p> <p>Brixham Library is a medium sized Library and also hosts the registrar service and the Connections Self Service function.</p> <p>Each library has its own friends group which organises events, support the service and raises money to purchase items that otherwise would not be affordable.</p>

	<p>In order to be inclusive, a service for residential homes is managed by the Bibliographical Services section based at Torquay library. 'Mini-Library' collections are held within Torbay's Children's Centers and other community venues to provide access for vulnerable families at a distance from their local library. A service for housebound customers in Torquay and Brixham is coordinated by library services in partnership with Rotary Club Torquay, and Brixham Does Care respectively.</p> <p>Volunteers help to provide a range of extra services that support the library service offering.</p>
<p>3.</p>	<p>What options have been considered?</p> <p>The following options have been considered:</p> <p>1. Do Nothing.</p> <p>This option would not make any additional budget savings and does not support the development of the service so therefore was discarded.</p> <p>2. Service to remain in-house:</p> <p>Many options have been considered based on the service delivery remaining In-House. These include:</p> <ul style="list-style-type: none"> • Further top slicing of budget. • Further staff re-structuring. • Reducing Library opening hours • Closing Library(s) <p>These options however would simply continue to "erode" away the service, provide a worse service to the public, has limited long term service sustainability, and is high risk in terms of the Council meeting its statutory Library service obligations.</p> <p>These options were therefore discarded and would only have been considered further if the tender exercise had been unable to identify a preferred new Library service provider.</p> <p>3. Seek to find a new service provider via Competitive tender</p> <p>The result of the tender exercise has identified a preferred supplier The preferred supplier will ensure the sustainability of the Library service, at least maintaining existing services within Torbay for the next 5 years (with an option to extend by 5 years) whilst making a Revenue budget saving of approx. £804k over the 5 year term of the contract.</p> <p>(see Appendix 1 - Financial Analysis)</p>

4.	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</p> <p>This proposal supports the Council’s ambition to create a Healthy Torbay by libraries offering services which support the national Health and Wellbeing agenda. The new Library service provider will deliver Library services which deliver the cultural, educational, social economic and wellbeing outcomes specified in the Libraries outcome specification.</p> <p>This proposal supports the principle “use reducing resources to best effect” by addressing new more cost effective ways of delivering the library services.</p> <p>It supports the principle of an “integrated and joined up approach” by recommending the commissioning of a new external library service provider.</p> <p>This proposal also indirectly supports a number of targeted actions, namely:</p> <ul style="list-style-type: none"> • Protecting all children and giving them the best start in life • Promoting healthy lifestyles across Torbay • Protecting and supporting vulnerable adults
5.	<p>How does this proposal contribute towards the Council’s responsibilities as corporate parents?</p> <p>This proposal will support the “Corporate Parenting” agenda by the offering numerous library services to young children and adolescents (and parents) throughout their early years.</p>
6.	<p>How does this proposal tackle deprivation?</p> <p>The proposal will support the Council tackle issues associated with deprivation by offering a comprehensive and affective free library service to all members of Torbay’s community.</p>
7.	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>There will be no adverse effect on our current library user community, and therefore no formal public consultation is proposed. The existing provision will be maintained initially and the new library service provider will, over time, deliver a much improved library service which will be to the benefit of all the current library user community. The new library service provider will be encouraging a greater take up of library services and increased engagement with Community groups and the hard to reach sector.</p> <p>It is envisaged that there will be some staffing changes, and staff will be consulted through the appropriate Human Resources channels.</p>

8.	<p>How will you propose to consult?</p> <p>As detailed above, no formal public consultation is proposed. A Forward Plan notice was published on 23 February 2016, and the developing proposals have been discussed at numerous public meetings, including Policy Development and Decision Groups, Overview and Scrutiny meetings, and the ultimate decision will be made in public.</p> <p>Staff will be consulted through any resulting staffing changes through the appropriate Human Resources channels.</p>
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Section 2: Implications and Impact Assessment

9.

What are the financial and legal implications?

Exempt Appendix 1. – Financial Analysis - outlines the financial business case to support the proposal to engage with Libraries Unlimited as Torbay's new Library service provider.

There are some additional year 1 upfront costs of entering into this contract which will be funded from the Comprehensive Spending Review Reserve. These costs are associated with ICT investment (£107k) and estimated staffing transition costs of between £294k and £354k, although the actual costs could come in much lower than this.

The cumulative 5 year forecast shows a Revenue saving of around £804k over the 5 year contracted period.

We have a statutory responsibility to deliver a library service, and awarding this contract will ensure that the Council is able to deliver against this.

10.

What are the risks?

If this proposal is not supported then the Council will have to continue to deliver the Library service in-house and make budget savings through top slicing and a reduction in some Library site opening hours. The continual eroding away of the Library service provision will put the Library service at risk in the future and temporary closures through lack of resources may be inevitable.

Risks associated with implementing the proposal:

As with any new service contract there is an element of risk in terms of the quality of service being delivered and any unforeseen additional costs which may be incurred during the term of the contract.

These risks will be managed through a robust client side contract management and KPI monitoring process to ensure the Library service is being delivered in line with the contract specification and that any unforeseen additional costs are discussed through the "change mechanism" contract monitoring process.

There is a risk that the staff transition costs could exceed our worst case estimate.

There is a risk that the Council may need to make further changes to the contract price during the 5 year term which may result in the Service provider withdrawing their service.

There is a risk that Libraries Unlimited will not be able to satisfactorily integrate the Council's Library staff teams into their proposed new structure which could affect the viability of their financial bid.

There is a risk that the Council may not be able to fund future capital investment to relocate or improve Library locations to improve service delivery and further reduce costs.

	<p>There is a potential future risk of differing views being held in relation to the future role and strategic positioning of the Library service; and degree of modernisation/transformation (including capital expenditure) required by the Library service.</p>
11.	<p>Public Services Value (Social Value) Act 2012</p> <p>The recommendation is based upon the results of a thorough procurement exercise, aimed at providing the service and improving the economic and social benefits of the service.</p> <p>The new Library service will deliver activities which support Torbay’s Health and Wellbeing agenda.</p> <p>There is scope for the new service provider to work in new ways with a wide range of organisations, including the TDA, Public Health, the Torbay Culture Board and a range of public and private sector organisations so that libraries can better support the economic, social and cultural wellbeing of Torbay.</p> <p>The new supplier’s vision is to bring ideas, imagination, knowledge and creativity to people’s lives and communities.</p>
12.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>The recommendations is based on the results of a thorough procurement/evaluation/negotiation tender exercise.</p> <p>A detailed Library tender Service Specification was written based on evidence collected via a Library Needs Assessment; an evaluation of current Library usage and associated costs; alignment with the Government Libraries taskforce guidance document “Libraries deliver: Ambition for Public Libraries in England 2016 -2021”; Library staff and Friends groups; researching Library service best practice via Library services groups and other Library Authorities.</p>
13.	<p>What are key findings from the consultation you have carried out?</p> <p>The Library Needs Assessment and the evaluation of the current library usage has guided the procurement of a new supplier.</p>
14.	<p>Amendments to Proposal / Mitigating Actions</p> <p>None</p>

Equality Impacts

15	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people	<p>ASCEL's 'Children's Promise' highlights the importance of the physical environment; the warmth of welcome and the range of core activity as foundation blocks for an engaging, high quality library service. Torbay's existing offer will be improved at low cost through reviewing these. The reach of the library service will be maximized through partnership working and ensuring that engagement with children, young people and families is a high priority and that all library activities are inclusive and accessible to both old and young alike.</p>		

People with caring Responsibilities	The reach of the library service will be maximized and all library activities will be inclusive and accessible to all members of Torbay's community.		
People with a disability	Improved outreach facilities to vulnerable and 'hard to reach' families.		
Women or men	The reach of the library service will be maximized and all library activities will be inclusive and accessible to all members of Torbay's community.		
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>	The reach of the library service will be maximized and all library activities will be inclusive and accessible to all members of Torbay's community.		
Religion or belief (including lack of belief)	The reach of the library service will be maximized and all library activities will be inclusive and accessible to all members of Torbay's community		

People who are lesbian, gay or bisexual	The reach of the library service will be maximized and all library activities will be inclusive and accessible to all members of Torbay's community		
People who are transgendered	The reach of the library service will be maximized and all library activities will be inclusive and accessible to all members of Torbay's community		
People who are in a marriage or civil partnership	The reach of the library service will be maximized and all library activities will be inclusive and accessible to all members of Torbay's community		
Women who are pregnant / on maternity leave	The reach of the library service will be maximized and all library activities will be inclusive and accessible to all members of Torbay's community		

Socio-economic impacts
(Including impact on child
poverty issues and
deprivation)

There is scope for the new service provider to work in new ways with a wide range of organisations, including the TDA, Public Health, the Torbay Culture Board and a range of public and private sector organisations so that libraries can better support the economic, social and cultural wellbeing of Torbay.

The new supplier's vision is to bring ideas, imagination, knowledge and creativity to people's lives and communities. Growing the supplier's geographical footprint into Torbay enables that vision to reach almost 1 million people.

<p>Public Health impacts (How will your proposal impact on the general health of the population of Torbay)</p>	<p>The new Library service will deliver activities which support Torbay's Health and Wellbeing agenda.</p> <p>The new service provider believes that libraries can have a significant impact on the health and happiness of the people who use them regularly. Their annual Active Life Active Mind programme demonstrates how their existing network of libraries provides opportunities for people to explore and improve their mental and physical health and wellbeing.</p> <p>The new service provider will explore with Torbay's Public Health team and other partners the potential for expanding the Council's range of services supporting health and wellbeing in line with identified needs in the Joint Strategic Needs Assessment.</p>		
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16	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	Future decisions made by the Council in relation to changes to the current Library accommodation could impact on the new service providers ability to deliver Torbay’s Library services in accordance with the Council’s Library’s delivery specifications and contract.
17	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	None that we are aware of at the moment.

Appendix 2. - Tender evaluation – Reason for choosing Libraries Unlimited

There are many reasons why **Libraries Unlimited** have been chosen as our proposed new Library Service Provider. The following lists some of the key reasons:

1. Quality and Operational Competence

Through Libraries Unlimited extensive experience running Devon's library service, they have tried and tested business continuity processes in place to avoid unplanned closures. They operate an extensive system of relief cover across 50 libraries in Devon and understand how to effectively deploy staff at short notice and, in a planned way, to cover annual leave requirements. They will bolster Torbay's existing relief cover by calling on relief staff from Newton Abbot, Totnes and other nearby libraries.

They have a strong track record of increasing opening hours for no additional cost. Their 2015 Community Pilots programme involved working with 13 communities across Devon to develop new approaches, increasing access to the service through innovative business models and co-production with local communities. These new approaches can be considered for Torbay's Libraries.

2. Equality Impact Assessments

Libraries Unlimited bring significant experience in developing Equality Impact Assessment, Needs Assessment and consultation documents, having undertaken opening hours reviews and large-scale public consultations in Devon in recent years. They were identified as an exemplary service, whilst in Devon County Council, for the thoroughness of their equality impact assessments during the Devon Libraries' public consultation in 2014.

3. Back Office Library functions

There will be opportunities for existing Libraries Unlimited services to add value to the Torbay offer:

Collection HQ

They will explore the potential of integrating Torbay's libraries into their contract with Collection HQ. This software analyses stock performance data to support effective purchasing, rotation and editing of stock. It provides information on areas that are underused or understocked; produces lists of the most popular authors/titles to support stock promotion; and analyses the data of other CollectionHQ public library customers to identify other popular titles not currently in their own stock.

Inter-library Loans

They will explore opportunities to merge the Devon and Torbay inter-library loan services. There is the potential to share their UnityUK subscription and DX courier account. Torbay libraries would be able to make direct use of their music and play sets service.

'Choices' Reading Groups Service

They will explore ways to enable reading groups across Torbay to access their 'Choices' Service which currently serves more than 300 reading groups across Devon. For a

modest annual charge, this service gives groups access to almost 600 sets of titles that have been selected for their literary merit or scope to inspire discussion.

4. Digital Offer

Building on their experiences of opening the first Fab Lab in a UK public Library, Libraries Unlimited would start with a small, accessible offering for young children, using equipment such as Makey Makeys, Tiddly Bots etc., which require little or no training and are ideal for staff, parents/carers and children to learn together. This will help test whether the development of a Fab Lab in Torbay is feasible. If the Council would like to see this concept developed, Libraries Unlimited would seek external funding and explore the potential to align with South Devon College who are making significant investment in their own digital technologies.

5. Outreach to vulnerable and 'hard to reach' families

Libraries Unlimited have experience of delivering Bookstart programmes to vulnerable families using venues such as Food Banks and women's refuges. Existing contacts with Children's Centres, and the capacity of the Bookstart Coordinator could help identify scope for reaching out to vulnerable families in Torbay. Their 'Books on the Beach' initiative in 2016 saw hundreds of families introduced to library services. This initiative could be delivered in Torbay's seaside locations for very little cost.

Their new 'Unlimited Potential' project (funded by a £245,000 Arts Council grant) is building on this experience by developing creative ways of engaging families least likely to access library services. They will share their best practice with Torbay staff and stakeholders as the project develops over the next 12 months.

6. Information and Learning.

Libraries Unlimited can offer considerable transferrable experience in developing and delivering information and learning resources and activities as well as their existing offer that can be extended into Torbay.

Information

As an information provider, they will contribute an extensive range of online resources to complement Torbay's current service offer alongside extensive experience of promoting such resources and supporting staff in increasing take-up.

Activities

Libraries Unlimited activity programme in Devon has been developed and refined over several years. 'Active Life', 'Active Mind', for instance, has been running since 2012 and in every year, has generated over 150 events focused on Health and Wellbeing across the library network.

The Devon programme of activities for people with additional needs currently includes shared reading groups for people with memory loss and mental health challenges, visually-impaired reading groups and Read Easy sessions, etc.

They encourage staff initiative and innovation at a local level. As a result, in addition to their annual scheduled events programme, libraries across Devon deliver regular activities such as shared therapeutic reading groups, talks, mindfulness and craft sessions for all ages. Sharing staff expertise and good practice will allow us to deliver

an extensive service offer to Torbay while offering the capability to adapt programmes to local need.

FabLab and BIPC

Evidencing their commitment to sustainable innovation, Libraries Unlimited has specific expertise related to the successful delivery of two Fab Labs (Exeter and Barnstaple) and a Business and IP Centre. Bringing this commitment and culture of innovation to Torbay creates an opportunity to tap into relevant funding sources to extend the Fab Lab activities and outcomes to Torbay.

Partnerships

Libraries Unlimited have several existing partnerships with organisations that work across Devon and Torbay, including the South Devon and Torbay CCG and Active Devon. Their partnership with Active Devon, for instance, includes joint activities during our Active Life, Active Mind month of activities, offering opportunities to work seamlessly in partnership across local authority boundaries on funding bids and public engagement.

7. ICT Support

Experience

Libraries Unlimited ICT team has extensive experience in delivering and supporting library ICT systems. Their Head of ICT & Digital, leads ICT strategy and will lead the transfer of ICT from the Council to Libraries Unlimited. The ICT team includes skills in supporting all library systems from RFID self-service and public access to technical hardware/software support.

Libraries Unlimited have well-established relationships with providers such as Bibliotheca and Axiell (and will share an LMS (Library management System) with Torbay) which they will utilise for the benefit of Torbay libraries.

Technical Ability – Supporting the Library Management System:

Torbay Libraries and Libraries Unlimited use the same Library Management System.

Libraries Unlimited will have already set up SPARK and Arena with their own systems and processes by contract start date. They will use this learning to smoothly integrate Torbay's LMS systems into the Libraries Unlimited back office systems.

They have developed significant knowledge of the system during the LMS implementation project, working closely with Axiell. Torbay and Devon colleagues have worked side-by-side to develop the system with Axiell and have good working relationships.

Torbay's Library systems team will integrate well with Libraries Unlimited systems team and this will be helped by the geographical proximity of the teams. The Torbay team and Libraries Unlimited colleagues will be expected to work alongside each other to share experiences, knowledge and ideas for the development of the system to the benefit of both Torbay and Devon authorities and customers.

By fully integrating the Devon and Torbay library management systems during year 1 of Libraries Unlimited contract to run the council's library service, it would open up access for customers to a much greater quantity and range of stock and the benefits of a single library card.

Efficiency savings can then be made by restructuring and integrating both the bibliographic services and the systems/online services teams.

ICT Implementation Plan:

Libraries Unlimited has been working closely with Devon County Council to smoothly transfer all its library ICT systems and services into their structure. They therefore have highly relevant recent experience to apply and understand many of the dependencies and challenges involved in the process. This will help Libraries Unlimited plan the Torbay Council's implementation in detail, pending further conversations. They believe that it is realistic to plan for a six-month implementation process due to the complexities involved.

8. WEB, Comms, Marketing.

Libraries Unlimited have significant experience in rebranding library services, including Devon Libraries as part of Devon County Council (2008) and new charity Libraries Unlimited (2016).

They follow a communications and marketing strategy to raise awareness of services and have an established social media following.

As Libraries Unlimited, they have built their reputation, online following and stakeholder relationships. They have achieved significant media coverage and grown their social media following and engagement by 50%.

As a charity, they have a free Google AdWords advertising allocation, part of which will be used to promote Torbay Libraries services.

They have experience of developing guidelines, improvement processes and systems. Being engaged in a process of continuous improvement creates opportunities for economies of scale in embedding sophisticated practices in delivery of Torbay Library services.

They are able to extend the range of e-books, e-audiobooks and other e-resources available to customers, thereby broadening the appeal of library services to new audiences, including Zinio, Naxos Music Library, and COBRA.

They encourage staff to share stories where they have made a difference; e.g. helping people get a job or connecting lonely people. They are becoming increasingly sophisticated in using data and stories to capture social value and impact. As part of their social value research project with the University of Exeter they are establishing ways for staff to develop deeper organisational understanding of social value. They would use their learning to inform additional ways to demonstrate the outcomes that Torbay services deliver.

9. Business and Project support

Libraries Unlimited have an experienced Leadership Team which provides support on a range of projects and programmes. Key staff are PRINCE2 and MSP trained providing rigour to the project management process from the development and formalisation of ideas and first concept stages to delivery and post project completion close down reporting. Their current team has strong experience ranging from establishing the organisation as a separate, stand-alone charity, and managing building projects and refurbishments to winning and delivering external funding projects.

Their Head of Commercial & Innovation has previous experience of developing and delivering town centre regeneration schemes, and a Business Improvement District and is aware of the value this work can bring to the wider economy and the Library Service.

10. Fundraising

Libraries Unlimited staff team have extensive experience of raising funding and managing projects from a wide range of EU, national and local grant awarding bodies – from small to large scale, including the Arts Council and HLF. They will bring this experience to this contract, and will prepare a fundraising strategy, in conjunction with the Council.

As a charity, they can access a wider range of fundraising sources than the Council and can benefit from Gift Aid. They are developing an individual giving scheme and introducing branded donation boxes, which will benefit Torbay.

Fundraising for local studies provision

Libraries Unlimited believe that local studies provision is an area ripe for securing additional funding, through business sponsorship, linkages with tourism or through grants from the Heritage Lottery Fund. They have strong existing skills and a track record in securing external funding in this area that would allow them to deliver considerable added value to Torbay Libraries.

11. Room and space hire

Libraries Unlimited have prioritised generation of income in Devon through room hire as a key source of additional income, resulting in c£300K income in 2016/17. They have modernised and improved the end to end processes, including bookings, promotion and payments, and library managers have income targets for room hire built into appraisals. Libraries Unlimited feel there is scope to generate more income in Torbay using the expertise they have developed.

12. Daily collection and delivery of stock

If necessary, Libraries Unlimited are able to build on their existing contract with Devon Norse as their van/courier delivery service. The contract has recently been reviewed and renewed for a further 3 year period. Norse has extensive experience of providing their delivery service and has operated with a high level of satisfaction.

13. Review and improve local studies website

Over time and in agreement with the Council, Libraries Unlimited will review and improve the local studies website. At this stage, they would consider creating a mini-site to act as a new 'landing stage' for the site. The website would offer an engaging and interactive front-end and link through to the catalogue of resources.

The website would use images, case studies, videos and infographics to give users a better understanding of what is available on the site and how they might use it. The aim would be to create a colourful website that is easy to use for a range of audiences, including children and young people to encourage a younger audience to explore local resources.

14. Extend “Adopt A Book” scheme

Over time and in agreement with the Council, Libraries Unlimited could consider introducing their highly successful Adopt A Book scheme in Torbay. This initiative, developed and funded as part of the Carnegie Library Lab programme, encourages people to sponsor conservation of some of the most valuable and rare items in the collection. In less than 3 months, more than £3,000 has been generated to conserve a number of items.

15. Home Library Service

Libraries Unlimited have experience of working with a delivery partner (Royal Voluntary Service) to increase the number of clients and volunteers accessing the service. They currently serve nearly 700 people across Devon, with deliveries being made by nearly 250 volunteers based in 42 library locations.

Opportunities for an integrated stock catalogue can provide housebound clients access to the extensive regular print, spoken word, eBook and large print collections currently available in Devon. Given the high cost of spoken word and large print items in particular, this will benefit Torbay customers with access to significantly more stock.

16. Residential Homes Service

Libraries Unlimited transitioned towards a volunteer-led service to clients in residential homes which was carried out in Devon over a period of 18 months which has delivered a personalised service tailored to individual needs; released library stock previously committed to bulk deliveries and enabled savings on the provision of services. This approach could also be implemented in Torbay.

17. Transfer of Service - Initial Set up Tasks - Workforce:

In any transfer of services its vitally important that the transfer is well planned and staff are efficiently integrating into the new Service providers culture.

Libraries Unlimited has a team of experienced senior and operational managers who will create a sound foundation for the transfer and integration of the Council's staff. The team are committed to welcoming and working with staff who transfer, providing support to manage transition effectively.

Libraries Unlimited Chief Executive and Head of Service Delivery will play an integral role in engagement during the transfer process, providing reassurance, a clear direction and vision for the future provision of the service. Highly experienced in change management they will work hard to support and engage staff through a period of significant change.

As a mutual owned by staff and Friends Groups engagement is at the heart of everything they do. They have reviewed their governance arrangements to broaden their scope so transferred staff can join Libraries Unlimited as full members of the organisation and will be able to stand for election as staff trustees, having significant opportunities to help shape the organisation as it grows and develops. Libraries Unlimited will increase the size of their elected Staff Forum to provide a place for an elected Torbay representative.

They have established, with their Workforce, Resources and Remuneration Committee (a sub-committee of their Board), employment terms and conditions for staff that join them post-transfer. These include a defined contribution pension scheme and spot salaries,

providing an opportunity to generate savings and a high quality employment offer. Their financial model assumes that staff turnover will average 6% per annum.

Libraries Unlimited are developing an Apprenticeship programme, in response to the Apprenticeship Levy, and recognition of the need to diversify their workforce. They have recruited a Finance Apprentice and plan to recruit an ICT Apprentice. They are participating in the Chartered Institute for Library and Information Professionals (CILIP) Trailblazer group developing a national standard for library apprentices. They will extend this programme to Torbay as resources allow.

Libraries Unlimited have a wide range of volunteering opportunities to suit all backgrounds and experience. Role descriptions are available on their website. They regularly look to develop new roles to enhance services and meet individual community needs.

Young people can volunteer to support a variety of activities such as the Summer Reading Challenge, Book Track or craft activities and take part in accredited awards/schemes. Roles vary in time and commitment, offering the chance to gain valuable work experience, develop confidence and skills, and make a positive contribution to communities. All roles can be extended into Torbay libraries.

18. Staff Training:

As part of a bigger library service, Torbay staff will have increased opportunities for training and development.

Libraries Unlimited recognise the role wellbeing plays in enabling staff to perform – staff have access to a free, confidential Employee Assistance Programme and we are developing a Staff Wellbeing Charter to drive further good practice. They annually review employee engagement with a staff survey.

19. Libraries Unlimited - Close Proximity to Torbay

Libraries Unlimited was set up during 2015 and 2016 by the managers and staff who now run the company. With the transfer of Devon's library services in April 2016, They have recent successful experience of managing the transfer of a complex library service out of local authority control and into their organisation. Lessons learned from this experience are reflected in the approach and proposals they have detailed in their bid submission, including their awareness of key challenges they are likely to face.

Libraries Unlimited is based in the Devon County Council area, with strategic bases in Exeter, Cullompton and Newton Abbot. This geographical proximity means that they will be able attend regular meetings with Torbay teams, staff, stakeholders and Client Unit with ease, including at short notice should any issues arise which require it.

20. Transfer of Torbay Library Services.

Libraries Unlimited has significant experience in ensuring a smooth transfer of the Library services from the council. Their appointment as provider of library services by Devon County Council required them to implement a comprehensive, robust transition plan to ensure effective transition and business continuity.

This helped them understand the level of resource, governance, skill and experience required to ensure smooth transfer. It highlighted the need for a partnership approach between local authority and library service. They have created a robust infrastructure involving systems, processes and business support services that support exit processes.

Effective project management arrangements are essential, supported by clear governance structures.

Their recent experiences in delivering the Devon County Council Libraries transfer will assist in delivering a smooth transfer of Torbay Library services also.

21. Contract Monitoring:

Shaped by the origins of Libraries Unlimited as an organisation spinning out from a local authority, quality management tools as customarily used in public libraries form the backbone of their approach.

Libraries Unlimited will monitor and control a series of measures against service delivery outputs and internal organisational standards, including numbers of issues of stock items, visits, member activity, events, outreach, computer and Wi-Fi use, etc. and contribute to the annual CIPFA return. Their sophisticated stock management set-up delivers detailed data on bibliographic services performance.

Based on their strategic objectives, their annual service plan helps them deliver on their 5-year business plan. They operate a clear planning and reporting framework with quarterly reviews with the Devon commissioning team, agreeing a service plan and proposed fees and charges annually. This process can be adopted in Torbay.

22. Additional KPIs and Social Impact

At Libraries Unlimited, quality is about much more than measuring outputs. They are currently adapting systems and methodologies to the requirements of a public service mutual and social enterprise, including management of outcomes and social impact.

They are investing significantly in a new quality management system to monitor, control and improve delivery of outcomes through library services, including social, health, economy, learning and culture. Arts Council England have awarded them a £200,000 grant to deliver a research project into the measurement of the social value they deliver, in partnership with Exeter University Business School, the Open Data Institute and the Real Ideas Organisation.

23. Value for money in stock purchasing

Through the integration of Devon and Torbay's catalogue and library management systems, customers will have access to a total stock of over 1 million items, creating significant value for money with regard to stock budgets, a significant benefit of Libraries Unlimited being located in close proximity to the Torbay area.

24. Collection HQ

Libraries Unlimited holds a CollectionHQ subscription. They will explore the feasibility of extending the use of this to an analysis of Torbay's stock and loan data. By analysing current stock use, this can further support value for money by suggesting a breakdown of the stock budget by categories of stock and individual libraries. The suggested allocations are then refined to reflect average prices for different categories of stock, and also where they need to invest in stock to generate income, for example purchase of DVDs.

CollectionHQ also has a 'Discovery' module which analyses issue data from their other UK customers to list titles which are proven to issue well. This information can be used to suggest suitable purchases for the purpose of stock revision.

25. FM & Asset Management:

Libraries Unlimited have extensive experience of an in house asset management and FM service when they were part of Devon County Council, where the service was operated by NPS and Devon Norse on behalf of DCC. From this experience they understand the value of clear reporting lines between the Library operator and the FM/asset management team and would be able to establish this relationship from the outset. In particular they understand the need to have a clear point of contact. Libraries Unlimited Head of Commercial & Innovation will therefore act as their main point of contact between the TDA and Libraries Unlimited. Their Head of Commercial & Innovation has experience of working with the TDA on a range of projects in the past, relating to business support.

Libraries Unlimited have extensive experience of identifying and realising utilities savings. In their existing buildings they have implemented a range of energy saving measures including solar PV, energy efficient boilers, automatic lighting in meeting rooms and low flush loos. With the advent of the open water market, they are also exploring with a range of suppliers what savings could be made through switching, and they will also explore this for Torbay's contract.

In their current buildings they have a range of tenants from the public, private and third sectors and they work with a range of them to ensure that their customers can benefit from their service offer. They also ensure that their tenants are aware of what a modern library service can offer them and their client groups.

Libraries Unlimited are continually involved in actively seeking new partnerships and users for their spaces, an approach that they can replicate in Torbay. For example, they are developing innovative arts and cultural partnerships with local and national organisations to use their spaces for live theatre and live casting, and they are also working with organisations to provide business advice and digital skills support – all of which they could replicate in Torbay.

26. Equipment Refresh:

Capital investment in Devon's libraries has been a successful element of service modernisation. Libraries Unlimited have significant experience in working with library designers and furniture contractors and are exploring with the School of Architecture & Design at Plymouth University how they can bring fresh ideas to modern 21st century library design.

Libraries Unlimited is a registered charity and can leverage opportunities to access multiple funding streams not necessarily available to Local Authority or private sector providers.

As external funding opportunities allow, Libraries Unlimited will bring their digital making expertise to Torbay, which they believe would draw a new audience into Torbay Libraries. Ultimately and dependent on customer response, Libraries Unlimited could seek external funding to provide a Fab Lab in Paignton Library.

27. Health And Safety

Libraries Unlimited has a tried, tested and successful approach to managing health and safety compliance within its 50 buildings, an approach which has been refined over many years, and which is now proposed to be extended to Torbay. HROne are experienced in the provision of health and safety advice to the public sector and to academies and private sector clients.

28. New Complimentary Services:

Through Libraries Unlimited existing innovative approach to service provision, they are able to offer the Council the following new and complementary services subject to appropriate resources being available:

- **FabLab:** they believe that the local community could benefit from access to enhanced digital technologies through their existing FabLab offer. Libraries Unlimited will look at ways in which they could extend this offer to Torbay Libraries as resources within the contract allow.
- **Business and Intellectual Property Centre:** The Business and Intellectual Property Centre, based in Exeter Library, can deliver a range of outreach services in the Authority's libraries. Subject to available resources Libraries Unlimited will agree the scope for workshops and events for business start-ups and potential entrepreneurs in the Bay within the resources available.
- **Living Knowledge Network:** Exeter Library participates in a new and innovative partnership with the British Library to share content with public libraries. Libraries Unlimited regularly live stream cultural and learning events from BL and find that these screenings attract existing and new audiences. Libraries Unlimited plan to live stream some Living Knowledge Network events in Torquay and Paignton libraries from April 2018.
- **Health and wellbeing:** Libraries Unlimited believe libraries have a significant impact on the health and happiness of the people who use them regularly. Their annual Active Life Active Mind programme demonstrates how their existing network of libraries provides opportunities for people to explore and improve their mental and physical health and wellbeing. Libraries Unlimited would like to explore with Torbay's Public Health team and other partners the potential for expanding the Authority's range of services supporting health and wellbeing in line with identified needs in the Joint Strategic Needs Assessment. Other commissioning opportunities with other parts of the Authority and the TDA may present themselves over the lifetime of the contract, including digital inclusion, skills development and lifelong learning.
- **Arts and cultural activities:** Libraries have enormous potential as spaces for people to engage with arts and cultural activities. Libraries Unlimited bid to Arts Council England for National Portfolio Organisation (NPO) status was successful, and will give them the opportunity to develop libraries in their portfolio as spaces for a range of arts and cultural engagement for all existing library users and potential new audiences. Libraries Unlimited anticipate working with the Torbay Culture Board to identify ways library

spaces can develop as effective and dynamic cultural places in line with the aspirations of the Great Places initiative.

29. Inspiring Vision and Leadership

Taking frontline staff through transformation and change needs inspiring and energetic leadership at all levels of the organisation. Libraries Unlimited's experience transforming Devon's library service into one that is recognised nationally as one of the most innovative in the country testifies the importance of a strong vision and ability of senior managers to convey that vision inspiring and motivating frontline staff. Their Chief Executive (Ciara Eastell OBE) is particularly effective at engaging library staff and providing a positive and dynamic vision of the potential for library services to impact positively on people's lives. Ciara is very well networked in the library world with extensive connections regionally, nationally and internationally. Libraries Unlimited anticipate that for many Torbay staff feeling part of an organisation which is taking positive steps to make sure libraries thrive, rather than just survive, will have a motivating effect.

Their experience from a major public consultation in Devon in 2014, along with other stakeholder engagement since, puts them in a strong position to lead this work to transition Torbay Libraries into a new Library service provider.

Their vision as an organisation is to bring ideas, imagination, knowledge and creativity to people's lives and communities, working in partnership with our communities and their stakeholders to deliver social value and impact within our communities.

Libraries Unlimited would bring their ethos, values and vision as an organisation, as well as their detailed knowledge of the ways in which library services can support individuals to live happier, healthier lives to bear in shaping the Library Strategy for Torbay. They also bring extensive experience of national and international best practice and policy within the library sector to bear on the strategy development work.

30. Fees and Charges:

Libraries Unlimited use a sophisticated financial system integration tool, which will enable them to offer a detailed monthly analysis of fees, charges and other income to all libraries and managers.

As a charity, they will use their contacts and experience to fundraise from trusts and foundations to support the development of Torbay's libraries. They will also bring their commercial experience in room hire to increase revenue in Torbay

31. Customer Surveys:

Libraries Unlimited use many ways to gain feedback from customers and communities on the services offered through the library service. They undertake an annual customer survey and are committed to senior managers talking directly to Friends Groups and other user groups to hear directly their feedback on the service provided.

32. Business Continuity Planning:

Libraries Unlimited is already working closely with insurers on Business Continuity Planning for their operations in Devon and they will use this experience to quickly develop and agree a BCP for Torbay. This Plan will use the latest up-to-date guidance and thinking and so will ensure they are in a good position to address any future issues or challenges that may arise in Torbay.



Meeting: Council

Date: 7 December 2017

Wards Affected: All

Report Title: Transformation Project - Review of Public Toilets

Is the decision a key decision? Yes

When does the decision need to be implemented? ASAP

Executive Lead Contact Details: Councillor Robert Excell

Supporting Officer Contact Details: Kevin Mowat Executive Head of Assets and Business Services kevin.mowat@torbay.gov.uk

1. Proposal and Introduction

- 1.1 The Council need to find a long term solution for the provision of public toilets across Torbay. The Councils Policy Development Group (Joint Operations Team) tasked officers with developing a plan to reduce the cost of the toilet provision to the lowest level possible but still retaining public toilet provision across Torbay.
- 1.2 For the past two years a comprehensive review of public toilets within Torbay has been undertaken. More recently as part of the Councils Transformation Programme a procurement exercise has been undertaken seeking a commercial partner to deliver our public toilet provision.
- 1.3 The procurement exercise has now been completed and a preferred bidder chosen. The preferred bidder has outlined a proposed future model for the delivery of public toilets to address and deliver the following aims:
 - Modern and well maintained toilet facilities, which meet the needs of both the residents and visitors to Torbay;
 - Facilities, which meet acceptable standards of cleanliness and hygiene;
 - Facilities located strategically across the district;
 - Toilets, which are accessible and safe to all users;
 - Flexible provision, which can readily cope with fluctuating levels in the demand, experienced in particular locations throughout the year;
 - Addressing night-time economy issues and aspirations.

2. Reason for Proposal

- 2.1 Due to the financial pressures the Council has faced there has been a lack of investment in Public Toilets over many years and maintenance budgets have also been reduced. As a result many of our toilets are not fit for purpose which has led to an increase in the level of customer complaints.
- 2.2 The procurement process provides a proposal for the Council to enter into a long term contract for the management and delivery of public toilets within Torbay. In support of the proposal, Torbay Council would need to borrow £1.032m from the Public Works Loan Board (PWLb) to invest in the modernisation and improvement of public toilets. The cost of the repayments are shown in exempt appendix 2.
- 2.3 There is no statutory requirement for a Local Authority to provide public toilets. The Public Health Act 1936 allows Councils to charge for toilets. Therefore there are a range of options available to the Council in its consideration of the future of our toilet facilities.

3. Recommendation(s) / Proposed Decision

Officer Recommendation

- 3.1 That Council approve the proposal to enter into a service delivery contract with an external Provider to deliver and manage the sixteen toilet facilities as detailed within their tender;
- 3.2 That the Executive Head of Assets and Business Services be given delegated authority in consultation with the Elected Mayor, to enter into a 15 year contract (with an option to extend for a further 5 years) to be awarded to the preferred bidder, 'Healthmatic', with the contract to commence in 1st April 2018 in respect of the sixteen toilets detailed in their tender.
- 3.3 That Council authorise prudential borrowing of £1.032m to make capital investment in the modernisation of the Council's toilets facilities referenced in 3.1 above.
- 3.4 That the Council notes that the transitional costs of delivering 3.1-3.3 of up to £150k in 2018/19 is to be funded from the Comprehensive Spending Review (CSR) Reserve.
- 3.5 That the Executive Head of Assets and Business Services be given delegated authority to award a contract which ensures that all remaining public toilets remain open and be maintained at current levels, meaning that no toilets are proposed to close.

Executive Recommendation

- 3.6 That Council approve the proposal to enter into a service delivery contract with an external Provider to deliver and manage the sixteen toilet facilities as detailed within their tender.
- 3.7 That the Executive Head of Assets and Business Services be given delegated authority in consultation with the Elected Mayor, to enter into a 15 year contract (with an option to extend for a further 5 years) to be awarded to the preferred

bidder, 'Healthmatic', with the contract to commence in 1st April 2018 in respect of the sixteen toilets detailed in their tender, **on the basis that any charges implemented for use of the public toilets will be between 20p – 30p, dependent on location.**

- 3.8 That Council authorise prudential borrowing of £1.032m to make capital investment in the modernisation of the Council's toilets facilities referenced in 3.6 above.
- 3.9 That the Council notes that the transitional costs of delivering 3.6-3.8 of up to £150k in 2018/19 is to be funded from the Comprehensive Spending Review (CSR) Reserve.
- 3.10 That the Executive Head of Assets and Business Services be given delegated authority to award a contract which ensures that all remaining public toilets remain open and be maintained at current levels, meaning that no toilets are proposed to close.

Appendices

Appendix 1 – Photos of the current toilet facilities and a summary of customer complaints.

Appendix 2 - EXEMPT – Financial Summary

Appendix 3 – EXEMPT – Extract from preferred bidders tender

Section 1: Background Information

1. What is the proposal / issue?

The completed procurement process provides an option for the Council to enter into a long term contract for the provision of public toilets within Torbay, requiring the Council to invest in the public convenience service to improve services and in the long term save the Council money.

The current proposal for the Councils 28 public toilets is broken down as follows:

1. The preferred bidder will deliver and manage 16 of the 28 public toilets – these are marked with ‘H’ in the table shown below
2. 7 public toilets are proposed to be transferred from the Council to the adjacent Cafés/businesses, this transfer will be managed by the preferred bidder - If a solution is not found then the toilet will remain open and be maintained at current levels.
3. 4 toilets to retained by the Council (Palace Avenue, Preston Bus Shelter, Preston Redcliffe and Watcombe) and maintained at current levels to ensure no closures – a future operator will need to be identified by the Council

The proposal from the preferred bidder also outlines the following:

- The introduction of charges for the 16 toilets managed by them
- Develop ancillary uses for the high profile location toilets.
- 6. Operate a service based on local delivery with as little ‘van time’ as possible.

As stated above, seven of the toilets are directly associated with beachside cafés/businesses. The plan would be to work with these cafes/businesses to develop a strategy based on them either wholly or partly helping with the future delivery of these toilets. Should such a strategy be unsuccessful these toilets would remain open and maintained at current levels, as per the four toilets detailed above.

This will still leave sixteen toilets under the direct management of the contractor. In order to work towards the objective of reducing the cost of the provision both an income stream needs to be developed, and a cost reduction plan needs to be introduced. The income can be developed from charging for use, and the main source of cost reduction is in maintenance and utilities. This requires that toilets are refurbished and the layouts and locations of some toilets are changed.

Some of the toilets are also located in positions of premium value to secondary operators. This is normal across the UK as toilets are of course built in locations of high footfall. An approach may be to sublet a whole building and install a new purpose built toilet as is currently proposed by the preferred bidder at Preston Green.

With an objective of improving facilities it is clear that income generation via charging is central to any future plan. Charging means that there will be higher expectations from the user group, and therefore refurbishment and modernisation of the facilities is an essential component of the proposal from the preferred bidder. By introducing charging the number of people using public toilets will reduce resulting in a reduction in the operating costs of the toilets.

Please see exempt appendix 3 for an extract from the Healthmatic tender for further information as to their proposal.

Due to the amount of buildings that need improving & modernising and the limitations of working during the main holiday period the project will take 3 years to complete.

The final proposed model is set out below:

Location	Healthmatic Status	Council Status	
Babbacombe Downs	Open		H
Bank Lane	Open		H
Beacon Quay	Open		H
Breakwater Beach	Potential transfer to café/business	If a solution is not found this toilet will remain open and be maintained at current levels.	
Brixham Harbour	Open		H
Broadsands	Potential transfer to café/business	If a solution is not found this toilet will remain open and be maintained at current levels.	
Corbyn Head	Open		H
Festival Apollo	Changing Places facility		H
Fishcombe	Potential transfer to café/business	If a solution is not found this toilet will remain open and be maintained at current levels.	
Goodrington Central	Open		H
Goodrington North	Potential transfer to café/business	If a solution is not found this toilet will remain open and be maintained at current levels.	
Goodrington South	Potential transfer to café/business	If a solution is not found this toilet will remain open and be maintained at current levels.	
Lymington Road	Open		H

Meadfoot	Potential transfer to café/business	If a solution is not found this toilet will remain open and be maintained at current levels.	
Oddicombe	Potential transfer to café/business	If a solution is not found this toilet will remain open and be maintained at current levels.	
Old Town Hall	Open		H
Paignton Central	Open		H
Paignton Harbour	Open		H
Palace Avenue	Closed	To be retained by the Council	
Parkside	Open		H
Preston Bus Shelter	Closed	To be retained by the Council	
Preston North	Open / New location.		H
Preston Redcliffe	Closed	To be retained by the Council	
Sea Front Complex	Open		H
Shoalstone	Leased to Brixham Town Council	If a solution is not found this toilet will remain open and be maintained at current levels.	
St Marychurch Car Park	Open		H
Torre Abbey Meadows	Open		H
Watcombe	Closed	To be retained by the Council	

As detailed above it is proposed that that a solution is found by the Council to enable all toilets to remain open.

2. What is the current situation?

The Council currently provides, manages and maintains 28 public toilets across Torbay, 2 of these facilities are already pay on entry toilets which charge 20p. A further 4 toilets are operated under lease or through the Torbay Coast and Countryside Trust.

TOR2 provide the cleansing and maintenance of toilets as a cyclical service and the level of this service has been reduced over successive budget cycles.

Due to the financial pressures the Council has faced there has been a lack of investment in the public toilets and maintenance budgets have also been reduced. Consequently the result levels of customer complaints have increased.

	<p>Many of the toilets within Torbay are not currently regarded as fit for purpose and are in a state of disrepair– please see appendix 1 for photos of the current toilet facilities and a summary of customer complaints.</p> <p>Without significant investment the likelihood is that some of the existing facilities will need to be closed as they present either a public health risk or a safety risk due to the state of disrepair.</p>
3.	<p>What options have been considered?</p> <p>As part of the ongoing review of Public Toilets a number of options have been investigated as follows:</p> <ul style="list-style-type: none"> • Remain as is; • Undertake a modernisation programme, which would require significant re-investment into toilet provision • Undertake a procurement exercise for the provision of public toilets within Torbay to secure significant investment in the toilet infrastructure and reduce the overall financial cost to the council.
4.	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</p> <p>Ambitions: Prosperous and Healthy Torbay</p> <p>Principles: Use reducing resources to best effect</p> <p>Targeted actions: Ensuring Torbay remains an attractive and safe place to live and visit</p>
5.	<p>How does this proposal contribute towards the Council’s responsibilities as corporate parents?</p> <p>This proposal contributes towards the Councils responsibilities as a corporate parent as modern refurbished toilets would benefit all residents and visitors to Torbay. With the majority of the new facilities being single door entry cubicles it would provide a safer environment for all, including children in Torbay.</p>
6.	<p>How does this proposal tackle deprivation?</p> <p>This proposal contributes towards tackling deprivation as modern refurbished toilets would benefit all residents and visitors to Torbay. With the majority of the new facilities being single door entry cubicles it would provide a safer environment for all, including those from deprived communities.</p>

7.	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>This proposal has the potential to affect residents and visitors of Torbay.</p>
8.	<p>How will you propose to consult?</p> <p>At the meeting of the Policy Development and Decision Group (PDDG) held on the 9 October 2017 a detailed consultation exercise was proposed by officers to obtain feedback from members of the public - it was planned that the feedback would then be used to help shape the future provision of public toilets within Torbay.</p> <p>The PDDG made the following recommendation to the Mayor:</p> <p>“that contrary to officer recommendation, the consultation proposed in the submitted report is not to be undertaken”</p> <p>The Mayor subsequently recorded a decision that the detailed public consultation proposed was not to be undertaken.</p> <p>Three high level questions regarding public toilets have been included as part of the 2018/19 budget consultation. The current preliminary results are below in section 13.</p> <p>Officers have been liaising with various user groups regarding the location & design of the changing places facility.</p> <p>If the proposal from the preferred bidder is progressed, as new facilities are rolled out over the early years of the contract. Consultation will take place with the user groups of those facilities.</p>

Section 2: Implications and Impact Assessment

9.	<p>What are the financial and legal implications?</p> <p>The preferred bidder has produced various budget & cost forecasts based upon their proposal. This includes a range of prices being charged for the “pay to enter” systems ranging from 20p to 50p.</p> <p>Based upon this level of charging budget and cost forecasts are detailed in exempt appendix 2.</p> <p>The costs in respect of the sixteen toilets that will be managed by the preferred bidder are detailed in exempt appendix 2.</p> <p>In addition to this, Officers are currently assessing the costs of maintaining the remaining toilets at existing levels. This will need to be achieved within existing budgets, otherwise this matter will have to return to Council for a decision.</p>
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Please see exempt appendix 3 for an extract from the Healthmatic tender for further information as to their proposal.

Investment

Once an entry charging system is introduced the user group is likely to have significantly higher expectations of the cleanliness and modernity of the toilet provision.

Toilets identified within the preferred bidder's proposal will have improvements made prior to having a charging system installed and in some cases completely new sets of toilets will be installed, the total cost of these improvements will be £1.032m.

In support of the proposal, Torbay Council would need to borrow £1.032m from the Public Works Loan Board (PWLb) to invest in the modernisation and improvement of public toilets.

Legal Implications

If the proposal is approved the preferred bidder will be appointed as the contractor for the sixteen public toilets marked with 'H' in the table shown in section one.

These toilet facilities / assets would not be leased to the preferred bidder, they would remain owned by the Council, with a contract for their operation being awarded to the preferred bidder.

The Council will then find a solution to enable the toilets listed as 'closed' or transferred in the table in section one to remain open and be maintained at current levels for example by:

- Using the existing contractor TOR2
- Using the new contractor/preferred bidder
- Working with a third party – adjacent business/Brixham Town Council
- Procuring another new contractor

10. What are the risks?

The key risks to the proposal are as follows:

- Delays to achieving a contract award in December 2017 may jeopardise the bidder's ability to deliver the contract
- Torbay Council do not achieve the expected income from the pay to enter systems.
- There are issues with the current facilities that we are not aware of (assets may require additional capital investment than forecast etc.).
- Planning consent is not given for new builds.
- Negative response from members of the public – in particular in relation to

	charging for the use of public toilets.
11.	<p>Public Services Value (Social Value) Act 2012</p> <p>A full procurement exercise has been undertaken and a preferred bidder has been appointed subject to final Council approval.</p>
12.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>The following data/evidence has been gathered:</p> <ul style="list-style-type: none"> • Discussions with toilet providers regarding their solutions for Torbay. • Visits to other local authorities. • Research solutions used by other local authorities. • Full cost analysis of our existing toilets. • Electronic counters used to establish the volume of use of our toilets. • Negotiation meetings with bidders as a result of the procurement exercise. • Meetings with charities and organisations who are interested in sponsoring/funding new toilet provision. <p>Please see appendix 1 for photographs of the existing toilet facilities and a summary of customer complaints received.</p>
13.	<p>What are key findings from the consultation you have carried out?</p> <p>The following questions have been asked as part of the current budget consultation.</p> <p>As can be seen from the data below 54% of respondents would agree to closures of some toilets if the remaining facilities are improved and 64% would be prepared to pay a fee to use them.</p> <p>PLEASE NOTE: The results below are preliminary results from the first four weeks of the consultation period.</p>

We know that some of our toilets are rarely used and are expensive to maintain. We are interested to know whether you would support the closure of some facilities, so the Council could concentrate its resources and funding on upgrading the facilities which are used the most.

Yes, I would support the closure of some of the least used toilets so as to upgrade the facilities which are used the most.	152	<p>Don't Know 6%</p> <p>No 40%</p> <p>Yes 54%</p>
No, I would not support closing any of the toilets.	115	
Don't know	16	
Total	283	

Some Councils are able to refurbish and improve the standard and quality of their public toilets by introducing a fee for the use of facilities. Would you support charging a fee for some public toilet facilities?

Yes, I would support charging for some toilets if the standard and quality was improved.	181	<p>Don't Know 2%</p> <p>No 34%</p> <p>Yes 64%</p>
No, I would not support charging to improve the standard and quality.	95	
Don't know	7	
Total	283	

Charging a fee to use some toilets would provide some of the funding needed to improve facilities to ensure they are fit for the future and are of a much higher standard than current provision. Improvements could include; improved lighting, new fittings and redecoration. How much would you be prepared to pay to use some facilities?

I would be prepared to pay up to 30p a visit.	137	<p>Up to 30p 49%</p> <p>No 37%</p> <p>Up to 50p 10%</p> <p>Up to 40p 4%</p>
I would be prepared to pay up to 40p a visit.	12	
I would be prepared to pay up to 50p a visit.	27	
No, I would not be prepared to pay.	104	
Total	280	

14.	Amendments to Proposal / Mitigating Actions As mentioned above it is proposed that that a solution is found by the Council to enable all toilets to remain open.

Equality Impacts

15	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people	With the majority of the new facilities being single door entry cubicles it would provide a safer environment.		Modern refurbished toilets would benefit all residents and visitors to Torbay.
	People with caring Responsibilities	With the majority of the new facilities being single door entry cubicles it would provide a safer environment.		Modern refurbished toilets would benefit all residents and visitors to Torbay.
	People with a disability	All designs will be DDA compliant. The introduction of a Changing Places facility will improve the toilet options available for those that are severely disabled.		
	Women or men			Modern refurbished toilets would benefit all residents and visitors to Torbay. With the majority of the new facilities being single door entry cubicles it would provide a safer environment for all.
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies /</i>			Modern refurbished toilets would benefit all residents and visitors to Torbay. With the majority of the new facilities being single door entry cubicles

<i>Roma are within this community)</i>			it would provide a safer environment for all.
Religion or belief (including lack of belief)			Modern refurbished toilets would benefit all residents and visitors to Torbay. With the majority of the new facilities being single door entry cubicles it would provide a safer environment for all.
People who are lesbian, gay or bisexual			Modern refurbished toilets would benefit all residents and visitors to Torbay. With the majority of the new facilities being single door entry cubicles it would provide a safer environment for all.
People who are transgendered			Modern refurbished toilets would benefit all residents and visitors to Torbay. With the majority of the new facilities being single door entry cubicles it would provide a safer environment for all.
People who are in a marriage or civil partnership			Modern refurbished toilets would benefit all residents and visitors to Torbay. With the majority of the new facilities being single door entry cubicles it would provide a safer environment for all.
Women who are pregnant / on maternity leave	All new toilet cubicles will have baby changing facilities.		

	Socio-economic impacts (Including impact on child poverty issues and deprivation)		Modern refurbished toilets would benefit all residents and visitors to Torbay. With the majority of the new facilities being single door entry cubicles it would provide a safer environment for all.
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	All new toilets will have hand washing facilities with soap dispensers and hot water. It will also be easier to maintain a clean environment with new modern facilities.	
16	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	None identified.	
17	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	None identified.	

Appendix 1:

CURRENT TOILET PROVISION TORBAY









NEW PROPOSED TOILET PROVISION TORBAY







I visited your beautiful, historically interesting town last Saturday the 15th September. This visit was marred by the filthy unkempt and neglected state of the toilets

A Visitor to Brixham Said...

The Council has Received 57 Official Complaints (27 in last 6 months)

To say they were disgusting and not fit for purpose is an understatement.
1. The disabled toilet was open and being used by all comers.
2. The toilets were dirty and past their sell by date.
3. The hand wash facility did not work and was dirty.
4. The whole disabled toilet needs a complete refit and bringing up to a decent standard.
5. If it was inspected by environmental health it would be closed.

Automatic Flushing has ceased to save Utility Costs

£2,287.92 was the repair bill in February 2017

I have had to use the public toilets in Torbay the last couple of weeks. NEVER AGAIN. They are disgusting. They smell, floors unclean, pans are disgusting.
Paid 20p at Palace Ave thinking it would be better. Rusty, dirty.
Brixham toilets. 6 out of order. Not clean. Still 3 out of order a week later. Still unclean. One overflowing.
Ashamed as a local.

Preston 1st clean is at 4pm

9 Blocks are opened by local business

They are disgusting. The only one with a seat is out of order because it was flooding yesterday. Today another one out of order and generally really dirty. Paper on top of dispensers, dirty floor. And it smells of urine.

On Preston Toilets

Toilets have been dirty & smelly, awash with water on the floor & a lack of toilet paper in many cubicles. The hand washing facilities are practically non-existent-the small soggy pieces of soap are more of a health hazard than a cleansing item & the hand drier is so painfully slow & inefficient that people give up using it

Toilets are cleaned twice a day while in use

The toilets reeked of urine. It was overwhelming. Wet floors, no warning signs, dirty sinks and WCs. What an impression to give visitors

A Visitor to the Bay

I was utterly disgusted with the state & site that I was confronted with on entering the Ladies toilets!!

Customer feedback on Brixham Toilets...



Meeting: Council

Date: 7 December 2017

Wards Affected: All Wards

Report Title: Review of Political Balance

Is the decision a key decision? No

When does the decision need to be implemented? Immediately

Supporting Officer Contact Details: June Gurry, Governance Support Manager, telephone 01803 207012 and email june.gurry@torbay.gov.uk

1. Proposal and Introduction

1.1 This report sets out a review of the political balance of the Council to ensure places on Committees and Working Parties are allocated in accordance with the relevant statutory and Constitutional requirements. The report is presented following the creation of the Mayor's Non-Political Executive Group.

2. Reason for Proposal

2.1 Following notification by Councillors Amil, Excell, King, Mills and Parrott that they wished to be known as the Mayor's Non-Political Executive Group, the Council's political balance needs amending.

3. Recommendation(s) / Proposed Decision

3.1 **That the overall political balance of the committees as set out at Appendix 1 be approved.**

3.2 **That the following Working Parties be disbanded as their work has concluded:**

- **LGA Corporate Peer Challenge Action Plan Working**
- **Strategic Partnership Forum Working Party**

3.3 **That, in accordance with the Local Protocol for Working Parties, the overall political balance of working parties as set out in Appendix 2 be approved.**

Appendices

Appendix 1: Political Balance of Committees

Appendix 2: Political Balance of Working Parties

Background Documents: None

Supporting Information

<p>1.</p>	<p>Position and Background Information</p> <p>Following notification by Councillors Amil, Excell, King, Mills and Parrott that with effect from 1 November 2017, they wish to be known as the Mayor’s Executive Group and more recently (from 20 November 2017) as the Mayor’s Non-Political Executive Group, this has resulted in changes to the political make-up of the Council. There are now 20 members of the Conservative Group, 8 members of the Liberal Democrat Group, 5 members of the Mayor’s Non-Political Executive Group and 3 members of the Independent Group. The political balance is now:</p> <table data-bbox="502 705 1268 851"> <tr> <td>Conservative Group</td> <td>20 seats</td> <td>= 55.55%</td> </tr> <tr> <td>Liberal Democrat Group</td> <td>8 seats</td> <td>= 22.22%</td> </tr> <tr> <td>Mayor’s Executive Group</td> <td>5 seats</td> <td>= 13.89%</td> </tr> <tr> <td>Independent Group</td> <td>3 seats</td> <td>= 8.33%</td> </tr> </table> <p>The creation of the new political group has resulted in a change in the political make-up of the Council and a recalculation of seats on Committees between political groups. Proportional distribution of seats on Committees is set out at Appendix 1.</p> <p>Whilst not a legislative requirement, the Council has included in its Constitution for Working Parties to also be politically balanced. Proportional distribution of seats on Working Parties is set out at Appendix 2. Working Parties which have concluded their work have been recommended for disbandment and not included in the calculations.</p>	Conservative Group	20 seats	= 55.55%	Liberal Democrat Group	8 seats	= 22.22%	Mayor’s Executive Group	5 seats	= 13.89%	Independent Group	3 seats	= 8.33%
Conservative Group	20 seats	= 55.55%											
Liberal Democrat Group	8 seats	= 22.22%											
Mayor’s Executive Group	5 seats	= 13.89%											
Independent Group	3 seats	= 8.33%											
<p>2.</p>	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</p> <p>The calculation of political balance of committees is a statutory requirement and supports all aspects of the Corporate Plan through the good governance of the Council.</p>												
<p>3.</p>	<p>How does this proposal contribute towards the Council’s responsibilities as corporate parents?</p> <p>There is no direct contribution towards the Council’s responsibilities as corporate parents. The legislation ensures that nominations to the seats on committees reflects the representation of different political groups on the Council.</p>												
<p>4.</p>	<p>How does this proposal tackle deprivation?</p> <p>As section 3 above.</p>												

5.

What are the financial and legal implications?

Legal:

The Local Government and Housing Act 1989 requires the Council to allocate seats on committees to political groups in accordance with the size of each group as a whole, unless alternative arrangements are notified to all Members and agreed without any councillor voting against them. The Council is required to observe the following principles as far as it is reasonably practicable:

(a) that not all seats on the body are allocated to the same group;

(b) that the majority of seats on the body are allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;

(c) subject to paragraphs (a) and (b) above, that the number of seats on the ordinary committees of a relevant authority which are allocated to each political group bears the same proportion to the total of all the seats on the ordinary committees of that authority as is borne by the number of Members of that group to the membership of the authority; and

(d) subject to paragraphs (a) to (c) above, that the number of seats on the body which are allocated to each political group bears the same proportion to the number of all the seats on that body as is borne by the number of Members of that group to the membership of the authority.

The Council is required to determine the number of seats on each committee and the allocation of those seats to the political groups. Applying the principles of the Local Government and Housing Act 1989 and the supporting Regulations, the option for distribution would be proportional as set out at Appendix 1 (the Elected Mayor is not included in the calculation for proportionality purposes).

The allocation of seats includes a statutory bar on members of the Executive on the Overview and Scrutiny Board and a Council decision to exclude the Executive on the Audit Committee. The Mayor's Non-Political Executive Group currently comprises solely of members of the Executive. The overall calculations set out at Appendix 1 includes one seat on the Overview and Scrutiny Board being allocated to the Mayor's Non-Political Executive Group which the Group would utilise in accordance with Standing Order B2.1 whereby the Group Leader can nominate their places from another political group or not at all.

Political balance requirements may be dis-applied under Section 17, Local Government and Housing Act 1989 and Regulation 20, Local Government (Committees and Political Groups) Regulations 1990. This would allow the relevant seats to be allocated to another group. Any decision to dis-apply would require a unanimous vote of full Council.

In respect of Working Parties, the Council's Constitution states that Working Parties considering non-executive functions will be appointed in accordance with the principles of political balance.

	<p>Finance: The Members' Allowances Scheme includes a Special Responsibility Allowance (SRA) for Group Leaders of £330 per member. No councillor is entitled to receive more than one SRA covered by the Scheme. The changes to the political make-up of the Council outlined in this report have not resulted in an additional cost to the Members' Allowances budget due to the other SRA's already being paid.</p>
6.	<p>What are the risks?</p> <p>There is a statutory requirement to undertake a review of political balance following a change in the political composition of the Council. This review has been completed. Therefore there are no risks unless members fail to determine the matter.</p>
7.	<p>Public Services Value (Social Value) Act 2012</p> <p>Not applicable.</p>
8.	<p>What consultation you have carried out?</p> <p>The Group Leaders have been consulted on the political balance calculations set out at Appendix 1 and Appendix 2.</p>

Political Balance of Committees

Conservative Group	20 seats	= 55.55%
Liberal Democrat Group	8 seats	= 22.22%
Mayor's Executive Group	5 seats	= 13.89%
Independent Group	3 seats	= 8.33%

Committee	Conservative Group	Liberal Democrat Group	Mayor's Non-Political Executive Group	Independent Group	Total
Appeals Committee (School Transport)	4	1	1	1	7
Audit Committee (excluding Executive)	4	2	0	1	7
Civic Committee	4	2	1	0	7
Development Management Committee (excluding Executive Lead with responsibility for Planning)	5	2	1	1	9
Employment Committee	3	1	1	0	5
Harbour Committee	5	2	1	1	9
Housing Rental Company Committee (to include Executive Lead with responsibility for Housing)	4	1	1	1	7
Investment Committee	4	2	1	0	7
Licensing Committee (excluding Executive Lead with responsibility for Licensing)	8	3	3	1	15
Overview and Scrutiny Board (excluding Executive)	5	2	1	1	9
Standards Committee	4	2	1	0	7
	50	20	12	7	89

Political Balance of Non-Executive Working Parties

Working Party	Conservative Group	Liberal Democrat Group	Mayor's Non-Political Executive Group	Independent Group	Total
Adult Services and Public Health Monitoring Working Party	3	1	1	0	5
Airshow Working Party	4	1	1	1	7
Children's Services Monitoring Working Party	3	1	1	0	5
Community Asset Transfer Panel (including Executive Lead for Planning, Transport and Housing)	3	1	1	0	5
Constitution Working Party	4	1	1	1	7
Consultation, Communication and Engagement Working Party	3	1	1	0	5
Corporate Parent Members Group (including Executive Lead for Children)	3	1	1	0	5
Devolution Working Party	3	2	0	0	5
Financial Future Working Party (plus Elected Mayor)	5	1	0	1	7
Harbour Asset Working Party (plus external advisors)	3	2	0	0	5
Harbour Budget Working Party (plus external advisors)	3	2	0	0	5

Working Party	Conservative Group	Liberal Democrat Group	Mayor's Non-Political Executive Group	Independent Group	Total
Housing Working Group for Officers and Members	3	1	1	0	5
Oldway Mansion and Estate Working Party	3	1	1	0	5
Town Centre Regeneration Programme Board (plus Elected Mayor, partners and officers)	4	1	0	1	6
	47	17	9	4	77

Agenda Item 20, Provisional Calendar of Meetings for 2018/2019

Executive Motion

Council Meeting

7 December 2017

(Amendments shown in bold text)

Motion:

- 3.1 That, **subject to the start time for the meetings of the Policy Development and Decision Group (Joint Commissioning Team) (PDDG JCT) being amended to 2.00 p.m. and the meetings of the Policy Development and Decision Group (Joint Operations Team) being amended to 3.00 p.m. (or at the rising of the PDDG JCT)**, the provisional calendar of meetings for 2018/2019, set out in Appendix 1 to the submitted report, be approved for final ratification at the Annual Council Meeting.
- 3.2 That meetings of the Employment Committee and Civic Committee be held on an ad-hoc basis, to be determined by the Governance Support Manager in consultation with the relevant Chairman/woman.

Proposer Councillor Mills
Secunder Councillor Haddock