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Dear Member

CABINET - TUESDAY, 17 OCTOBER 2023

I am now able to enclose, for consideration at the Tuesday, 17 October 2023 meeting of the Cabinet, the following reports that were unavailable when the agenda was printed.

Agenda No	Item	Page
6.	Regeneration Partnership and appointment of Development Partner	(Pages 2 - 95)

Yours sincerely

Lisa Antrobus
Clerk

Meeting: Cabinet **Date:** 18 October 2023

Wards affected: All

Report Title: Regeneration Partnership and appointment of preferred Partner

When does the decision need to be implemented? Implementation to follow decision

Cabinet Member Contact Details: Councillor Chris Lewis, Cabinet Member for Place Services & Economic Growth, chris.lewis@torbay.gov.uk

Director Contact Details: Alan Denby, Director of Pride in Place, alan.denby@torbay.gov.uk

1. Purpose of Report

- 1.1 To recommend that the Council agrees to enter arrangements to develop a Regeneration Partnership to accelerate delivery of regeneration and growth projects in Torbay with a particular focus on projects identified in Torbay's "Towns Fund"¹ programmes and town centres. The report also recommends that the Overview & Scrutiny Board work programme should include receiving progress reports on the partnership to ensure cross party-political oversight.
- 1.2 For a variety of reasons Torbay's regeneration ambitions have not seen the pace of delivery that the Council, its partners and the Torbay community wishes to see. The Council is reviewing all opportunities to extend the Council's overall capacity to deliver revising operational processes alongside engagement with the market to help Torbay make better progress.
- 1.3 This report provides an overview of the previously adopted approach, consideration of alternative options and makes a recommendation in respect of a Regeneration Partner.

2. Reason for Proposal and its benefits

- 2.1 The Council has long recognised that the town centres provide a window to our place for residents, visitors and businesses. When the town centre regeneration strategy was agreed the Council acknowledged that the role of town centres is fundamental to the perception of towns and that town centres bring people together.

¹ "Towns Fund" includes the Town Deal for Torquay and Paignton and the High Streets Fund for Paignton

- 2.2 The draft Corporate and Community Plan along with the Council's Economic Growth Strategy 2022-30 continue to make the case for the focus on the town centres. The focus that will be delivered as a result of the appointment of a Regeneration Partner is considered to be important to accelerate the positive economic change for Torbay that is needed. This change will include delivery across sites that sit in each of the three towns with a clear focus on making faster and better progress on delivery of the Government Towns Fund programmes for Paignton and Torquay. Complementary to this delivery the Council with its partners will continue to make the case for continued investment by Government alongside other public and private investors in Torbay.
- 2.3 The agreement of the Town Centre strategy and the adoption of the Neighbourhood Plans in 2019 provided Torbay with a positive foundation to seek investment with Government with these documents being integral to securing each of the Town Deal for Torquay and the Future High Street Fund programme for Paignton.
- 2.4 These programmes were awarded in 2020 based on costing information that had been developed in 2019 and early 2020. The Covid pandemic and other external events has seen steady inflation apply to construction costs. Materials such as steel and concrete are being priced much higher than was previously forecast and there have also been shifts in the pricing and risk approaches from contractors with the client, in these cases the Council, being asked to accept less certainty on price and more risk.
- 2.5 These cost increases and shift of risk towards the Council have, alongside an ambitious capital programme, resulted in a slower pace of delivery than either the Council or the community wishes to see. The Council has rightly identified an ambitious programme based on the level of investment and change that Torbay's statistics demonstrate is needed. Creating improved public realm, reshaping the town centres, increasing town centre living, reducing retail voids and improving the connectivity of the town centres will bring confidence, employment, homes and improve the Council's overall ability to sustain its services. The recommendations made in this report will support the Council in delivery of these outcomes which are shaped by the submissions to Government and informed by the current Corporate and Community Plan.
- 2.6 The Council had assumed that to build market confidence Council investment and Council led delivery would be the required first step. For the reasons already indicated this approach has not worked. Recognising that the uncertainty and challenge resulting from the pandemic and the wider economic have increased the Council is also mindful of its own resources and capacity. Demands on Council services continue to be high, therefore complementing Torbay's resources with those of a long-term Regeneration Partner will provide the potential for greater capacity, capability and flexibility in effectively addressing the challenges our towns face.
- 2.7 Having reviewed its approach to delivery in late 2022 the Council agreed to attend the UK Real Estate Investment and Infrastructure Forum (UKREiIF) to raise profile of the opportunities that exist in Torbay. This approach was supported by the Torbay Place Board

with the “Torbay Story”² being the theme for Torbay’s participation at the event. Torbay’s presence at the event was positively received by the audience with over 45 contacts made with developers, investors and occupiers.

- 2.8 This positive reception translated into receiving proposals over the summer from two prospective partners in the delivery of relevant Towns Fund regeneration projects.
- 2.9 The prospective partners have been advised that the Council’s principal objective is the successful delivery of the Towns Fund programmes in Torbay (Torquay & Paignton) and the outcomes that the Town Deal and Future High Street Fund has committed Torbay to. They have provided proposals which demonstrates;
- How delivery can be accelerated
 - Their links to Government / institutional investment / occupiers
 - Development management track record of the proposer
 - The proposed relationship structure
 - The confirmed scope of services
 - An indicative programme
 - A fee proposal
 - References
- 2.10 The proposals have now been assessed and Cabinet is being asked to agree the appointment of a preferred Regeneration Partner with the detail of the nature of the partnership and the governance of it as proposed within this report. As part of the governance of the partnership, there is a clear expectation that the development partner would report progress through the Overview & Scrutiny Board.
- 2.11 The Torquay Town Deal & Paignton Future High Streets Fund steering group will continue, thus ensuring cross party oversight in addition to the Overview & Scrutiny Board.

3. Recommendation(s) / Proposed Decision

1. That proposal A (as set out at exempt Appendix 1 to this report) is approved be appointed as the Council’s Regeneration Partner, as the preferred way forward for the delivery of strategically important growth and regeneration projects in Torbay for a period of at least five years which could be extended, against performance criteria yet to be established.
2. That the Director of Pride in Place, in consultation with the Cabinet Member for Place Development and Economic Growth and the Director of Finance, be given delegated authority to establish the Partnership and to include additional projects for delivery by the Regeneration Partner which will further facilitate the growth and regeneration of Torbay.

² <https://torbaystory.co.uk/our-story/>

3. That the Overview and Scrutiny Board be requested to include in their work programme six monthly updates (as a minimum or as projects require) on delivery with the Regeneration Partner as to progress.

Appendices

Appendix 1 - Proposal A (exempt)

Appendix 2 – Proposal B (exempt)

Background Documents

- Torbay Council Town Centre Regeneration Strategy
- Torbay Council Corporate & Community Plan 2019-2023
- Torbay Council Future High Street Fund bid document 2020.
- Torbay Council Torquay Town Investment Plan 2020

1. Introduction

- 1.1 Following the approval of the Towns Centres Regeneration Strategy in 2017 the Council has worked alongside local partners through Torbay Together (Torbay's strategic partnership which has subsequently become Torbay's Place Leadership Board) to champion the need for Government investment. Despite the subsequent award of funding for Torbay's town centre bids delivery of these aspirations has been slower than is desired.
- 1.2 The reasons for this lack of pace is as described in the main element of this report. The lack of pace is undermining the Council's place leadership role and its credibility with the community and more fundamentally is preventing better outcomes being achieved for the communities of Torbay.
- 1.3 Notwithstanding the lack of progress on sites there is an ambitious capital programme in place. The successful funding awards have been complemented by the designation of Torbay as a Levelling Up Partnership place and the Council is now working with its partners and government officials to explore how this partnership can help accelerate the successful delivery of this programme.
- 1.4 This development of an active whole place approach to growth and regeneration has found interest from the developer market with several developers now actively interested in a long-term commitment to development across Torbay. To that end the Council is proposing a different method of working with a partner to deliver key sites within the capital programme particularly with a focus on the Town Investment Plan for Torquay and Future High Streets Fund for Paignton.
- 1.5 The Council has received two proposals in respect of the Towns Fund programme delivery as set out in exempt appendices 1 and 2. Both proposals are the product of several meetings and visits from each of the parties with officers, members and to Torbay. They are each credible proposals which provide distinct benefits to the Council with each party being recognised in their fields at a national level. The prospective partners are credible developers with a strong track record of delivering complex strategic developments in towns and cities elsewhere within the UK. Their engagement over period where these proposals have been formed has demonstrated their commitment to the Torbay Story and their formal submissions state clearly that commitment.
- 1.6 The appointment of either partner is likely to provide reassurance to investor and occupier markets of the opportunities that exist within Torbay. Each proposal recognises the vision that Torbay has developed through the Torbay Story and understands the social value objectives of the Council.

- 1.7 The proposals envisage a site-by-site relationship with proposal A also including a Regeneration Partnership which would be the preferred way forward. This partnership would be designed to allow the Council to exercise control through appointment of directors which would be on the board of the Partnership. This is a mechanism which is understood by the market, which offers the Council the ability to access skills and resources from the partner and which provides the opportunity to raise additional third-party finance in support of the delivery of the projects. It is expected that the board will consist of Council officers and representatives from the partner to determine operational matters as determined by the commercial structure. Heads of terms for the Partnership have not been drafted but the expectation is that the Council and the partner will align to provide delivery capability to the town centre regeneration programme, refine the development pipeline informing how the developed projects can be delivered and reviewing how delivery challenges will be addressed and identify funders and occupiers. The recommendations in the report would see require the partnership to report progress to Overview and Scrutiny and the Council's Capital and Growth Board would also be expected to review business cases.

Option A – Do nothing

- 2.1 A do nothing option will see the status quo persist with progress potentially limited. There are procurement compliant routes that would enable appointment of developers or contractors to deliver the Towns Fund schemes but the challenges that are being experienced around cost, viability and funding of the scheme would be considered without the benefit of market expertise. The likelihood is that this will prolong the project development stage and delay starts in site. This would in turn increase the risk that the projects would lose their grant funding leading to a lack of delivery and the various negative outcomes of that. This option is not recommended.

Option B – Run a more formal competitive procurement process

- 2.2 As an alternative to the recommended option the Council has the option to conduct a competitive procurement to seek a development partner to deliver the projects or become the development partner.
- 2.3 A competitive process allows the Council more control over the procurement and the future development and delivery of the projects when compared to the preferred option in that it has clarity over the individual delivery routes. It is a safe and recognised route to delivering complex capital projects and programmes in a procurement compliant manner reducing the likelihood of any challenges for non-compliance.
- 2.4 However Government requires that all Towns Fund grants are spent by March 2026 and in Torbay's case the agreed position with Government is currently March 2024 meaning that the urgency is pressing. This immediacy of the Towns Fund deadlines and the need to accelerate delivery makes a time-consuming option impractical and this option would likely result in the loss of the Towns Fund. This option is not recommended.

Option C – Recommend option appoint proposal A or B

- 2.4 That Proposal A is recommended to Cabinet.
- 2.5 Not to follow this option will secure the negative outcomes referenced above. In accepting this recommendation, the prospects for successful delivery of the changes desired in the town centres will be significantly enhanced. The presence of a credible recognised regeneration partner in Torbay will assist the Council in negotiations with Government, reassure the community that the regeneration plans they wish to see delivered are viable and provide confidence to funders and occupiers.

3. Financial Opportunities and Implications

- 3.1 As they develop the projects will develop the business cases already agreed by the Council to fully identify capital funding opportunities and future revenue funding requirements. There will be a requirement for some legal and financial advice for the structure which will be met from reserve or existing approved budgets.

4. Legal Implications

- 4.1 The Council has engaged external solicitors to provide advice on the appointment of a Regeneration Partner, specifically asking for advice on:
- whether the Council can accept either of the Proposals;
 - the advantages and disadvantages of the Proposals (including identifiable risks);
 - alternative procurement options (including estimated timescales); and
 - advice on the procurement law which applies to joint ventures
- 4.2 The advice received details that there are risks from Proposal B's preferred procurement route however it is for the Council to consider the risk of any legal challenge to an appointment and the assessment of the proposals has considered various factors in making the recommendation with the proposed procurement solution one of several scoring criteria for the assessment.
- 4.3 In respect of Proposal A each of the proposed procurement routes are recognised as valid with the choice presented to the Council of a site by site or wider regeneration partnership.
- 4.4 The advice note does also consider the potential for the Council to run a procurement process which may increase interest and competition, but which would prolong the programme and likely lose the Government funding allocated to Torbay as indicated in the options above.

4.5 The external solicitors will continue to provide support to the process to mitigate any risk where possible and advise on the most appropriate structure to achieve the Council's objectives.

5. Engagement and Consultation

5.1 Externally groups including Torbay Place Board and Torquay Town Deal Board (including the Community Board) have been made aware of the process and the purpose of attending UKREiiF. Internally Cabinet and Directors have been engaged and updated throughout the process. The view from external partners has consistently encouraged the Council to explore how greater momentum can be generated.

6. Purchasing or Hiring of Goods and/or Services

6.1 The Council's procurement team has supported the process and been engaged in the commissioning and review of legal advice to ensure that the proposed way forward is compliant and does not expose the Council to unnecessary risks.

7. Tackling Climate Change

7.1 No direct implications from the recommendations.

8. Associated Risks

8.1 The key risk in the short term is reputational harm to the Council. This would be a risk from the community based on the lack of progress and the potential for increased lack of confidence in the Council's ability to deliver the capital programme. The recommendation of a regeneration partner will help to address this risk.

8.2 The recommendation of a regeneration partner presents low risks to the Council having considered the legal implications set out above.

8.3 In line with the Council's programme and project management approach a full risk register will be in place for each of the projects to be delivered through the partner.

9. Equality Impacts - Identify the potential positive and negative impacts on specific groups

	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people			No discernible impact anticipated.

People with caring Responsibilities			No discernible impact anticipated.
People with a disability			No discernible impact anticipated.
Women or men			No discernible impact anticipated.
People who are black or from a minority ethnic background (BME) (Please note Gypsies / Roma are within this community)			No discernible impact anticipated.
Religion or belief (including lack of belief)			No discernible impact anticipated.
People who are lesbian, gay or bisexual			No discernible impact anticipated.
People who are transgendered			No discernible impact anticipated.
People who are in a marriage or civil partnership			No discernible impact anticipated.
Women who are pregnant / on maternity leave			No discernible impact anticipated.
Socio-economic impacts (Including impact on child poverty issues and deprivation)			No discernible impact anticipated.
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			No discernible impact anticipated.

10. Cumulative Council Impact

10.1 None

11. Cumulative Community Impacts

11.1 None

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