

Meeting: Cabinet **Date:** 10th January 2023

Wards affected: Collaton St Mary

Report Title: Disposal of Land at Little Blagdon Farm, Totnes Road, Collaton St Mary

When does the decision need to be implemented? Immediately

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1. Purpose of Report

- 1.1 Approval is sought to dispose of the Council's freehold interest in land at Little Blagdon Farm, Totnes Road, Collaton St Mary, by way of transfer to a company wholly owned, or partly owned by the local authority.
- 1.2 The intended outcome is to ensure the conditions of the Land Release Fund (LRF) are met by transferring the land to a Council company, namely TorVista Homes.
- 1.3 The proposed disposal route will ensure that the Council is still in control of the outputs required for the site, in line with the LRF conditions linked to residential development.

2. Reason for Proposal and its benefits

- 2.1 The proposals in this report ensure the conditions of the Land Release Fund (LRF) grant are met.
- 2.2 Torbay Council (the Council) was awarded £1,976,000 of Land Release Fund (LRF) grant aid by the Ministry of Housing, Communities and Local Government (MHCLG) on 8 March 2018 for the purposes of securing release of the land at Collaton St Mary for residential development.
- 2.3 The LRF award was accepted by the Council on 14 March 2018 following the agreement of the terms of that grant by the Elected Mayor and Group Leaders.
- 2.4 The LRF grant terms, as subsequently revised with the approval of the Department for Levelling Up, Housing and Communities (formerly known as MHCLG) requires that the site is released/transferred by February 2023.
- 2.5 In accordance with LRF terms, a site can count as released at the point at which any one of the below occur (whichever occurs first):
 - a. An unconditional contract, development agreement or building licence with a private sector partner is signed or freehold transfer takes place (whichever is sooner).
 - b. It has transferred to a development vehicle owned, or partly owned by the local authority, this could be a Local Authority wholly owned housing delivery vehicle or a public-private JV.
 - c. If (a) or (b) have not happened, the point at which development begins on site.

Once a scheme meets one or more of these criteria it is classed as released.

- 2.6 At its meeting on 18 October 2018, the Council instructed TDA to negotiate terms for the early surrender of Torbay Coast & Countryside Trust's (TCCT's) lease at Collaton St Mary in order to obtain vacant possession and to deliver the sites to the market for residential development in accordance with LRF deadlines. A surrender was subsequently agreed.
- 2.7 The surrender of TCCT's lease completed on 28 February 2019 giving the Council full control of the land.
- 2.8 A decision on disposal of the Council's freehold interest was made in July 2019 to undertake a procurement exercise to select a development partner/s to assist with the delivery of the Council sites at Preston Down Road and Collaton St Mary.
- 2.9 The procurement exercise concluded at the end of August 2020 although regrettably the exercise had to be abandoned as the final bids received were either non-compliant or did not represent best value for the Council.
- 2.10 In October 2020 the Council rescinded the previous decision made in July 2019 and a fresh decision was made to pursue an open market disposal of the freehold interest at Collaton St Mary.
- 2.11 A preferred bidder was identified and Heads of Terms were agreed including an aspirational land value based on a planning compliant scheme. Significant time was then spent by the preferred bidder carrying out their due diligence which involved comprehensive engineering, layout analysis and evaluations due to the site constraints and topography. Unfortunately, this resulted in a considerable reduction in and their financial offer and wider scheme benefits. This was considered to be a significant departure from the original bid and as such the Council were not able to proceed.
- 2.12 There is insufficient time to launch and conclude a fresh disposal exercise ahead of the February 2023 deadline.

3. Recommendation(s) / Proposed Decision

- 3.1 That the decision of the Council on 8 October 2020 as set out in minute 159/10/20 (iv) be rescinded.
- 3.2 That the disposal of the freehold interest of the land at Collaton St Mary, as set out in Appendix 1, be transferred at nil cost but ensuring that best value can be demonstrated, to TorVista Homes or a company wholly owned by the Council, be approved and that the Chief Executive be given delegated authority to agree and finalise any detailed disposal terms in consultation with the Cabinet Member for Economic Regeneration, Economy and Tourism and the Section 151 Officer.

Appendices

Appendix 1: Little Blagdon Farm Site Plan

Background Documents

Torbay Local Plan: <https://www.torbay.gov.uk/media/6836/lp-2012to2030.pdf>

Collaton St Mary Masterplan: <https://www.torbay.gov.uk/media/6897/csm-masterplan.pdf>

National Planning Policy Framework:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf

Supporting Information

1. Introduction

- 1.1 The Council owns the freehold of 18.38 hectares (45.4 acres) of land at Collaton St Mary, which is allocated for residential development in the Council's Adopted Local Plan (A Landscape for Success) 2012-30.
- 1.2 A public consultation exercise has been undertaken at Collaton St Mary and its results are detailed in the Collaton St Mary Master Plan, dated February 2016 ("the Masterplan"). Proposals to bring Collaton St Mary forward for residential development are in accordance with the adopted Masterplan.
- 1.3 The Council was awarded £1,976,000 of LRF grant aid by MHCLG on 8 March 2018 for the purposes of securing release of the land at Collaton St Mary for residential development.
- 1.4 Prior to the acceptance of the LRF Grant, the Elected Mayor and the Group Leaders were consulted on proposals for Collaton St Mary and it was agreed to accept the grant to assist with bringing forward the site for development.
- 1.5 The site was vacated by TCCT in February 2019. Site surveys commenced in 2018. A planning application (ref: P/2019/0478) was submitted on 2 May 2019 for creation of a new highway's junction and for demolition of redundant farm buildings. Funds have been set aside to contribute towards flood alleviation works within Collaton St Mary village that benefit the wider community.
- 1.6 There is a clear policy expectation in the Torbay Local Plan, augmented by the Collaton St Mary Masterplan, that Collaton St Mary will come forward for housing development.
- 1.7 Approval to enter into a development agreement with a private sector partner for disposal of Collaton St Mary was obtained in July 2019 and a full OJEU procurement exercise undertaken in 2019/2020 asking perspective bidders to demonstrate how they could meet the Council's aspirations for the site. Regrettably this exercise did not bring forward any compliant bids.
- 1.8 A further marketing exercise was then undertaken whereby the Council reduced the obligations on any perspective bidder. This brought about a successful offer by a national house builder and they were granted preferred bidder status. Since then, protracted negotiations have taken place to agree the terms for disposal.
- 1.9 Heads of Terms were agreed including an aspirational land value based on a planning compliant scheme. Significant time was then spent by the preferred bidder carrying out their due diligence which involved comprehensive engineering, layout analysis and evaluations due to the site constraints and topography. Unfortunately, this resulted in a considerable reduction in the financial offer and wider scheme benefits which was a significant departure from the original bid and as such the Council were not able to proceed.

2. Options under consideration

- 2.1 To comply with the LRF grant funding conditions the Council need to be in unconditional contract with the development partner or must otherwise have complied with the land release conditions which are:
 - (a) Signed an unconditional contract or development agreement with a private sector partner. This has subsequently been amended to read: An unconditional contract,

development agreement or building licence with a private sector partner is signed or freehold transfer takes place (whichever is sooner).

- (b) Completed land transfer to a local development vehicle. This has subsequently been amended to read: It has transferred to a development vehicle owned, or partly owned by the local authority, this could be a Local Authority wholly owned housing delivery vehicle or a public–private JV.

or

- (c) Development must have commenced on site.

2.2 Based upon the evidence available, the only option deliverable within the timeframe which protects the grant for use on this site is a disposal by the Council to a company wholly owned or partly owned by the Council. (Option b).

2.3 The other option available to the Council is to not comply with the grant conditions and return the grant funding. This option has a financial impact as grant funding already spent could be clawed back. Handing back grant funding will also carry a reputational risk for the authority and it could impact on future grant funding opportunities.

3. Financial Opportunities and Implications

3.1 As part of ongoing engagement with LRF, the Local Government Association and the Cabinet Office has confirmed that Torbay Council has provided an acceptable list of costs which the grant funding can be used for and this includes:

- a) Highways enabling works, including associated fees in the design and overseeing of the highways works.
- b) Site surveys and investigations to include undertaking percolation tests and site contamination surveys following demolition of the redundant former farm buildings to the north of the Collaton St Mary site.
- c) Grounds maintenance works required in accordance with feedback from RSPB and specialist environmental and legal advice.
- d) Drainage strategy review and providing critical funding in the region of £400,000 to facilitate the delivery of the Collaton St Mary flood alleviation scheme to reduce surface water flooding within Collaton St Mary village in partnership with the Environment Agency.
- e) Traffic impact assessment (Preston Down Road).
- f) Ecology mitigation works, including works to the adjacent Beechdown site.
- g) Procurement of EIA and HRA advice and reports.
- h) Site servicing and utilities
- i) Post-contract monitoring and management to ensure LRF funding requirements are being adhered to, to include commercial, surveying, financial and legal advice required in overseeing the project.

3.2 LRF Grant funds were transferred, in full, to Torbay Council in 2020. There is a risk that any unspent monies remaining in February may need to be repaid. This would adversely impact the successful delivery of the flood attenuation works scheme, which is being managed

separately, within Collaton St Mary village. Spend to date on the eligible items above is £883,297 and unspent monies are £1,092,703.

4. Legal Implications

- 4.1 Local authorities are given powers under the Local Government Act 1972 Act to dispose of land in any manner they wish, including sale of their freehold interest. The only constraint is that a disposal must be for the best consideration reasonably obtainable, unless the Secretary of State consents to the disposal.
- 4.2 The Local Government Act 1972: General Disposal Consent (England) 2003, removes the requirement for authorities to seek specific consent from the Secretary of State and it allows a local authority to dispose of land in the circumstances specified below :-
- (a) the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;
 - (i) the promotion or improvement of economic well-being.
 - (ii) the promotion or improvement of social well-being.
 - (iii) the promotion or improvement of environmental well-being; and
 - (b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).
- 4.3 Before disposing of any interest in land for a price which may be less than the best consideration reasonably obtainable, local authorities are strongly advised in all cases to ensure that they obtain a realistic valuation of that interest. The TDA have been instructed to obtain this valuation.
- 4.4 When the Chief Executive finalises the detailed disposal terms it is important that the transaction agreement/contract allows the Council the ability to determine the next cause of action and if necessary, request the land is either sold, transferred to another organisation or returned to the Council.
- 4.5 If TorVista proceed with the direct delivery of homes or the purchase of the affordable housing on the Collaton St Mary site, the land transfer contract will also need to include nomination rights for the Council, under section 25 of the Local Government Act 1988.

5. Engagement and Consultation

- 5.1 From time to time and following specific enquiries we have engaged with residents, key stakeholders, specific groups and/or communities as and when required, regarding this site.
- 5.2 Extensive consultation has occurred throughout the Local Plan planning process and in particular the Collaton St Mary Masterplan has undergone extensive public consultation.
- 5.3 Since the adoption of the Local Plan the principle of housing development in these locations appears to be accepted by the community.
- 5.4 As part of the planning process the community will be fully consulted on the detail of any development proposed. Ultimately, there will be a benefit to the local community in terms of additional supply of good quality housing and an improved mix of units.

- 5.5 It is anticipated that the eventual development of the Collaton St Mary site will help fund flood alleviation works within Collaton St Mary village, thereby benefitting the wider local community.

6. Purchasing or Hiring of Goods and/or Services

- 6.1 An intergroup transfer between companies owned by the Council does not require a procurement exercise and the Council solicitors will be instructed to facilitate the transfer of land.

7. Tackling Climate Change

- 7.1 There are no specific implications relating to the specific land transfer. During any planning application and subsequent delivery phase then there are significant implications and opportunities for climate change but not specifically linked to the land transfer.

8. Associated Risks

- 8.1 LRF grant funds were transferred, in full, to Torbay Council in 2020. There is a risk that any unspent monies remaining in February may need to be repaid. This would adversely impact the successful delivery of the flood attenuation works scheme, which is being managed separately, within Collaton St Mary village. As of today's date, spend to date is £883,297 and unspent monies are £1,092,703.
- 8.2 If the principle of land disposal is not supported by Cabinet the following risks could apply:
- (a) The Council may have to repay some LRF monies received.
 - (b) There will be a reputational risk for the Council which may impact upon the Council's ability to access future funding.
 - (c) Future grant income streams may be adversely affected.
 - (d) In the absence of LRF grant aid, the Council would need to fund all of the exploratory works required to bring the site forward for development.
- 8.3 If Collaton St Mary is not brought forwards for development they will not be able to contribute towards the Council's 5-year housing land supply. Consequently, this increases the risk to the Council of unwelcome planning applications from sites not identified in the local plan.

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			There is no differential impact
People with caring Responsibilities			There is no differential impact
People with a disability			There is no differential impact
Women or men			There is no differential impact
People who are black or from a minority ethnic background (BME) (Please note Gypsies / Roma are within this community)			There is no differential impact
Religion or belief (including lack of belief)			There is no differential impact
People who are lesbian, gay or bisexual			There is no differential impact
People who are transgendered			There is no differential impact
People who are in a marriage or civil partnership			There is no differential impact
Women who are pregnant / on maternity leave			There is no differential impact

Socio-economic impacts (Including impact on child poverty issues and deprivation)			There is no differential impact
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			There is no differential impact

10. Cumulative Council Impact

10.1 None

11. Cumulative Community Impacts

11.1 None