



## Minutes of the Council

13 July 2011 and adjourned meeting 14 July 2011

-: Present :-

**Chairman of the Council (Councillor Mills) (In the Chair)**  
**Vice-Chairman of the Council (Councillor Stringer)**

The Mayor of Torbay (Mayor Oliver)

Councillors Addis, Amil, Baldrey, Barnby, Bent, Brooksbank, Cowell, Darling, Davies, Doggett, Ellery, Excell, Faulkner (A), Faulkner (J), Hernandez, Hill, Hytche, James, Kingscote, Lewis, McPhail, Morey, Parrott, Pentney, Pountney, Pritchard, Richards, Scouler, Stockman, Thomas (D), Thomas (J) and Tyerman

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### 141 Opening of meeting

The Chairman welcomed Councillor Pountney to his first Council meeting following his successful election at the recent Cockington-with-Chelston By-election. The meeting was then opened with a prayer.

### 142 Apologies for absence

Apologies for absence were received from Councillors Butt and Stocks. Councillor Hytche joined the meeting during consideration Minute 152b and Councillor Faulkner (A) joined the meeting during consideration of Minute 152c.

Apologies for absence were received from Councillors Barnby, Butt, Stocks and Thomas (D) for the adjourned meeting.

### 143 Minutes

The Minutes of the annual meeting of the Council held on 24 May 2011 were confirmed as a correct record and signed by the Chairman.

### 144 Declarations of interests

The following personal interests were declared:

<b>Councillor</b>	<b>Minute Number</b>	<b>Nature of interest</b>
Ellery	152b	Grandchildren attend a nearby primary school (St Margaret Clitherow Primary School)

Baldrey, Cowell and Excell	152d	Council representatives on Torbay Sports Council
Excell	152e	Council representative on the Riviera International Conference Centre Board of Directors
Richards and Stringer	152e	Council representatives on the English Riviera Tourism Company
Tyerman	152d, 152e and 152f	Council appointed Director on Torbay Economic Development Company Ltd.
Doggett	158	Corporate Member of the Torbay Line Rail Users Group

Councillors Richards and Thomas (D) declared a personal and prejudicial interest in respect of Minute 160.

#### 145 Communications

The Chairman:

- (a) advised that since May 2011, the Chairman, the Vice-Chairman and the Mayor had attended over 80 civic events and they had championed and promoted Torbay at these events;
- (b) reminded members that there would be a civic church service on Sunday 9 October 2011 at 11.00 a.m. to be held at Churston Parish Church; and
- (c) informed members that the Robert Lenkiewicz art exhibition was due to open at Torre Abbey on 15 July 2011.

#### 146 Order of Business

In accordance with Standing Order 7.2 in relation to Council meetings, the order of business was varied to enable item 14 on the agenda (Review of Guidance on Principal Holiday Accommodation Areas) to be considered after Item 6 (Public Question Time Session) and Item 7 (Members Questions) to be considered at the end of the agenda.

#### 147 Public questions

In accordance with Standing Order A24, the Council received questions and statements from Carolyn Custerson, John Simmonds, Nigel Cobbold and Pat Butcher in relation to the Review of Guidance on Principal Holiday Accommodation Areas. Carolyn Custerson and Nigel Cobbold attended the meeting to present their statements. The Deputy Mayor responded to the questions and statements that had been put forward.

**148 Review of Guidance on Principal Holiday Accommodation Areas**

The submitted report set out details of a review of the operation of the Revised Guidance on Principal Holiday Accommodation Areas, following its adoption by the Council on 24 March 2010. It was noted that concerns had been expressed that the Revised Guidance may go too far in designating 'green' areas where the change of use of holiday accommodation was deemed acceptable. The review aimed to ensure that planning policies on the protection of holiday accommodation were appropriate and balanced a flexible approach to loss of accommodation to make sure that Torbay had a sustainable base of high quality accommodation.

It was proposed by Councillor Thomas (D) and seconded by Councillor McPhail:

- (i) that the "Revised Guidance on the Interpretation of Policy TU6 (Principal Holiday Accommodation Areas)" (March 2010) be withdrawn pending review as part of the emerging Local Development Framework (LDF) Core Strategy, such review to be undertaken as soon as possible; and
- (ii) that pending the evolution of revised policy as part of the LDF Core Strategy, that the Council relies on Policy TU6 of the Saved Adopted Torbay Local Plan for the determination of applications in PHAAs.

In accordance with Standing Order A19.4, a recorded vote was taken on the motion. The voting was taken by roll call as follows: **For:** The Mayor, Councillors Amil, Barnby, Brooksbank, Excell, Hill, Kingscote, McPhail, Pritchard, Richards, Scouler, Thomas (D), Thomas (J) and Tyerman (14); **Against:** Councillors Baldrey, Bent, Cowell, Darling, Davies, Doggett, Ellery, Faulkner (J), Hernandez, James, Lewis, Morey, Parrott, Pentney, Pountney and Stockman (16); **Abstain:** Councillors Addis, Mills and Stringer (3) and **Absent:** Councillors Butt, Faulkner (A), Hytche and Stocks (4). Therefore, the motion was declared lost.

**149 Notice of Motion - Palm Court Hotel**

Members considered a motion in relation to Palm Court Hotel, Torquay, notice of which was given in accordance with Standing Order A14. Following notice of the motion, which was set out on the agenda, an updated version was tabled at the meeting.

It was proposed by Councillor Darling and seconded by Councillor Baldrey:

this Council notes that the Palm Court Hotel site is an eyesore and, should the current purchase offer be withdrawn, agrees to request officers to proceed with negotiations to purchase the site with a view to developing it jointly with our LABVI partner. The development will be essentially leisure business orientated, and the Council understands that officer costs incurred in the process will be recouped from the development thus not adversely affecting Torbay taxpayers.

In accordance with Standing Order A14.3(b), the Chairman advised that the motion stood referred to the Mayor. The Mayor informed the Council that he would defer his decision on the motion to allow the matter to be examined further.

**150 Notice of Motion - School Transport**

Members considered a motion in relation to school transport, notice of which was given in accordance with Standing Order A14.

It was proposed by Councillor Pentney and seconded by Councillor Faulkner (J):

we call upon the Mayor and Council to stagger the rise in the cost in school transport by instigating gradual increase over a 5 year period. The costs of this should be met by use of the Council reserves. This will help families by:

- Reducing the increase to families at a time when many are suffering from higher utility and other charges.
- Allow parents to consider their budgets and make extra provision when deciding the options for education of their children.

In accordance with Standing Order A14.3(b), the Chairman advised that the motion stood referred to the Mayor. The Mayor informed the Council that he would defer his decision on the motion to allow the matter to be examined further.

**151 Adoption Activity Report**

The Council noted the activities of the Torbay Children's Services Adoption Agency for the period 1 April 2010 to 31 March 2011 as set out in the submitted report.

**152 Mayoral Decisions**

The Council made the following recommendations to the Mayor, which he considered at the meeting. The Mayor's Record of Decisions, which also includes further information on each decision, are attached to these minutes.

**152a Adoption Activity Statement of Purpose**

It was proposed by Councillor Lewis and seconded by Councillor Thomas (J):

that the Mayor be recommended to agree that the Statement of Purpose set out in Appendix 1 to the submitted Report covers the required information and accurately reflects the services provided.

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

**152b Proposal to Close Chestnut Primary School**

It was proposed by Councillor Lewis and seconded by Councillor Brooksbank:

- (i) that the Mayor be recommended on behalf of the Council to cease to maintain Chestnut Primary school from 31 August 2011; and
- (ii) that the Mayor be recommended to authorise the Executive Head for Children, Schools and Families to proceed with closing Chestnut Primary School with effect from 31 August 2011.

An amendment was proposed by Councillor Ellery and seconded by Councillor Morey:

- (iii) that the Mayor be recommended to retain the land for educational and community uses where possible.

On being put to the vote, the amendment was declared carried.

The substantive motion (the original motion with the addition of the amendment) was then before Members for consideration.

On being put to the vote, the substantive motion was declared carried.

#### **152c Reducing Teenage Conceptions Strategy - Refreshed 2010**

It was proposed by Councillor Lewis and seconded by Councillor Addis:

that the Mayor be recommended to approve the Reducing Teenage Conceptions Strategy Refreshed December 2010 set out at Appendix 1 to the submitted report.

On being put to the vote, the motion was declared carried.

#### **152d Granting of Long Leases to Sports Clubs**

It was proposed by Councillor Thomas (D) and seconded by Councillor Cowell:

that the Mayor be recommended to authorise the Executive Head of Commercial Services, in consultation with the Chief Executive of the Torbay Development Agency, to grant leases for up to 40 years to sports clubs on acceptable terms with each case being considered on its merits.

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

#### **152e Options for future delivery of tourism, marketing and events support**

It was proposed by Councillor McPhail and seconded by Councillor Richards:

that the Mayor be recommended to instruct Torbay Development Agency, as part of its strategic economic development function, to identify the strategic delivery options (assuming the retention of the Riviera International Conference Centre) and report back to Full Council within four months.

The high level options identified to date include:

- Consolidation of English Riviera Tourism Company (ERTC), RICC Ltd and Residents & Visitor Services (R&VS) Events Team functions into a single entity or a combination thereof.
- Establishment of a new Company controlled by Torbay Council, or seek a Private Sector Partnership (PSP) via a formal procurement, or transfer ERTC and certain RICC Ltd operations to direct council ownership and control.
- Maintain status quo but establish more stringent processes that promote greater efficiency and co-ordination.

An amendment was proposed by Councillor Darling and seconded by Councillor Baldrey:

that officers take no action on this proposal and a report be prepared on the long term viability of the Riviera International Conference Centre to establish a clear financial way forward.

In accordance with Standing Order A19.4 a recorded vote was taken on the amendment. The voting was taken by roll call as follows: **For:** Councillors Baldrey, Cowell, Darling, Davies, Doggett, Ellery, Faulkner (A), Faulkner (J), Morey, Parrott, Pentney, Pountney, Stockman and Stringer (14); **Against:** The Mayor, Councillors Addis, Amil, Barnby, Bent, Brooksbank, Excell, Hernandez, Hill, Hytche, James, Kingscote, Lewis, McPhail, Pritchard, Richards, Scouler, Thomas (D), Thomas (J) and Tyerman (20); **Abstain:** Councillor Mills (1); and **Absent:** Councillors Butt and Stocks (2). Therefore, the amendment was declared lost.

The original motion was then put to the vote and declared carried.

#### **152f Repairs to the Banjo and Eastern Section of Princess Parade**

It was proposed by Councillor Excell and seconded by Councillor Morey:

- (i) that the Mayor be recommended to authorise the Street Scene and Place Group Services Manager to incur investigative and design costs of up to £100,000, from the Council's reserves to:
  - a) assess the full extent of the repairs needed to the eastern section of Princess Parade and the 'banjo';
  - b) outline some repair solutions which maximise the Council's investment; and
  - c) to better assess the likely risks, cost and timescales involved in carrying out such works prior to procurement

- (ii) that concurrent with the above, the Mayor be recommended to authorise the Torbay Development Agency to invite proposals from the private sector to help fund the repair or replacement of the existing structures. This invitation will exclude development between the Pavilion and Theatre but might include enabling development adjacent to Palk Street and on the site the MDL Car Park. Such proposals are not to delay the implementation of any repairs; and
- (iii) that a further report be presented to a future Council meeting on final instructions to proceed.

In accordance with Standing Order A19.4, a recorded vote was taken on the motion. The voting was taken by roll call as follows: **For:** The Mayor, Councillors Addis, Amil, Barnby, Bent, Brooksbank, Cowell, Davies, Ellery, Excell, Hernandez, Hill, Hytche, James, Kingscote, Lewis, McPhail, Morey, Parrott, Pritchard, Richards, Scouler, Stockman, Thomas (D), Thomas (J) and Tyerman (26); **Abstain:** Councillors Baldrey, Darling, Doggett, Faulkner (A), Faulkner (J), Mills, Pentney, Pountney and Stringer (9) and **Absent:** Councillors Butt and Stocks (2). Therefore, the motion was declared carried.

### 153 Adjournment

At this juncture the meeting was adjourned until 9.30 a.m. on Thursday, 14 July 2011.

### 154 Revenue Outturn 2010/11 - Subject to Audit

The Council considered the submitted report on the final revenue outturn position for the Council for the financial year 2010/11 and the recommendations with respect to the use of the declared surplus. The Overview and Scrutiny Board had reviewed the report on 29 June 2011 and made no recommendations.

It was proposed by Councillor Tyerman and seconded by Councillor Hill:

- (i) that the revenue outturn position for 2010/11 be noted;
- (ii) that the transfer of £0.500m to the Comprehensive Spending Review reserve be approved (paragraph A5.1 of the submitted report);
- (iii) that the transfer of £0.576m to the budget pressures reserve be approved (paragraph A5.1 of the submitted report);
- (iv) that the transfer of £0.275m of the revenue underspend to the General Fund Balance (paragraph A5.5 of the submitted report) be approved; and
- (v) a sum of £0.300m is earmarked to be transferred to the Change Management and Financial Strategy Reserve subject to the final audit of the Council's Housing Benefit Subsidy be approved (paragraph A3.7 of the submitted report).

An amendment was proposed by Councillor Darling and seconded by Councillor Pentney:

- (iii) the transfer of £0.576m to the budget pressures reserve be approved (paragraph A5.1) and that Executive Heads be requested to advise all members the plans already identified and emerging for the use of the budget pressure reserve during the current financial year (2011/12) and for this to be provided within four weeks;

On being put the vote, the amendment was declared lost.

The original motion was then before Members for consideration.

On being put to the vote, the original motion was declared carried.

### **155 Capital Plan Budget Outturn 2010/2011 (Subject to Audit)**

The Council considered the submitted report on the outturn position in respect of capital expenditure and income for 2010/2011. The report also set out the Prudential Indicators for 2010/2011. The Overview and Scrutiny Board had reviewed the report on 29 June 2011 and made no recommendations.

It was proposed by Councillor Tyerman and seconded by Councillor Hill:

- (i) that the Council notes the outturn position for the Council's Capital expenditure and income for 2010/11 and notes the action taken by the Chief Finance Officer, under the Officer Scheme of Delegation, to carry forward the unspent budgets for expenditure or work in progress (together with their funding) from 2010/11 to 2011/12;
- (ii) that the Council approves the funding of the capital plan for 2010/11 as outlined in paragraph C1.1 of the submitted report; and
- (iii) that the Council approves the Prudential Indicators for 2010/11 as shown in Annex 1 to the submitted report.

On being put to the vote, the motion was declared carried.

### **156 Treasury Management Outturn 2010/11**

Members considered the submitted report on the performance of the Treasury Management Function in 2010/11 as recommended by the Audit Committee.

It was proposed by Councillor Tyerman and seconded by Councillor Hill:

that the submitted report be noted and the Treasury Management decisions made during 2010/11 as detailed in the submitted report be endorsed.

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

**157 Solar Photovoltaic on Public Buildings Project**

The Council considered the submitted report which set out a proposal to install Solar Photovoltaic on a maximum of 45 Torbay Council owned and school buildings.

It was proposed by Councillor Baldrey and seconded by Councillor Excell:

- (i) that a revision to the 2011/12 Capital Plan by inclusion of the Solar Photovoltaic on Public Buildings Project to a maximum sum of £1.8m funded from prudential borrowing, be approved. The principle and interest repayment to be financed from revenue income generated from the project over 25 years;
- (ii) that the Mayor be recommended to approve an additional one-off use of reserves for revenue budget allocation of £165k in 2011/12 for the Solar Photovoltaic on Public Buildings Project programme development costs (professional fees etc) in order to bring the project to the procurement stage;
- (iii) that the Commissioner of Place and Environment, in consultation with the Deputy Mayor and Executive lead for Strategic Planning, Housing and Energy be given delegated authority to approve the final business plan; and
- (iv) that surplus revenue be re-invested in projects identified through the implementation of the Climate Change Strategy for Torbay 2008-2013 and Carbon Management Plan, to be agreed through the Councils Annual Budget process.

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

The Mayor considered the recommendation of the Council in (ii) above at the meeting and the record of his decision is attached to these minutes.

(Note: Prior to consideration of Minute 157, Councillor Parrott declared a personal interest as a Governor of Ellacombe Primary School.)

**158 Match Funding for South Devon Link Road**

The Council considered the submitted report in respect of match funding for the South Devon Link Road. Revised Scheme Costs were circulated at the meeting.

It was proposed by the Mayor and seconded by Councillor Darling:

- (i) that the Executive Head of Finance, as Section 151 Officer, be authorised to commit Torbay Council to approximately £11.5 million of additional match funding required to deliver the South Devon Link Road scheme if the bid is successful. (Information in relation to the

potential spending programme is set out at Appendix 1 to the submitted report);

- (ii) that the additional £11.5 million be provided from prudential borrowing;
- (iii) that the potential sources of funding available to the Council to repay and service the interest on that borrowing, particularly in relation to New Homes Bonus (NHB) and Community Infrastructure Levy (CIL) be noted;
- (iv) that the risks associated with this borrowing and the potential impact on the delivery of other infrastructure and services be noted; and
- (v) that the Council authorises signature of a formal Agreement with Devon County Council committing to a 50/50 Cost Share arrangement for preparation of the bid and delivery of the scheme if the bid is successful.

On being put to the vote, the motion was declared carried.

(Note: Prior to consideration of Minute 158, Councillor Doggett declared his personal interest.)

#### **159 Health and Safety Enforcement Service Plan 2011/12**

The Council considered the submitted report on the draft Health and Safety Enforcement Service Plan for 2011/12.

It was proposed by Councillor Excell and seconded by Councillor Hernandez:

that the Health and Safety Service Plan attached in Appendix 1 to the submitted report be approved.

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

#### **160 Food Safety Service Plan 2011/12**

Members considered the draft Food Safety Service Plan for 2011/12 as set out in the submitted report.

It was proposed by Councillor Excell and seconded by Councillor Hernandez:

that the Food Safety Service Plan set out in Appendix 1 to the submitted report be approved.

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

(Note: Prior to consideration of Minute 160, Councillor Richards declared a personal prejudicial interest and withdrew from the meeting.)

**161 Review of Political Balance**

The Council considered the options for the overall political balance of the committees following the by-election in the Cockington with Chelston ward held on 23 June 2011, as set out in the submitted report.

It was proposed by Councillor McPhail and seconded by Councillor Addis:

that option 2 as set out in the submitted report – change to the Overview and Scrutiny Board be approved.

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

**162 Constitution Amendments**

The Council considered a proposed amendment to the Constitution relating to the order of business within Standing Orders in relation to Council Meetings which could not be agreed by the Mayor and Group Leaders.

It was proposed by Councillor Pritchard and seconded by Councillor Hill:

that the Monitoring Officer be requested to amend the Constitution (as set out at Appendix 1 to the submitted report) so that standing order A7.1(ix) 'to answer any question under Standing Order A13' is moved to the end of the order of business at every ordinary and extraordinary meeting of the Council.

On being put to the vote, the motion was declared lost.

**163 Ombudsman Report on an Investigation into Complaint No 10 002 564 against Torbay Council**

The Council noted the submitted Ombudsman Report on an Investigation into Complaint No 10 002 564 against Torbay Council.

**164 Members' questions**

Members received a paper detailing the questions, as set out at Appendix 1 to these Minutes, notice of which had been given in accordance with Standing Order A13.

In accordance with Standing Order A13.2(ii), the Chairman advised that he had accepted an urgent question due to exceptional circumstances.

Supplementary questions were asked and answered by the Mayor (questions 4, 5, 6, 7 and the urgent question).

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# RECORD OF DECISIONS

**Decisions made in the week  
commencing 11 July 2011**

**Issue 219**

**For information relating to the Record of Decisions or to request a copy in  
another format or language please contact:**

**Teresa Buckley (01803) 207013**

Email: [democratic.services@torbay.gov.uk](mailto:democratic.services@torbay.gov.uk)



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## **Record of Decision**

### **Adoption Activity Statement of Purpose**

#### **Decision Taker**

The Mayor at the Council meeting held on 13 July 2011.

#### **Decision**

**That it be agreed that the Statement of Purpose, set out in Appendix 1 to the submitted Report, covers the required information and accurately reflects the services provided.**

#### **Reason for Decision**

Schedule 1 of the Local Authority Adoption Service (England) Regulations lists information to be included in the Statement of Purpose. The Statement of Purpose needs to be agreed and reviewed annually.

#### **Implementation**

This decision will come into force and may be implemented on Wednesday 27 July 2011 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

#### **Information**

The Statement of Purpose has been prepared in accordance with the requirements of the Local Authority Adoption Service (England) Regulations 2003 and it is reviewed annually. The Statement provides information about the aims and objectives of Torbay Council in relation to the adoption service, the staffing, structure and services provided. The Mayor supported the recommendation of the Council as set out in his decision above.

#### **Alternative options considered and rejected at the time of the decision**

There were no alternative options.

#### **Is this a Key Decision?** (Give reference number if applicable)

No

#### **Does the call-in procedure apply?** (If no, please give reason)

Yes

#### **Declarations of interest** (including details of any relevant dispensations issued by the Standards Committee)

None

#### **Published**

Tuesday 19 July 2011

## **Record of Decision**

### **Proposal to Close Chestnut Primary School**

#### **Decision Taker**

The Mayor at the Council meeting held on 13 July 2011.

#### **Decision**

- (i) That the Council cease to maintain Chestnut Primary school from 31 August 2011;**
- (ii) that the Executive Head for Children, Schools and Families be authorised to proceed with closing Chestnut Primary School with effect from 31 August 2011; and**
- (iii) that the land be retained for educational and community uses where possible.**

#### **Reason for Decision**

To enable the Council to fulfil its duty with regard to school place planning and to ensure that funds are used for the direct educational benefit of pupils as far as possible.

#### **Implementation**

This decision will come into force and may be implemented on Wednesday 27 July 2011 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

#### **Information**

The Council has a statutory duty to keep under review the adequacy of provision of school places and a specific duty to reduce unfilled surplus capacity in schools. The submitted report set out details of a proposal to close Chestnut Primary School to reduce the number of surplus places within the Brixham area. By closing Chestnut Primary School and removing the number of surplus places would minimise the detrimental effects that may be posed for all schools across Brixham when faced with numbers of surplus places in primary schools. The Mayor supported the recommendation of the Council as set out in his decision above.

#### **Alternative options considered and rejected at the time of the decision**

The alternative options were set out in the submitted report and not discussed at the meeting.

**Is this a Key Decision?** (Give reference number if applicable)

Yes – Reference Number X14/2011

**Does the call-in procedure apply?** (If no, please give reason)

Yes

**Declarations of interest** (including details of any relevant dispensations issued by the Standards Committee)

Councillor Ellery declared a personal interest as his grandchildren attend a nearby primary school (St Margaret Clitherow Primary School).

**Published**

Tuesday 19 July 2011

## **Record of Decision**

### **Reducing Teenage Conceptions Strategy – Refreshed 2010**

#### **Decision Taker**

The Mayor at the Council meeting held on 13 July 2011.

#### **Decision**

**That the Reducing Teenage Conceptions Strategy Refreshed December 2010 set out at Appendix 1 to the submitted report be approved.**

#### **Reason for Decision**

To continue to focus on the National Teenage Pregnancy Strategy Unit's 'Deep Dive' recommendations for an effective approach to reducing teenage conception rates.

#### **Implementation**

This decision will come into force and may be implemented on Wednesday 27 July 2011 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

#### **Information**

Reducing the number of young women under 18 who become pregnant in Torbay has been identified as a priority within the Council, Torbay Care Trust and partner organisations. The submitted report set out details of a refresh of the Reducing Teenage Conceptions Strategy which continued to focus on the four priority areas outlined in the original strategy which include:

1. Young people focused contraceptive/sexual health services: Trusted by teenagers and well known by professionals working with them.
2. Strong Delivery of Sex and Relationships Education (SRE)/Personal Social Health Education (PSHE) by schools.
3. Targeted work with 'at risk' groups of young people; in particular Looked After Children and Care Leavers.
4. Work with parents and carers.

The Mayor supported the recommendation of the Council as set out in his decision above.

#### **Alternative options considered and rejected at the time of the decision**

The alternative options were set out in the submitted report and not discussed at the meeting.

**Is this a Key Decision?** (Give reference number if applicable)

No

**Does the call-in procedure apply?** (If no, please give reason)

Yes

**Declarations of interest** (including details of any relevant dispensations issued by the Standards Committee)

None

**Published**

Tuesday 19 July 2011

## **Record of Decision**

### **Granting of Long Leases to Sports Clubs**

#### **Decision Taker**

The Mayor at the Council meeting held on 13 July 2011.

#### **Decision**

**That the Executive Head of Commercial Services be authorised, in consultation with the Chief Executive of the Torbay Development Agency, to grant leases for up to 40 years to sports clubs on acceptable terms with each case being considered on its merits.**

#### **Reason for Decision**

To enable the Council to grant leases to Clubs so that they have the confidence that if they need a longer term lease to assist with grant applications, then the Council would be supportive.

#### **Implementation**

This decision will come into force and may be implemented on Wednesday 27 July 2011 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

#### **Information**

The submitted report set out proposals to enable the Council to grant long term leases to sports clubs. Longer term leases would enable and encourage sports clubs to develop longer term strategies for the provision of sports facilities and allow clubs to apply for grants to improve their facilities. The Mayor supported the recommendation of the Council as set out in his decision above.

#### **Alternative options considered and rejected at the time of the decision**

The alternative options were set out in submitted report and not discussed at the meeting.

**Is this a Key Decision?** (Give reference number if applicable)

No

**Does the call-in procedure apply?** (If no, please give reason)

Yes

**Declarations of interest** (including details of any relevant dispensations issued by the Standards Committee)

The following Councillors declared personal interests as they were members of various sports clubs:

Councillor Addis – Babbacombe Bowling Club and Plainmoor Pool

Councillor Darling – Babbacombe Corinthian Sailing Club and Paignton Canoe Club

Councillor Faulkner (A) – Torquay Golf Club

Councillor Pountney – Chairman of Torquay United Football in the Community Sports and Education Trust

Councillors Baldrey, Cowell and Excell declared personal interests as they were the Council's representatives on Torbay Sports Council.

Councillor Tyerman declared a personal interest as he was the Council's appointed Director on Torbay Economic Development Company Ltd.

**Published**

Tuesday 19 July 2011

## **Record of Decision**

### **Options for Future Delivery of Tourism, Marketing and Events Support**

#### **Decision Taker**

The Mayor at the Council meeting held on 13 July 2011.

#### **Decision**

**That Torbay Development Agency be instructed, as part of its strategic economic development function, to identify the strategic delivery options (assuming the retention of the Riviera International Conference Centre) and report back to Full Council within four months.**

**The high level options identified to date include:**

- **Consolidation of English Riviera Tourism Company (ERTC), Riviera International Conference Centre (RICC) Ltd and Residents & Visitor Services (R&VS) Events Team functions into a single entity or a combination thereof.**
- **Establishment of a new Company controlled by Torbay Council, or seek a Private Sector Partnership (PSP) via a formal procurement, or transfer ERTC and certain RICC Ltd operations to direct council ownership and control.**
- **Maintain status quo but establish more stringent processes that promote greater efficiency and co-ordination.**

#### **Reason for Decision**

To undertake an options appraisal for reconfiguring the Council's investment in tourism, marketing and events management in order to identify further efficiencies and to ensure that its investment into the tourism economy is providing an appropriate return to Torbay.

#### **Implementation**

This decision will come into force and may be implemented on Wednesday 27 July 2011 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

#### **Information**

The submitted report set out details for an options appraisal to be undertaken to identify an improved delivery model that generates a sustained increase in visitor numbers and bed nights (both tourism and business related). The options appraisal would also examine the potential to promote higher profile events and ensure that event planning is comprehensive and co-ordinated. The Mayor supported the recommendation of the Council as set out in his decision above.

## **Alternative options considered and rejected at the time of the decision**

The alternative options were set out in the submitted report.

Councillor Darling proposed an amendment which was rejected by the Council – full details are provided in the minutes of the Council meeting held on 13 July 2011.

**Is this a Key Decision?** (Give reference number if applicable)

No

**Does the call-in procedure apply?** (If no, please give reason)

Yes

**Declarations of interest** (including details of any relevant dispensations issued by the Standards Committee)

Councillors Faulkner (A), Thomas (D) and Tyerman declared personal interests as they were the Council's appointed Directors on Torbay Economic Development Company Ltd.

Councillors Richards and Stringer declared personal interests as they were the Council's nominated members on the English Riviera Tourism Company.

Councillor Excell declared a personal interest as he was the Council's nominee on the Riviera International Conference Centre Board of Directors.

**Published**

Tuesday 19 July 2011

## Record of Decision

### Repairs to the Banjo and Eastern Section of Princess Parade

#### Decision Taker

The Mayor at the Council meeting held on 13 July 2011.

#### Decision

- (i) That the Street Scene and Place Group Services Manager be authorised to incur investigative and design costs of up to £100,000, from the Council's reserves to:**
  - a) assess the full extent of the repairs needed to the eastern section of Princess Parade and the 'banjo';**
  - b) outline some repair solutions which maximise the Council's investment; and**
  - c) to better assess the likely risks, cost and timescales involved in carrying out such works prior to procurement;**
- (ii) that concurrent with the above, the Torbay Development Agency be authorised to invite proposals from the private sector to help fund the repair or replacement of the existing structures. This invitation will exclude development between the Pavilion and Theatre but might include enabling development adjacent to Palk Street and on the site of the MDL Car Park. Such proposals are not to delay the implementation of any repairs; and**
- (iii) That a further report be presented to a future Council meeting on final instructions to proceed.**

#### Reason for Decision

To provide a solution to the repairing liability at the 'banjo' and the eastern section of Princess Parade, Torquay, which enables the closed sections to be re-opened as soon as possible.

#### Implementation

This decision will come into force and may be implemented on Wednesday 27 July 2011 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

#### Information

The eastern section of Princess Parade and the 'banjo' have been closed to the public since 2006. This is a prime section of Torquay's waterside and the continued closure has provoked widespread criticism. The submitted report sought to carry out surveys and preliminary design work and highlighted a number of issues that would need to be addressed before proceeding with a repair. The report also sought to identify a strategy that represented best value, taking into account the likely expenditure, the opportunity cost and the anticipated life expectancy and importance of the area to tourism. The Mayor supported the recommendation of the Council as set out in his decision above.

**Alternative options considered and rejected at the time of the decision**

The alternative options were set out in the submitted report.

**Is this a Key Decision?** (Give reference number if applicable)

No

**Does the call-in procedure apply?** (If no, please give reason)

Yes

**Declarations of interest** (including details of any relevant dispensations issued by the Standards Committee)

Councillor Tyerman declared a personal interest as he was the Council's appointed Director on Torbay Economic Development Company Ltd.

**Published**

Tuesday 19 July 2011

## Record of Decision

### Solar Photovoltaic on Public Buildings Project

#### Decision Taker

The Mayor at the adjourned Council meeting held on 14 July 2011.

#### Decision

**That an additional one-off use of reserves for revenue budget allocation of £165k in 2011/12 for the Solar Photovoltaic on Public Buildings Project programme development costs (professional fees etc), in order to bring the project to the procurement stage, be approved.**

#### Reason for Decision

To enable the project to be progressed.

#### Implementation

This decision will come into force and may be implemented on Wednesday 27 July 2011 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

#### Information

The Council considered a report on a proposal to install Solar Photovoltaic Panels on a maximum of 45 Torbay Council owned and school buildings at its adjourned meeting held on 14 July 2011. The Council agreed the following recommendations and the Mayor was therefore required to make a formal decision in respect of (ii) below:

- (i) that a revision to the 2011/12 Capital Plan by inclusion of the Solar Photovoltaic on Public Buildings Project to a maximum sum of £1.8m funded from prudential borrowing, be approved. The principle and interest repayment to be financed from revenue income generated from the project over 25 years;
- (ii) that the Mayor be recommended to approve an additional one-off use of reserves for revenue budget allocation of £165k in 2011/12 for the Solar Photovoltaic on Public Buildings Project programme development costs (professional fees etc) in order to bring the project to the procurement stage;**
- (iii) that the Commissioner of Place and Environment, in consultation with the Deputy Mayor and Executive lead for Strategic Planning, Housing and Energy be given delegated authority to approve the final business plan; and
- (iv) that surplus revenue be re-invested in projects identified through the implementation of the Climate Change Strategy for Torbay 2008-2013 and Carbon Management Plan, to be agreed through the Councils Annual Budget process.

The Mayor supported the recommendation of the Council as set out in his decision above.

**Alternative options considered and rejected at the time of the decision**

The alternative options were set out in the submitted report and not discussed at the meeting.

**Is this a Key Decision?** (Give reference number if applicable)

Yes – Reference Number X12/2011

**Does the call-in procedure apply?** (If no, please give reason)

Yes

**Declarations of interest** (including details of any relevant dispensations issued by the Standards Committee)

Councillor Parrott declared a personal interest as a Governor of Ellacombe Primary School.

**Published**

Tuesday 19 July 2011

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# Minute Item 164

## Meeting of the Council

Wednesday, 13 July 2011

### Questions Under Standing Order A13

<b>Question (1) by Councillor Stringer to the Executive Lead for Safer Communities and Transport – Councillor Excell</b>	<b>Can you please advise over the past 5 Years how many prosecutions have been taken by the local authority of utility companies who have failed to reinstate the highway appropriately? I would welcome this information on a year by year basis.</b>
Councillor Excell	<p>Torbay Council has not taken any Statutory Undertaker to court for failing to comply with the New Roads and Street Works Act 1991 (NRSWA) or its associated codes of practice within the last 5 years.</p> <p>There are inspection and default procedures integral to legislation which Torbay Council has utilised since the introduction of the New Road and Street Works Act. As an example of the number of inspections undertaken in Torbay, we receive payment for undertaking approximately 1200 Random Sample Inspections each year. Last year we actually undertook 4700 inspections with 95 of the inspections revealing Undertakers works failed to meet the required standards. The 95 failures required remedial action by Undertakers which were completed to our satisfaction.</p> <p>Legislation covering street works is constantly being updated to both increase the success of reinstating the highway and to expedite procedures should Undertakers fail to meet specifications. The latest incarnation of the Traffic Management Act has introduced Fixed Penalty Notices (FPN) for breach of Regulation in regards the issuing of street works notices. The Undertaker can now pay an £80 FPN in acceptance of breach of Regulation and the Street Authority no longer takes the breach to court. As an Example of this new procedure, Torbay Council has issued 16 FPN's to Statutory Undertakers in the first 3 months of this financial year.</p>
<b>Question (2) by Councillor Parrott to the Executive Lead for Adult Social Care and Older People – Councillor Scouler</b>	<b>Given that Cllr Scouler chose not to answer my questions during the debate on the approval of the draft Annual Strategic Agreement between the council and the Care Trust (24 May 2011), will she now tell us how it came about that she changed her position from voting against the draft Agreement on 23 March to promoting approval on 24 May – this despite the fact that the draft under consideration was line for line the same?</b>
Councillor Scouler	The reason I voted against the draft Annual Strategic Agreement between the Council and the Care Trust on 23 March was I felt it had not been through Scrutiny, and felt it would be wise to take time in considering the reduced Budget of the Care Trust.

	Therefore all things considered I voted FOR the Annual Strategic Agreement in May 2011.
<b>Question (3) by Councillor Parrott to the Executive Lead for Adult Social Care and Older People – Councillor Scouler</b>	<b>Given that Councillor Scouler chose not to answer my questions during the debate on the approval of the draft Annual Strategic Agreement between the council and the Care Trust (24 May 2011), will she now tell us what extra and particular measures she has put in place to minimise the risk of a budget overspend by the Care Trust during 2011/12 and thereby minimise any consequent impact on Torbay Council's budgets and reserves? And can she confirm whether she agrees that this is particularly necessary in the light of the Care Trust's record of overspend in previous years?</b>
Councillor Scouler	Given that Adult Social Care is a complex area and making budget reductions will require both consultation and clear decision making. An action plan is in place to deal with both short and long term issues; this will be monitored and discussed at the Policy Development Group meetings and regular meetings with the Director of Adult Social Services and Commissioner.
<b>Question (4) by Councillor Parrott to the Mayor</b>	<b>Is the Mayor aware that coalition plans to close coastguard stations, including the station at Brixham, may well be linked to the EU proposals for a pan-European coastguard service? And will he confirm that, whatever the motives of the coalition government, he will continue to use all his authority to fight the closure of the Brixham coastguard station?</b>
Mayor Oliver	Yes
<b>Question (5) by Councillor Cowell to the Mayor</b>	<b>Since your election as Mayor, what have you done, or plan to do, to achieve your pledge to give the residents of Torbay the opportunity to determine the future of an elected Mayor for Torbay?</b>
Mayor Oliver	Under the current legislation a referendum to change the system of governance from an Elected Mayor cannot be held for ten years after the last referendum i.e. 2015.  Furthermore following such a referendum any change to the governance of the Council cannot be implemented until 2019, when the next Local Election would be due. Therefore I will pursue this when any change to legislation will allow.

<p><b>Question (6) by Councillor Cowell to the Mayor</b></p>	<p><b>Does the Mayor agree that the timing of several meetings of committees and the Policy Development Groups means several councillors and members of the public cannot easily attend?</b></p>
<p>Mayor Oliver</p>	<p>The annual programme of meetings is agreed at the Annual Council meeting. The timings of Committees and Policy Development Groups can then be varied by the members of those bodies. The times reflect the best times for the majority of members on those bodies and members of the public who wish to attend e.g. Licensing Sub-Committees are held in the morning when the majority of licensees and partners are able to attend. Therefore, if the timings are not suitable it is for the body to determine the timings of their meetings.</p>
<p><b>Question (7) by Councillor Cowell to the Mayor</b></p>	<p><b>Following the Mayor’s announcement in the Herald Express about a policy change to support the Riviera International Conference Centre for a further 20 years with £2m capital support:</b></p> <ul style="list-style-type: none"> <li><b>a) Are there any impacts upon existing Capital programmes and how has this funding been sourced?</b></li> <li><b>b) What impact will this policy have on future revenue subsidies to the RICC, currently budgeted at almost £2m over the next three years, at a time of cuts in other services?</b></li> <li><b>c) Will the change in Board structures resulting from the proposed amalgamation with the English Riviera Tourism Company have any impact on the remaining eight years of the RICC lease?</b></li> <li><b>d) Will the Mayor’s proposals ensure that after this £2m capital funding, the Conference Centre will in future not cost a penny to the local taxpayer as pledged by a predecessor at the time of its’ opening?</b></li> </ul>
<p>Mayor Oliver</p>	<p>Response to a):</p> <p>The Council considers its capital programme each year as part of the annual review of all budgets. All options for funding new capital projects will be considered in consultation with officers and will form part of the proposed capital plan later in the year.</p> <p>Response to b):</p> <p>The Council has included funding for the RICC within its Medium Term Resource Plan as set out in the Budget Digest. As part of the Council’s annual review of al budgets the level of subsidy provided to the RICC will be considered and Members of the Council will have an opportunity to discuss and debate the level of subsidy provided in the context of the financial challenges faced by the Council for all other services.</p>

	<p>Response to c):</p> <p>At this meeting the Council is considering a report to decide on the scope of the investigations relating to the structural options for RICC, ERTC and other potentially related services.</p> <p>Response to d):</p> <p>It is the Council that approves both the revenue and capital budget each year and will decide the level of support provided to the RICC and the impact this will have upon local residents.</p>
<p><b>Urgent Question, allowed by the Chairman in accordance with Standing Order A13.2 (ii), by Councillor Baldry to the Mayor.</b></p>	<p><b>What are you doing as the Council's First Citizen to promote the project by 'Wreck the World' to obtain the Ark Royal [or other de-commissioned vessel] to form an artificial reef in on the sea bed within reach of Torbay towns, bearing in mind the experience of Plymouth which has attracted in excess of £45M over the five years since the 'Scylla' was sunk and that if achieved the Ark Royal would form <u>the largest but one artificial reef in the world.</u></b></p>
<p>Mayor Oliver</p>	<p>At the Harbour Committee meeting on 13<sup>th</sup> June 2011, I helped initiate a discussion on the proposals to sink the 'Ark Royal' off Tor Bay to form a manmade reef and creating a diving site. I was aware that those behind the project were already consulting with the Executive Head of Tor Bay Harbour Authority, at a conceptual level, on various technical issues surrounding navigation, statutory consents and environment impacts.</p> <p>In my capacity as Vice-Chairman of the Harbour Committee I took advice from the Executive Head of Tor Bay Harbour Authority and, along with other members of the Committee, we resolved to support the principle of the strategic placement of man-made wrecks and/or artificial reefs, in line with the Tor Bay Harbour and Maritime Strategy, and to provide assistance to those proposing to do this.</p> <p>Due to the Navy's disposal process the bid for the 'Ark Royal' remains speculative and at this stage the level of Council assistance reflects this.</p>