

Meeting: Council

Date: 8th October 2020

Wards Affected: Preston and Collaton St Mary

Report Title: Disposal of Land at Little Blagdon Farm, Collaton St Mary and Land at Preston Down Road, Paignton

Is the decision a key decision? Yes

When does the decision need to be implemented? Immediately

Cabinet Member Contact Details: Councillor Swithin Long - Cabinet Member for Economic Regeneration, Tourism and Housing, Swithin.Long@torbay.gov.uk

Supporting Officer Contact Details: Kevin Mowat – Director of Place, 01803 208433, Kevin.Mowat@torbay.gov.uk

1. Proposal and Introduction

- 1.1 Members will recall the previous decision made at Council in July 2019, namely to undertake a procurement exercise to select a development partner/s to assist with the delivery of the Council sites at Preston Down Road (PDR) and Collaton St Mary (CSM). The July 2019 report is available at Appendix A. At that time the intended outcome was to deliver a fully planning policy compliant scheme for the provision of new housing on the two sites whilst also ensuring further outputs and objectives were achieved.
- 1.2 Members will also recall that these sites received Land Release Funding (LRF) to assist with the release of these sites for housing. The conditions for this funding requires the Council to be in contract with a third party by December 2020.
- 1.3 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.
- 1.4 This report makes further recommendations on the disposal of these sites while still meeting the LRF December deadline.

2. Reason for Proposal and associated financial commitments

- 2.1 Torbay Council (the Council) was awarded £3,076,000 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 early release of the land at both CSM and PDR for residential development.

- 2.2 With regard to CSM this revised proposal looks to market the site on the open market with limited conditions. These conditions would simply be to ensure that the LRF grant conditions are adhered to, that 30% affordable housing is delivered on the site and that these affordable homes are offered to TorVista homes.
- 2.3 Undertaking the direct delivery of a housing scheme at CSM by a Council company was one of the delivery options considered, however the risk profile and expertise required to deliver a development of this size means that an experienced house builder is better placed to bring this site forward.
- 2.4 By taking this approach for CSM will ensure that the deadline imposed by LRF is met, it will deliver an open market value in terms of land receipt while also ensuring there is no watering down of the affordable housing provision on the site.
- 2.5 With regard to PDR it is proposed that this site is disposed of to TorVista Homes or company owned by the Council. This disposal would allow the Council to achieve a number of wider objectives that it was originally trying to achieve whilst still ensuring best value is maintained. These wider objectives would be detailed in a development agreement and form the contract between the two organisations.
- 2.6 Whilst the detail needs to be finalised the disposal would ensure:
- A minimum land value is paid to the Council equivalent to the payments the Council has already made to secure vacant possession of the site.
 - The development would be delivered in an open book manner
 - A 50/50 profit share would be in place between the two organisations, with the company using its profits to invest in additional affordable housing within Torbay
 - A fully policy compliant planning application would be obtained, and
 - Wider outputs including securing a specific number of job placements and apprentices would be delivered
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3. Recommendation(s) / Proposed Decision

- 3.1 That the decision of the Council on 18 July 2019 as set out in minute 46/7/19 (i) to (iv) be rescinded.
- 3.2 That the disposal of the freehold interest of the land at Preston Down Road ensuring best value, edged red at Appendix 3, 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 the terms of the disposal, in consultation with the Cabinet Member for Economic Regeneration, Tourism and Housing and the Head of Finance.
- 3.3 That subject to a business case being produced Members authorise a loan via prudential borrowing or provide a guarantee of up to £23million to TorVista homes or a company owned by the Council, to facilitate the delivery of the site, and that the Chief Executive be given delegated authority to agree the provision of the loan

or provision of a guarantee in consultation with the Cabinet Member for Finance and the Head of Finance.

- 3.4 That the open market disposal of the freehold interest at Collaton St Mary (identified by land edged red in Appendix 2) be approved and the Chief Executive be given delegated authority to agree and finalise the detailed disposal terms in consultation with the Leader and Cabinet Member for Finance.

Appendices

Appendix 1: Council report July 2019

Appendix 2: Plan of land at Little Blagdon Farm, Collaton St Mary

Appendix 3: Plan of land at Preston Down Road

Background Documents

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

Paignton Neighbourhood Plan: <http://www.paigntonneighbourhoodplan.org.uk/>

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

Section 1: Background Information

1. What is the proposal / issue?

The Council owns the freehold of 18.38 hectares (45.4 acres) of land at CSM and 4.06 hectares (10.03 acres) of land at PDR.

The Council was awarded £3,076,000 of LRF grant aid by MHCLG on 8 March 2018 for the purposes of securing early release of the land at both CSM and PDR for residential development.

Following the conclusion of the OJUE procurement exercise the Council now needs to consider alternative disposal options to ensure that the sites are progressed and the LRF conditions are met.

With regard to CSM it is proposed to market the site on the open market following a Council resolution for a period of 8 weeks. The marketing will include the contract containing the following conditions;

- (a) that the purchaser must comply with the LRF funding obligations,
- (b) that the purchaser must deliver 30% affordable housing, the mix, type and location of these homes to be in line with the current Council policy on affordable housing delivery.
- (c) a requirement that the purchaser offer to sell the affordable homes to TorVista.

It is considered that this approach will maximise the land receipt for the Council whilst meeting the LRF deadlines and ensure that much needed affordable housing is delivered.

Due to the size and complexity of delivering a residential development on this site it was felt that an established housebuilder would be best placed to bring the site forward. The capacity required to deliver this development internally would have a significant opportunity cost to the speed of delivery of the wider capital programme.

With regard to PDR the following approach is proposed to ensure that the Council receive a land value which also delivering on wider qualitative objectives,

- (I) That the land at PDR be disposed of to TorVista homes or another company owned by the Council, with TorVista providing the Council with a minimum land receipt at least equivalent to the monies paid by the Council to achieve vacant possession,
- (II) TorVista will enter in a 50/50 profit share with the Council, after payment of the land receipt, in open book approach. Any profit retained by TorVista will be used to facilitate the delivery of additional affordable housing in Torbay.

	<p>(III) The agreement will commit TorVista to delivering a fully policy compliant planning application.</p> <p>(IV) TorVista will ensure that a minimum number of job placements and apprentices are created as a result of the development.</p> <p>The agreement will include delivery milestones of key events such as submitting a planning permission and a start on site.</p>
<p>2.</p>	<p>What is the current situation?</p> <p>The Council has already paid compensation to the Coast and Countryside Trust to obtain vacant possession of both sites and a lot of work has already been done to get the sites to an ‘oven ready’ state.</p> <p>This includes undertaking a number of surveys and investigations on both sites as well as obtaining a planning permission for a new junction and the demolition of the derelict farm buildings on the CSM site.</p>
<p>3.</p>	<p>What options have been considered?</p> <p>In preparation of this report a number of alternative options were considered for both sites these include:</p> <ul style="list-style-type: none"> • Option 1: Do Nothing, • Option 2: Freehold Sale with no conditions, • Option 3: Freehold sale with limited conditions on affordable housing and LRF, • Option 4: Disposal to TorVista Homes or another Council company to undertake direct delivery, • Option 5: Direct Development by Torbay Council. <p>Based upon the evidence available it is recommended that the best disposal route for the Council in order to fully meet its aims and objectives is as per the recommendation in this report.</p> <p>The CSM option provides capacity and expertise from the private sector whilst also allowing the Council to ensure affordable housing delivery and receive a capital receipt.</p> <p>The PDR option ensures greater control on the quality and timing of any development. It also ensures that in addition to a land receipt it will also receive a share of developer profit and profit for TorVista which will assist with further affordable housing delivery, whilst also delivering wider qualitative objectives.</p>

<p>4.</p>	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</p> <p>The proposals meet the following Corporate Plan objectives: Ambitions: Prosperous and Healthy Torbay Principles:</p> <ul style="list-style-type: none"> • Use reducing resources to best effect • Reduce demand through prevention and innovation • Integrated and joined up approach <p>Targeted actions:</p> <ul style="list-style-type: none"> • Working towards a more prosperous Torbay • Promoting healthy lifestyles across Torbay <p>Ensuring Torbay remains an attractive and safe place to live and visit</p>
<p>5.</p>	<p>How does this proposal tackle deprivation?</p> <p>The proposals shall result in bringing forward the early delivery of c. 400 new homes, 30% of which (c. 130 homes) will be affordable housing for local people. At least 5% of the affordable provision will be adapted accommodation for households with mobility difficulties.</p> <p>A greater housing supply within the local market will help limit future house price growth.</p>
<p>6.</p>	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>As part of the planning process the community will be fully consulted on the detail of any development proposed, however, there will be a benefit to the local community in terms of additional supply of good quality housing and an improved mix of units.</p> <p>It is anticipated that the proposed development of the CSM site will help fund flood alleviation works through S106 contributions within Collaton St Mary village thereby benefitting the wider local community.</p>
<p>7.</p>	<p>How will you propose to consult?</p> <p>Briefings have been held with the Cabinet and Group leaders and briefings with all political groups have taken place.</p>

Section 2: Implications and Impact Assessment

<p>8.</p>	<p>What are the financial and legal implications?</p> <p>For CSM</p> <p>A substantial net capital receipt for the Council is envisaged. The receipt will be in excess of the costs the Council has incurred in obtaining vacant possession. The net receipt can therefore be used to support the Council's wider capital programme.</p> <p>The marketing exercise and preparation of the legal agreements will be funded from the LRF.</p> <p>Under the proposed contract the Council will only be able to control the affordable housing delivery as and when the developer brings forward homes and how the LRF is used. No other controls will be in place.</p> <p>The affordable housing obligations will run with the land in the event the land is sold on.</p> <p>For PDR</p> <p>The proposed disposal to a Council company will require the Company to borrow significant sums from the Council to bring forward the development.</p> <p>The risk is mitigated in that the site is split over two smaller sites and that the homes would be built at a rate in which they were to be sold thus reducing the peak debt at any one time.</p> <p>Undertaking any direct delivery carries development risk which is mitigated by undertaking extensive surveys at the outset and before entering into any significant build contracts.</p> <p>All obligations placed on TorVista would be contained within a development agreement which is enforceable.</p>
<p>9.</p>	<p>What are the risks?</p> <p>If the land disposal recommendations on either site are not supported by members:</p> <ul style="list-style-type: none"> (a) The Council may have to repay any 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) If CSM and PDR are 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.

	<p>In making this decision the following risks have been identified, and mitigation strategies put in place accordingly:</p> <p>CSM</p> <ul style="list-style-type: none"> a) There may be little or no interest from the market in acquiring the site. Although the initial intelligence tells us that there are interested parties and the marketing agents have confirmed that there is sufficient time to market the site and enter into the contract. b) Selling the site in the market with limited conditions means that the Council are not in a position to control any other aspect of the development other than in its role as the Local Planning Authority. c) The site could be land banked by the purchaser. In this scenario the Council would have received its land receipt. The conditions would be protected so that when it does come forward they will need to be adhered to. <p>PDR</p> <ul style="list-style-type: none"> a) Direct delivery carries development risk linked to fluctuations in the housing market and demand for new homes. b) Any development cost overrun can be mitigated by ensuring that sufficient detailed surveys are undertaken prior to commencing and that a robust business case is prepared. <p>This approach will require the Council to loan sufficient monies to TorVista, or provide a guarantee for borrowing from the market, to construct the development. Any loan for the market homes would be short term and repaid from the sales receipts. The affordable homes would be funded over longer a term loan and the Council would take a charge on these properties to ensure sufficient security was maintained.</p>
<p>10.</p>	<p>Public Services Value (Social Value) Act 2012</p> <p>The Council's procurement team has been consulted and all works undertaken are in accordance with the Councils financial regulations and standing orders.</p> <p>Legal advice has been procured in accordance with the Council's protocol and any implications for state aid will be fully addressed.</p>
<p>11.</p>	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>The proposal shall facilitate the development of c. 400 new homes. The project will help protect more sensitive sites from development and will enable the Council to influence the location for growth of the Collaton St Mary and Paignton areas.</p>
<p>12.</p>	<p>What are key findings from the consultation you have carried out?</p>

	<p>Extensive consultation has occurred throughout the Local Plan planning process and, in particular, the Collaton St Mary Masterplan has undergone extensive public consultation.</p> <p>The proposed development at PDR is fully compliant with Torbay's Housing Strategy 2015 – 2020 and the Planning Contributions and Affordable Housing SPD.</p>
13.	Amendments to Proposal / Mitigating Actions N/A

Equality Impacts

14.	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people	The proposal shall result in the provision of better quality housing in the Paignton area and shall deliver housing stock for all age groups. As per Council policy 30% of the development will be affordable housing thus helping to deliver housing stock for local people and serving to reduce the numbers of those of the waiting list.		
	People with caring Responsibilities			There is no differential impact
	People with a disability	As per Council policy a percentage of affordable housing provided will be wheelchair adapted units.		
	Women or men			There is no differential impact
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			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)	<p>The proposal is consistent with Local Plan policies for planning for sustainable development in the Torbay area. This takes into account the overall level of housing and jobs growth to represent a balanced and sustainable approach to future growth.</p> <p>The local planning authority is required to maintain a 5 year land supply in order to deliver the strategy and policies contained in the Local Plan. Without a 5 year housing land supply, the local authority is subject to increased risk of development occurring in unsuitable locations, or being of a lower quality than that which might have otherwise been required through local policies.</p> <p>Significant social benefits will be generated by the provision of a mix of dwelling types and tenures which will encourage mixed communities and provide a range of local facilities.</p>		
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	The scheme shall include provision of affordable housing which is likely to reduce poverty in the area and improve health.		

		The proposals are compliant with Policy SS11 Sustainable Communities as there will be opportunities to contribute to sustainable community objectives.		
15	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	None		
16	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	None		