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Dear Member

CABINET - TUESDAY, 13 MAY 2025

I am now able to enclose, for consideration at the Tuesday, 13 May 2025 meeting of the Cabinet, the following reports that were unavailable when the agenda was printed.

Agenda No	Item	Page
4.	Urgent Items – Brokenbury Solar Farm – Response to Call-in	(Pages 3 - 6)
7.	Housing Policies	(Pages 7 - 10)

Yours sincerely

Lisa Antrobus
Clerk

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Call-in of the Cabinet's Decision on Brokenbury Solar Farm – Report of the Overview and Scrutiny Board

Report to Cabinet on 13 May 2025

Background

1. The Overview and Scrutiny Board met on 7 May 2025 to consider details of a call-in by five Members of the Council of the Cabinet's decision regarding Brokenbury Solar Farm. The Call-in Seconder, Councillor Cowell (on behalf of the Call-in Promoter, who was Chairing the meeting) explained the reasons for the call-in as set out in the submitted call-in notice. Councillor Cowell advised the Board that he was concerned that the Cabinet did not have the full business case for the original option for the Council to develop the solar farm itself together with detailed risk analysis and mitigations which could have been put in place to reduce any risks, when it took the decision and wanted to know more about why the Council should not develop the solar farm itself. It was acknowledged that a summary of the business case and risks together with further information on the option to lease the land to South West Water was circulated in an Exempt paper prior to the meeting. Reference was made to a previous meeting which proposed a report being presented to the Cabinet at a future time for the potential use of up to 10% of the surplus generated from Brokenbury solar farm, being made available for community use in the Churston with Galampton Ward similar to that proposed for the Nightingale solar farm and it was felt that this would be lost under the Cabinet's current decision (Note: the meeting referred to was Cabinet 19 May 2020).
2. The Cabinet Member for Place Development and Economic Growth, Councillor Chris Lewis responded to the reasons for the call-in and confirmed that the decision of the Cabinet had been taken following professional advice from the Lead Officer and Section 151 Officer that the financial benefits of the original delivery model, (approved by Council on 18 July 2024), had reduced due to increased costs and higher interest rates for borrowing. The risks associated with any loss of service, repairs or damage to the solar farm which the Council would be liable for would have to be considered which would further reduce net financial benefits over the 25 year period. The Council does not have sufficient resources to deliver this scheme in-house alongside numerous other key projects such as Union Square and the Pavilion. South West Water had experience of delivering solar farms and had a separate Team that dealt with this. Councillor Chris Lewis highlighted the key financial information and risks as set out in the Exempt paper circulated prior to the

meeting. It was noted that at the time of the original decision the option to lease the land to South West Water was not available.

3. The Section 151 Officer, Malcolm Coe, provided an update on the increased borrowing costs involved if the Council developed the solar farm itself and advised that this borrowing would not be a priority for him as Section 151 when considered alongside borrowing required for regeneration and housing. Mr Coe also detailed that, although the in-house delivery model could potentially generate greater financial benefit over 25 years, this benefit was not without risk of future liabilities due to power outages. The net financial difference between the two schemes for the first 10 years of operation was negligible (as detailed in the graph within the Exempt paper) with potential benefit from the self-delivery scheme escalating from year 11 onwards.
4. The Board discussed the borrowing rates and associated financial information, together with details of risks and advice of the External Solicitor who had been advising the Council on the proposals and had set out the risks associated with providing the power directly. In addition examples of some of the mitigations that could be put in place to manage some of the risks were given and the associated increased costs of such measures.
5. The Board questioned if the Council had looked at other local authorities who had developed solar farms and was advised that each solar farm was different and needed to be considered on its own merits. The External Solicitor did look at other contractual differences that could be available as part of their work.

6. Conclusion

- 6.1 The Board reflected and debated the information provided to them, both verbal and written and formed the following recommendations to the Cabinet. On being put to the vote, the motion was declared carried.

7. Recommendations

- 7.1 That the decision be referred back to the Cabinet for reconsideration, on the grounds that Board considers that there was insufficient evidence available to the Cabinet at the time it made its decision and recommends in reconsidering the decision, that Cabinet receives a detailed business case which sets out all of the risks and mitigations of delivering the solar farm in-house for transparency of the decision.

Background Papers

[Agenda for Overview and Scrutiny Board on Wednesday, 7 May 2025, 5.30 pm](#)

TORBAY COUNCIL

Cabinet Response to the recommendations of the Overview and Scrutiny Board – Call-in of the Cabinet’s Decision on Brokenbury Solar Farm

Recommendation 1:

That the decision be referred back to the Cabinet for reconsideration, on the grounds that Board considers that there was insufficient evidence available to the Cabinet at the time it made its decision and recommends in reconsidering the decision, that Cabinet receives a detailed business case which sets out all of the risks and mitigations of delivering the solar farm in-house for transparency of the decision.

Response/Update:

That the Cabinet reconfirms the following decision made on 15 April 2025:

That the following decision of Cabinet made on 11 June 2024 be rescinded:

‘that the Chief Executive in consultation with the Leader of the Council, Finance Director and Cabinet Member for Finance should review and agree the final business plan after the EPC tender and Power Purchase Agreement (PPA) stage are complete and subject to that agreement is then authorised to agree and finalise the detailed terms and enter into contract with South West Water (SWW) or another purchaser of the electricity.’; and

That subject to the above, authority be delegated to the Director of Finance, in consultation with the Cabinet Member for Place Development and Economic Growth, to agree and finalise the detailed lease terms, in line with an independent market valuation, and enter into a long lease for the land edged red as set out in Appendix 1 to the submitted report.

And modifies the following:

That the decision of the Cabinet to recommend the following to Council be rescinded (Minute 116 refers) and that the report be withdrawn from the Adjourned Annual Council Meeting on 15 May 2025:

“That Cabinet recommends to Council:

That the following decision of Council made on 18 July 2024 be rescinded:

‘that up to £2,750,000 of prudential borrowing be approved subject to securing a unit rate per MWh that exceeds the loan repayments, covers projected maintenance and other operational and equipment replacement costs and provides an appropriate surplus per annum over the life of the scheme commensurate with level of risk.’”

Housing Policies – Report of the Overview and Scrutiny Board

Report to Cabinet on 13 May 2025

Background

1. The Overview and Scrutiny Board met on 7 May 2025 to consider the submitted report which set out a number of Housing Policies which had been rewritten following the transfer of the Council's Housing stock from TorVista Homes Ltd to the Council as well as a new Right to Buy Policy which did not apply under the previous arrangements and responded to questions together with the Managing Director, Liam Montgomery and Housing Manager, Anita Merritt.
2. Members asked questions in relation to what happened to tenants who caused damage to properties or were poor neighbours; what was the role of Councillors in supporting people with complaints and what impact could they have; why does it say the person responsible for monitoring complaints was the Director of Regeneration; where did we get the definition of 'vulnerable tenants' from, the person may not be at risk of being harmed but may have mental health illness; how did the Council prioritise dealing with problems with damp and mould; had we had any applications for Right to Buy and was it likely that this would increase; and the Rent Arrears and Debt Recovery Policy mentions a sympathetic approach, what does this look like.
3. In response to around tenants, Members were informed that there were several steps and triggers to support a tenant with issues relating to behaviour or rent arrears. The main priority was to work with the tenant to support them and ensure that they can sustain their home but not have a negative impact on their neighbours. A sympathetic approach was taken where tenants were in arrears with their rent, one to one conversations were held and payment plans agreed, where appropriate. The final stage would be to go through the court to gain possession of the property which may result in the tenant becoming homeless and being referred to the Homelessness Team for support. It was highlighted that the Housing Team works with new tenants at the start of their tenancy to understand any health or social issues they have and to support them to complete the forms to access any eligible benefits and signpost them to external help and support e.g. Step Change. The definition of vulnerable tenant had been developed with other sector professionals and the Council's Partnership and Inclusion Manager.

4. The Board noted that there had not been any applications for Right to Buy partly due to the small number of properties owned by the Council, currently around 30, expecting to rise to less than 200 over the next few years, and partly due to the reduced discount, market value less £30,000. It was not expected for the Council to have many applications for Right to Buy.
5. In response to questions around complaints, Members were advised that the Complaints Policy (Housing) was for tenants or members of the public to use to complain about issues relating to the standard of service, actions or lack of action by the Council, its own staff or those acting on its behalf, affecting an individual tenant or group of residents. This was controlled by Regulator of Social Housing to ensure consistency of a two stage process, with rights to complain to the Housing Ombudsman where appropriate. Complaints from tenants or members of the public about existing tenants were currently dealt with under the TorVista Homes Ltd Antisocial Behaviour Policy (it was agreed that a copy of this Policy would be shared with all Councillors) which would also be reviewed and updated in the future. Members are able to support tenants and members of the public with complaints. There is the Complaint's (Housing) Policy, referred to above, which Councillors can signpost residents to for wider complaints where they feel that issues have not been resolved at a service level. Member can support complainants with complaints but cannot act on their behalf. The responsible person for complaints was the Director of Regeneration as that was where the Service fits within the current structure.
6. The Board was advised that as soon as a tenant reported an issue with damp or mould it would be reviewed by the Housing Team. If an issue requires more specialist advise then a member of the in-house Property Services Team will visit the property to resolve the issue and a new leaflet was currently being updated to share with tenants on this issue. Due to the small numbers of properties there was detailed knowledge of each property and tenant. Damp and mould was also reported through the performance reporting and the action taken to resolve the issue.

7. Conclusion

- 7.1 The Board reflected and debated the information provided to them, both verbal and written and formed the following recommendations to the Cabinet. On being put to the vote, the motion was declared carried unanimously.

8. Recommendations

- 8.1 That the Overview and Scrutiny Board recommend to the Cabinet:
 1. that the Housing Policies set out in Appendices 1 to 8 of the submitted report be adopted by Torbay Council, and the Director of Regeneration be given delegated authority, in consultation with the Cabinet Member for Housing and Finance, to review the policies and make changes as appropriate and in line with any changes to legislation, including consideration around the wording of the definition of 'vulnerable tenants'; and

2. that the Monitoring Officer be requested to make a technical amendment to the general limitations within the Officer Scheme of Delegation in relation to property disposals not applying in relation to the Right to Buy Policy and the Director of Finance be given delegated authority to dispose of property in accordance with the Right to Buy Policy.

Background Papers

[Agenda for Overview and Scrutiny Board on Wednesday, 7 May 2025, 5.30 pm](#)

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