

Wednesday, 8 July 2020

**Meeting of the Council  
(Revised Agenda)**

Dear Member

I am pleased to invite you to attend a meeting of Torbay Council which will be held remotely via Zoom (the links to the meeting are set out below) on **Thursday, 16 July 2020** commencing at **5.30 pm**

Join Zoom Meeting

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The items to be discussed at this meeting are attached.

Yours sincerely,



Steve Parrock  
Chief Executive

(All members are summoned to attend the meeting of the Council in accordance with the requirements of the Local Government Act 1972 and Standing Orders A5.)

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**A prosperous and healthy Torbay**

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**June Gurry, Town Hall, Castle Circus, Torquay, TQ1 3DR**

Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) - [www.torbay.gov.uk](http://www.torbay.gov.uk)

# Meeting of the Council Agenda

## 1. Opening of meeting

The meeting will be opened by Imam Abdulgarder to commemorate the 25th anniversary of the Srebrenica genocide.

## 2. Apologies for absence

## 3. Declarations of interests

- (a) To receive declarations of non pecuniary interests in respect of items on this agenda

**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

- (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda

**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

**(Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

## 4. Communications

To receive any communications or announcements from the:

- a) Civic Mayor – this will include a presentation from the Royal British Legion on the Armed Forces Covenant;
- b) Leader of the Council (including an update as the Council's representative on the Heart of the South West Joint Committee);
- c) Overview and Scrutiny Co-ordinator; and
- d) Chief Executive.

## 5. Members' questions

To respond to the submitted questions asked under Standing Order A12.

(Pages 5 - 9)

6. **Schools' Capital Programme 2020/21** (Pages 10 - 32)  
To consider a report and recommendation of the Cabinet, which seeks approval to implement the Schools' Capital Programme using capital allocations received from the Department of Education (DfE).
7. **Treasury Management Outturn 2019/20** (Pages 33 - 50)  
To note the Treasury Management Outturn 2019/20 report.
8. **Urgent Council Decisions Taken by the Chief Executive** (Pages 51 - 53)  
To note the submitted report on urgent Council decisions taken by the Chief Executive.
9. **TDA Business Plan 2020-2025** (Pages 54 - 85)  
To consider a report and recommendations of the Cabinet in respect of the TDA Business Plan 2020-2025.
10. **Exclusion of the Press and Public**  
To consider passing a resolution to exclude the press and public from the meeting prior to consideration of the following item on the agenda on the grounds that exempt information (as defined in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended)) is likely to be disclosed.
11. **Employment Committee Recommendation**  
Please refer to separate agenda pack.

#### **Instructions for the press and public for joining the meeting**

If you are using an iPad you will need to install Zoom which can be found in the App Store. You do not need to register for an account just install the software. You only need to install the software once. For other devices you should just be taken direct to the meeting.

#### **Joining a Meeting**

Click on the link provided on the agenda above and follow the instructions on screen. If you are using a telephone, dial the Zoom number provided above and follow the instructions. (**Note:** if you are using a landline the call will cost up to 13p per minute and from a mobile between 3p and 55p if the number is not covered by your inclusive minutes.)

You will be placed in a waiting room, when the meeting starts the meeting Host will admit you. Please note if there are technical issues this might not be at the start time given on the agenda.

Upon entry you will be muted and your video switched off so that only the meeting participants can be seen. When you join the meeting the Host will unmute your microphone, ask you to confirm your name and update your name as either public or press. Select gallery view if you want see all the participants.

If you have joined the meeting via telephone, your telephone number will appear on screen and will be displayed for all to see until the Host has confirmed your name and then they will rename your telephone number to either public or press.

### **Speaking at a Meeting**

If you are registered to speak at the meeting and when it is your turn to address the Meeting, the Chairman will invite you to speak giving the Host the instruction to unmute your microphone and switch your video on (where appropriate) therefore please pause for a couple of seconds to ensure your microphone is on.

Upon the conclusion of your speech/time limit, the Host will mute your microphone and turn off your video.

### **Meeting Etiquette for Registered Speakers - things to consider when speaking at public meetings on video**

- Background – the meeting is public and people will be able to see what is behind you therefore consider what you will have on display behind you.
- Camera angle – sit front on, upright with the device in front of you.
- Who else is in the room – make sure you are in a position where nobody will enter the camera shot who doesn't want to appear in the public meeting.
- Background noise – try where possible to minimise background noise.
- Aim to join the meeting 15 minutes before it is due to start.

# Agenda Item 5

Meeting of the Council, Thursday, 16 July 2020

## Questions Under Standing Order A13

A member may only submit three questions for consideration at each Council Meeting. Each member will present their first question in turn, when all the first questions have been dealt with the second and third questions may be asked in turn. The time for member's questions will be limited to a total of 30 minutes.

### First Round

Question (1) by Councillor Barnby to the Cabinet Member for Corporate and Community Services (Councillor Carter)	What is the Council doing to prevent further traveller encampments at Clennon Valley and what progress has been made to designate a site that the Police can legally direct travellers to?
Question (2) by Councillor Chris Lewis to the Cabinet Member for Infrastructure, Environment and Culture (Councillor Morey)	Can the Cabinet Member for Infrastructure, Environment and Culture please provide an update on the proposed Zebra Crossing outside Pembroke Surgery, Torquay Road, Preston. It was agreed some months ago that the construction of the crossing would take place as a matter of urgency!
Question (3) by Councillor Sykes to the Cabinet Member for Infrastructure, Environment and Culture (Councillor Morey)	Will the Cabinet Member for Infrastructure, Environment and Culture encourage the Police to do mobile speed checks on Preston Down Road, Preston. Over the past few months with less traffic on the road it has been noted that motorists are now travelling at great speed down the road.
Question (4) by Councillor David Thomas to the Leader of the Council (Councillor Steve Darling)	Why are the Lib Dem and Independent Councillors abusing this question time by asking the Lib Dem and Independent administration questions about central government policy which this council has no jurisdiction over, and thereby deliberately timing out the questions which can be asked by Conservative opposition councillors to hold this administration to proper account?

<p>Question (5) by Councillor Kennedy to the Leader of the Council (Councillor Steve Darling)</p>	<p>The published 5 year land supply contains a letter from the leader of our council to the Secretary of State which has been widely circulated throughout the Bay. Our area is properly represented by two MPs, one of whom is a Minister, from the same political party as the Secretary of State. Does the leader not consider it would have been preferable and perhaps correct protocol to ask our MPs to contact the Secretary of State? I believe the question was not asked sincerely but was an example of political grandstanding. Would the leader please reassure me by highlighting the positive benefits he secured for our area through asking his question?</p>
<p>Question (6) by Councillor John Thomas to Cabinet Member for Infrastructure, Environment and Culture (Councillor Morey)</p>	<p>What is the Cabinet Member for Infrastructure, Environment and Culture doing to dramatically ease the time and effort that it takes for the Constituents that we represent to get rid of their recycling and non-recycling domestic waste under the new "Ticket" system.</p> <p>I would also ask what is being done to come down hard on Fly Tippers. I am receiving regular complaints about these two intrinsically linked matters.</p>
<p>Question (7) by Councillor Jackie Thomas to the Chairman of the Planning Committee (Councillor Pentney)</p>	<p>Planning Committees can take an extra-ordinary amount of time to fully understand the various issues involved with an individual application. Now the planning meetings have become virtual, the site visits have been discontinued. Any councillor who has sat on planning will appreciate that a scheme can look cramped on a piece of paper, however on the site visit and seeing the levels, it becomes obvious that the development fits neatly in the location. Site visits are an integral part of decision making and in my view the process is undermined without them. I fully understand they need to look different in this new 'normal', however I ask will an effort be made to re-introduce site visits now to help members make more informed decisions at the planning committee.</p>
<p>Question (8) by Councillor Foster to the Cabinet Member for Infrastructure, Environment and Culture (Councillor Morey)</p>	<p>The Government has asked councils to bid for part of £250m Emergency Active Travel Funding. Can you tell me how much Torbay Council's bid was for, and a brief outline of what Torbay's plans are, and what measures are in place to implement these improvements for cyclist's and pedestrians safety in Torbay, within the eight week's timescale of receiving the money.</p>
<p>Question (9) by Councillor Bye to the Cabinet Member for Corporate and Community Services (Councillor Carter)</p>	<p>Whilst welcoming recent action to clean up the mess at Hopes Nose Torquay and help prevent anti-social behaviour, could you please advise if the Public Space Protection Order is being enforced and what other steps will be taken to ensure residents can enjoy this delightful green space without feeling intimidated by what appears to be commercial fishing activity?</p>

<p>Question (10) by Councillor Hill to the Cabinet Member for Infrastructure, Environment and Culture (Councillor Morey)</p>	<p>The Government has recently awarded Torbay Council in excess of £120,000 to support the re-opening of our town centres &amp; encourage footfall. Could the Cabinet Member for Infrastructure, Environment and Culture please advise how and where the money has been spent, furthermore will some of this money be used to power wash the filthy pavements in Torquay Town Centre and around the Harbour.</p> <p>Can any surplus monies be used for enforcement action against the owners of dilapidated properties such as the Old Town Hall &amp; other prominent/empty premises?</p>
<p>Question (11) by Councillor Mills to the Cabinet Member for Corporate and Community Services (Councillor Carter)</p>	<p>Central government provided councils with a list of local residents who are being shielded in order that they can be helped and protected locally but no list was provided to councillors informing them as to who was being shielded in their wards apparently for GDPR reasons. As councillors ARE the council I am finding it difficult to understand this position, particularly as the lists were shared with other groups such as supermarkets without the specific consent of those shielded, and that government's response to GDPR and this issue was, 'It is far more important to help those who are having difficulties during these dark days than to get 'bogged down' with GDPR issues'. Has this administration deliberately withheld information from councilors to the detriment of our shielded residents?</p>
<p>Question (12) by Councillor Kavanagh to the Cabinet Member for Infrastructure, Environment and Culture (Councillor Morey)</p>	<p>I have been having difficulties for the past 5 weeks trying to get an assisted collection resolved in Kings Ash, despite my various requests and telephone calls – the resident is still having missed collections – although they are registered for an assisted service. When I try to call the TOR2 line, I am just left with an answerphone and nobody responds to me or resolves the issue. What assurances and systems will the Cabinet Member for Infrastructure, Environment and Culture be putting in place at the end of the month when Swisco take over the service? How can we be guaranteed a better service and system than we are currently having to deal with?</p>
<p>Question (13) by Councillor Barbara Lewis to the Cabinet Member for Children's Services (Councillor Law)</p>	<p>How many children are now in care or deemed vulnerable by the authority in Torbay?</p>
<p>Question (14) by Councillor Barrant to the Cabinet Member for Infrastructure, Environment and Culture (Councillor Morey)</p>	<p>Why is there a different purchasing system for the different parking permits ie on street/off street weekly monthly and annual? What consideration has been undertaken to allow for the delays Residents are having to wait – this leads to potential additional fines and charging?</p>

<p>Question (15) by Councillor Brooks to the Leader of the Council (Councillor Steve Darling)</p>	<p>There have been reports from residents that a business in the St.Marychurch Ward is selling alcoholic drinks to the public, in plastic pint containers, who are then gathering in groups and drinking on the Downs, nearby, with associated anti-social behaviour. I drove past, myself, several times and witnessed gatherings of people, on average, between two and six, but in total 20-30 persons. The larger groupings, in all likelihood, comprising of people from more than two households and in contravention of the recommended 2m social distancing guidelines. This was on a dry, but dull day, when the sun is out I'm assured that the situation is more problematic.</p> <p>I, obviously, want to support local businesses, coming out of lockdown and understand that people want to meet friends after a long period of separation. However, I am concerned about the 'over spill' on to public spaces; especially, in areas that many young families and elderly residents frequent.</p> <p>The relaxation of guidelines requires some management strategies to be in place. What is the Leader of the Council doing to promote the aims of social distancing and trying to discourage groups of more than six to congregate, particularly on Council owned and managed public open spaces?</p>
<p>Question (16) by Councillor O'Dwyer to the Cabinet Member for Economic Regeneration, Tourism and Housing (Councillor Long)</p>	<p>Please could the relevant Cabinet Member provide details of any reduced rental agreement with the Debenhams Store in Torquay. Can the Cabinet Member also advise to the numbers of staff subsequently made redundant from this site with the closure of the catering area.</p>
<p>Question (17) by Councillor Dart to the Cabinet Member for Children's Services (Councillor Law)</p>	<p>Torbay Council has been running a campaign to recruit more Foster Carers. Has this campaign borne fruit? How does this latest recruitment campaign compare to the last 5 years of recruitment in Torbay?</p>
<p>Question (18) by Councillor Loxton to the Cabinet Member for Infrastructure, Environment and Culture (Councillor Morey)</p>	<p>Has Torbay been successful in the revalidation of its UNESCO Geopark status? If successful, what are the benefits to Torbay of this status?</p>

Question (19) by Councillor Mandy Darling to the Cabinet Member for Corporate and Community Services (Councillor Carter)	Can you please compare and contrast the number of agency workers that we have in Torbay now compared to 12 months ago?
Question (20) by Councillor Doggett to the Cabinet Member for Adults and Public Health (Councillor Stockman)	Before the Pandemic, the ICO administered grants to grassroots organisations across Torbay to improve health outcomes? Now we are past the first stage of the virus how are these organisations being helped to achieve the improved health outcomes of the grant?

## Second Round

Question (21) by Councillor Kennedy to the Cabinet Member for Infrastructure, Environment and Culture (Councillor Morey)	At the time of the referendum, under the previous administration, we had an adequate land supply which gave full weight to the Neighbourhood Plans. Under this administration the land supply has been allowed to falter thus undermining the Neighbourhood Plans. In part, this situation has been caused by this administration failing to bring forward its own sites, which are not included in the land supply despite having government funding. What specific measures are being done today, at this very moment in time, by this administration, to rectify this situation?
Question (22) by Councillor O'Dwyer to the Deputy Leader and Cabinet Member for Finance (Councillor Cowell)	Please could the relevant Cabinet member please provide details as to the projected cost this financial year for the temporary morgue facilities put in place for Covid-19 against the expected cost of £1.4m? Can they advise how we have ensured value for money in this contract and whether we are providing the facilities for across Devon?

## Third Round

Question (23) by Councillor O'Dwyer to the Cabinet Member for Infrastructure, Environment and Culture (Councillor Morey)	<p>In respect of Meadfoot, can the relevant Cabinet Member please advise:</p> <ul style="list-style-type: none"> <li>i) How much has been spent on the Meadfoot Sea Road sea wall so far in repairing the recent storm damage and what are the current expected costs for additional wall repair works this year, assuming no further cavities or collapses are discovered.</li> <li>ii) What percentage of Beach Chalets are currently rented out too.</li> </ul>
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- 2.2. The funding from the DfE is allocated to the Council specifically for investment in schools and if not utilised for that purpose would be at risk of claw back by the Department.
- 2.3. The Schools' Capital Programme has been developed in accordance with the funding allocations awarded, this means the Council will not need to commit any of its own resources towards the implementation of the projects specifically identified in Appendix 1 or the acquisition of the new school site.
- 2.4. To ensure there are sufficient primary school places in Paignton, Officers are supporting an application to the DfE for a second free school. Following initial conditional approval for the school by the DfE, there have been delays in progress because the site originally proposed for the school is subject to a planning appeal and there are significant risks in terms of timescale and deliverability. As a result, Officers have identified an alternative site for the new primary school and are trying to acquire the site through negotiations. This has not yet been agreed and may require a compulsory purchase in order to secure the site.

### **3. The Council's Powers of Compulsory Acquisition**

- 3.1 The Council has approached the land owners of the main site and the southern land with a view to acquiring the Land by private treaty. The Council will continue to approach the land owners of the main site and the southern land (coloured blue on the plan) following members resolution to proceed with CPO(s). However, it may be that negotiations are unsuccessful and if this is the case the Council would use its powers of compulsory purchase to acquire the Land. Consequently this report seeks authorisation for the Council to make any Compulsory Purchase Order(s) which would allow the acquisition of the Land and any other land required for the new school site by the Council. Following the making of the CPO, confirmation would be sought from the Secretary of State who will seek representations on whether the CPO should be confirmed and may hold an inquiry before making its decision. The Secretary of State's consideration will include considering whether there is a compelling case in the public interest for acquisition of the land and that the policy and legal tests for obtaining a CPO have been met.
- 3.2 The Council has compulsory purchase powers within the Education Act 1996 to acquire land for educational purposes. These are considered to be the most appropriate powers in this case and are considered in this report.
- 3.3 Government Guidance on Compulsory purchase process and the Crichel Down Rules is also relevant and advises that, when making a CPO under section 530 of the Education Act 1996, the Council should have regard to any statutory requirements from the Department for Education. Again, these are dealt with in the body of this report.
- 3.4 Provision of a new primary school will ensure that the Council can continue to meet its statutory duty to provide all children and young people in Torbay access to high quality education. Without being able to utilise compulsory purchase powers this may not be possible.
- 3.5 The site is currently allocated for employment uses but pre-application discussions have been undertaken with the Council's Strategic Planning Department which have indicated that support would be given for the proposed use of the site as a primary school. Officers are in discussions with the DfE and the Local Planning Authority

regarding the submission of an outline planning application.

3.6 Funding for acquisition of the Land for the primary school is proposed to be met using the Basic Need Grant 2021/22. This includes any costs incurred in respect of making and implementing a CPO(s). The costs of construction of the school will be funded by DfE up to a level which is considered sufficient by DfE to construct a 2 form entry primary school with nursery. Once the Land is acquired it will be transferred to DfE at nil value.

3.7 Compensation will be payable to any landowner or rights holder whose interests are compulsorily acquired. Compensation will be assessed on the basis of the Compensation Code which essentially applies an open market valuation but which disregards any increase or decrease resulting solely from the Council's scheme underlying the CPO(s). The Council has received internal valuation advice on the likely value of the Land if acquired by compulsory purchase and will continue to do so as part of any compulsory or voluntary acquisition. The Council have the funds available to meet any compensation claims.

#### **4. Recommendation(s) / Proposed Decision**

4.1 That the Council agrees the list of projects and funding allocations as set out in Appendix 1.

4.2.1 That delegated authority be given to the Chief Executive to continue negotiations with the landowner(s) and any other person with an interest to acquire by agreement the Land and any other land, interests or rights subsequently identified as being required in consultation with the Cabinet Member for Children's Services and Section 151 Officer on any Heads of Terms.

4.2.2 That, having taken into account previous negotiations to acquire the Land, the making of any CPO(s) pursuant to the Education Act 1996, or any other appropriate power, for the Land and any other land, interests or rights subsequently required to deliver the primary school. The Chief Executive be given delegated authority to give effect to this decision, including;

- (i) the taking of all necessary steps required to secure the making of the CPO(s) and for the subsequent confirmation and implementation of the CPO(s) including the publication and service of all notices, statement of reasons and presentation of the Council's case at public inquiry, if necessary, to secure confirmation of the CPO(s) by the Secretary of State;
- (ii) to carry out any surveys on the Land or any other land required and enter as may be required in order to deliver the proposed development by CPO(s) which the Council is authorised to carry out either by consent of the relevant landowner or under section 172 to 179 of the Housing and Planning Act 2016;
- (iii) to enter into agreement(s) with any person or body to secure the withdrawal of objections to the CPO(s) and/or to negotiate and agree terms for the acquisition by agreement of any land, interests or rights as may be required for the new primary school; and

- (iv) to pay all necessary compensation either as agreed or as determined by the Upper Tribunal (Lands Chamber) in relation to the acquisition of land and other interests or for the overriding or acquisition of rights.

4.2.3 That Council delegate to the Chief Finance Officer the approval of the expenditure of monies from the Children’s Services Capital Programme Basic Need Funding required to cover the acquisition of the Land and any land, interests or rights as may be required for the scheme, either by agreement or by CPO.

4.2.4 That once the Land, and any other land required, has been acquired either by negotiation or via a CPO(s) Council approve the disposal of the land required for the new primary school to the Department of Education at Nil Value as the required contribution to the development of a two form of entry primary school. The DfE will in turn provide the capital to build the school through the Free School Programme. The land would be leased from the DfE to the Academy Trust running the new free school.

## Appendices

Appendix 1: Schools’ Capital Programme 2020/21

Appendix 2: Plan showing land at Wilkins Drive (the Land)

Appendix 3: Plan showing proposed primary school layout on land at Wilkins Drive

## Background Documents

School Place Planning Statements available on Torbay Council website:

<https://www.torbay.gov.uk/schools-and-learning/information-for-schools/capital-planning/>

## Report Clearance

<b>Report clearance:</b>	<b>This report has been reviewed and approved by:</b>	<b>Date:</b>
Chief Executive	Steve Parrock	
Monitoring Officer	Anne-Marie Bond	
Chief Finance Officer	Martin Phillips	
Relevant Director/Assistant Director	Rachael Williams	

## Section 1: Background Information

### 1. What is the proposal / issue?

The first part of the proposal is for Officers to use the Capital Allocations received by the LA to be spent in accordance with Children's Services Capital Programme.

The total capital funding awarded is just over £9m and includes:

- Basic Need Allocation £8.6m
- Repairs & Maintenance Funding £417,886

The second part of the proposal is the acquisition of a site for a new primary school in Paignton. Torbay has seen an increase in primary aged pupils over the last 8 years, particularly in Paignton. This has resulted in several school expansions and two bids to the DfE for funding to open new primary schools in the town through the free schools programme. The first free school has been fully approved and is in development with the expected opening in September 2021.

The second free school application (Windmill Academy) has received conditional approval dependent on future housing growth in the area. If there is continued development over the next 3 to 5 years then approval would be granted for the second free school and the DfE would provide capital to build the free school. The contribution required from the Council to secure this inward investment is the land needed for the school. This is a standard requirement for LAs that have new schools funded through the free schools programme.

As part of its strategic planning for new school places in Paignton, Officers have sought Section 106 contributions from developers and have been trying to secure a school site for several years. The proposed development at Inglewood, Paignton has a school site identified as part of a developers contribution and this site was named in the second free school application. However, this development has not been approved despite the planning application being submitted some time ago. Officers have, therefore, approached the DfE asking for them to consider an alternative site for the free school. The DfE have confirmed that they will consider an alternative site for the school and have visited the Wilkins Drive site which is the alternative site being proposed. The Council had previously received a report on this site and agreed it was appropriate for a primary school, however at that time the DfE considered this site to be in the wrong part of Paignton for the St Michael's Free School. An alternative site for St Michael's has now been secured at the old Tower House School site.

Over the last 5 years, the Council and the DfE's own consultants, LocatEd, have invested significant time and resource in trying to identify a possible site for a new school in Paignton. Over 20 different sites have been considered and rejected due to issues and concerns with either size, access, drainage, planning restrictions, location, etc. There are no easy, quick win alternative sites of sufficient size that could be acquired within the necessary timeframe in the Paignton area. [The DfE have indicated that if a site is not identified within the next 12 months and secured within a two year period then it is possible that the approval for the second free school will be withdrawn with no guarantee that Torbay would be successful in securing approval from future free school waves.

The site at Wilkins Drive has been identified as the most appropriate site. It is anticipated that it can also be delivered in the required timescales.

Although primary numbers in Torbay are stabilising, there is still a need for a new primary school in the Western part of Paignton to meet the demand arising from recently completed, on site and approved housing developments. Since 2012, 650 homes have been built on the Western Corridor of Paignton. Another 500 houses are currently under construction and another 170 are expected to be given planning approval within the next 2 months. There is no primary school within this new community.

In addition, there are a further 900 houses proposed for the Western corridor that do not yet have planning approval. All of these developments are in the Western corridor separated from the rest of Paignton by the Brixham Road and Totnes Road. These are main roads that act as a distinct boundary/barrier for parents. There are no primary schools within the Western corridor where all of these housing developments are happening. This equates to nearly 2100 new dwellings (mainly 2/3 bedroom houses) without a primary school to serve them.

For this reason alone there is a strategic need for a primary school to serve this new community. If you add in the number of houses completed/being built/still to be built, it is critical that a new primary school is delivered within this location.

In planning terms, the Wilkins Drive site is proposed for development as part of the "Future Growth Area" (Local Plan Policies SS2.4 and SDP3.4). It has planning permission for employment use as part of a wider mixed use scheme (P/2014/0983). Although a school is not a class B1 employment use, it would provide significant jobs and would be regarded as a suitable use for the site.

Planning permission has not yet been secured for the school but Torbay Council's Strategic Planning Department supports the need for a new primary school in the area of Wilkins Drive as it would provide important infrastructure for numerous large developments that have either already been approved and built or are proposed within the Local Plan in the medium to long term. With regard to this particular site at Wilkins Drive, pre-application officer advice from the Council as Local Planning Authority is that the land off Wilkins Drive, adjacent to the "Aldi" Local Centre, remains the most suitable site for a primary school serving the new development on the West of Paignton. Most importantly, the site is very close to the community it would serve and there are opportunities to encourage walking and cycling/scootering to school as well as shared trips with the local centre. There are planning and transport policies that support this position. Notably National Planning Policy Framework paragraph 94 states that 'it is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should: a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and b) work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted".

The Torbay Local Plan (A landscape for success 2012 to 2030) also supports this position, notably that a school would support employment through policies SS1, SS4 and SS5 refer. Also Policy SS11.4 would "promote social inclusion, and seek to

eliminate exclusion based on education'. Plan Policy SC3 "Education, Skills and Local Labour", states that "The Local Plan will support the improvement and provision of new educational facilities to meet identified needs in Torbay. This includes both the expansion of existing schools to meet identified short to medium term needs, and construction of new schools to address longer term requirements associated with the delivery of new homes". Further Policy SC5 considers Child Poverty and seeks to reduce child poverty, including through SC5.5 supporting investment in existing schools and contribution to improved equality of access to high quality education provision for all, including early years provision.

To ensure that the site at Wilkins Drive is of sufficient size and is suitable for the new primary school, Officers have commissioned some high level feasibility drawings to show how the school would fit on to the site. This plan is attached as Appendix 3. Although the site at 3.5 acres is slightly smaller than the DfE recommended area for a school of this size (3.9 acres), this is not an unusual scenario as a large proportion of primary schools in Paignton are located on sites smaller than the recommended area. There are design solutions to enable a 2FE primary school to be delivered on this site. The Plan at Appendix 3 indicates that the site could comfortably accommodate the size of buildings required and provision of a multi-use games area would increase the usability of the outdoor space.

Officers are in discussions with the DfE and the local planning department regarding the submission of an outline planning application

**2. What is the current situation?**

As shown above, the Council's capital funding consists of Basic Need funding and the Schools' Condition Allocation. These grants come from central government and are allocated for the following purposes:

**Basic Need 2021/22** – This funding is awarded on a needs basis following the submission of data by the LA on its current and projected pupil numbers. The DfE compares this data to the available capacity and where there is a shortfall provides funding to address this. Following last year's data submission, the DfE recognised that Torbay is short of capacity, mainly in the secondary sector, and awarded an allocation of £8.6m. This funding is specifically for providing school places and for addressing the shortfall shown by the data.

**Schools Condition Allocation 2020/21** – This is capital investment awarded by central government for repairs and maintenance works. Investment is prioritised to ensure that every child has a good quality school place in buildings which are safe, fit for purpose and well maintained.

A paper outlining Schools' Capital Programme, how it has been developed, the projects identified and how they are to be funded from the available resources is attached as **Appendix 1**.

The key factor in identifying these priorities has been the LA's statutory duty to provide sufficient, high quality school places for all the children and young people in Torbay. As a result three of the highest priority projects for the LA relate to the provision of additional school places.

In 2018, Members approved the expansion of Paignton Academy to address the secondary shortfall in Paignton. This expansion is underway and is the first call on

funding in the Schools' Capital Programme. Please see Appendix 1 for a full description of the funding requirements for this scheme.

The second priority is for the LA to address the shortfall in secondary capacity in Torquay. Officers have brokered an agreement with St Cuthbert Manx to admit 60 pupils above their planned admission number (PAN) of 195 in September 2021. This is in return for capital investment to provide additional and improved facilities. Further detail is included in Appendix 1.

The third priority is the expansion of Mayfield Special School. This is the only special school in Torbay for children and young people with severe and profound learning difficulties. Demand for this type of provision is rising and the school is already oversubscribed with numbers expected to increase for the next two academy years. The proposal is to future proof the school and expand its capacity so that it can meet current demand and further demand expected from 2021.

In addition to these three major schemes there are various other funding allocations required to support schemes that have incurred additional costs as a result of the COVID 19 pandemic. Further details are included in Appendix 1.

The cost of the projects outlined in Appendix 1 is less than the Basic Need 2021/22 allocation.

The table below shows a summary of the funding allocations required to implement the Schools Capital Programme 2020/21.

The remaining funds will be used to secure the acquisition of the Land for the new primary school and any additional projects that would be based on Children's Services priorities for providing school places and maintaining the school estate. Officers are asking that the allocation of the remaining funding is agreed in consultation with the Chief Executive, Lead Member for Children's Services and the Head of Finance using delegated powers.

Basic Need 2021/22 Allocation = £8,609,731

Project (in priority order)	Amount	Description
<b>Paignton Academy Expansion Maths Block</b>	£960,000	Reimbursement of borrowing against future allocations agreed to fund project.
<b>Paignton Academy Expansion Classroom Adaptations</b>	£35,000	Additional work required to mitigate against delays caused by COVID 19
<b>Paignton Academy Expansion Contractual Costs</b>	£50,000	Additional contractual costs as a result of COVID 19 delays
<b>Brunel Academy Vocational Block</b>	£50,000	Additional contractual costs as a result of COVID 19 delays
<b>Burton Academy Extension</b>	£25,000	Additional contractual costs as a result of COVID 19 delays

<b>St Cuthbert Mayne Expansion</b>	£3,600,000	New project to provide additional secondary school places in Torquay
<b>Mayfield Special School Expansion</b>	£1,500,000	New project to provide additional special school places
<b>Sixth Day Provision – Temporary Solution</b>	£250,000	A temporary solution is required as a result of growing numbers at Mayfield and the delays at Burton resulting in a delay to the availability of the Polsham Centre.
<b>SUB-TOTAL</b>	<b>£6,470,000</b>	

### 3. What options have been considered?

If the Council does not implement the recommendations then the implications for maintaining the status quo would be as follows:

- The Council would not be able to fulfil its statutory obligation to provide sufficient school places
- The Council would not be able to effectively manage demand and could face unknown costs arising from legal challenge, increased transport costs or out of area placements
- The inherent risks arising from not maintaining the school estate – school closures or harm to those attending
- The funding would be clawed back by the DfE if not spent on providing school places or maintaining school buildings
- Mayfield is the only PMLD special school in Torbay; if it has insufficient capacity then pupils will need to be placed out of area which is disruptive to those individuals and costly for the LA.

In respect of the CPO the Council has considered the following alternative options to compulsorily acquiring the Order Land:

(a) *Do nothing*

While this option means that the Council incurs no cost and no financial liabilities it will also mean that the Council is unable to meet its statutory duties without the Council taking action.

(b) *Negotiations for voluntary acquisition*

Some negotiations have occurred with the owners of the main school site but these have not progressed because that owner could not deliver the southern land (coloured blue on the plan), which is in a separate ownership. The Council has not, to date, entered into direct negotiations with the owner of the southern land (Cavanna Homes) but intends to do so following members resolution to proceed with CPO.

	<p>(c) <i>Not exercising the CPO</i></p> <p>The option of not exercising the CPO if it is confirmed is also being considered. If agreement is reached with the landowners such that all the necessary rights to deliver the school are secured before it is necessary to exercise the CPO then the decision can be taken not to exercise it. Progression of the CPO in parallel with negotiation provides the option to use powers should they be required, the Council retains the ability not to implement any part of a CPO. The situation where a CPO is obtained but not needed as agreement is ultimately reached is considered a positive outcome in the compulsory purchase guidance.</p>
4.	<p><b>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</b></p> <p>The proposal supports the Council's ambitions to create a prosperous and healthy Torbay. An identified Targeted Action of the plan is for the Council to protect all children and ensure they are given the best possible start in life. Ensuring that there are sufficient, high quality school places in the area is crucial to improving the outcomes of young people and giving them this best start in life.</p>
5.	<p><b>How does this proposal contribute towards the Council's responsibilities as corporate parents?</b></p> <p>Whilst the Council's responsibilities as corporate parents is already safeguarded through the admissions policy and the prioritisation of children looked after in the admissions process; this proposal will ensure that there sufficient places on offer and that schools continue to provide high quality and safe learning environments.</p>
6.	<p><b>How does this proposal tackle deprivation?</b></p> <p>This proposal tackles deprivation and inequality by ensuring every child has a place in a local school giving them the best possible opportunity to achieve and succeed.</p> <p>In addition it is well recognised that educational attainment can play a significant part in improving the opportunities available to and the aspirations of an individual.</p>
7.	<p><b>How does this proposal tackle inequalities?</b></p> <p>This proposal tackles inequality by ensuring that every child has the opportunity to access a high quality school place within their local area.</p>
8.	<p><b>How does the proposal impact on people with learning disabilities?</b></p> <p>Part of the proposed Capital Programme is to ensure Mayfield Special School has sufficient accommodation to meet the needs of its current roll and future numbers based on data from the SEN Team. This is the only special school in Torbay offering places for children with severe and profound learning difficulties. The school is rated good by Ofsted and is already oversubscribed. To increase the provision will directly benefit pupils with learning difficulties.</p>
9.	<p><b>Who will be affected by this proposal and who do you need to consult with?</b></p>

	<p>Parents, children and young people in Torbay who will benefit from the provision of sufficient, high quality school places in the area and capital investment in the school estate to create safe and conducive learning environments.</p> <p>Other key stakeholders affected are School Staff and Governors/Trustees, the Department of Education and the Regional Schools Commissioner. Officers have also consulted with the relevant Diocesan Authorities and neighbouring LAs.</p> <p>Those with an interest in any land to be acquired to provide a new primary school will be consulted as part of the CPO process.</p>
<b>10.</b>	<p><b>How will you propose to consult?</b></p> <ul style="list-style-type: none"> <li>• Meetings and ongoing dialogue with the key stakeholders identified above and those with an interest in any land needed for a new primary school</li> <li>• School to carry out their own consultation with parents, students and staff</li> <li>• Planning consultation, as and when appropriate</li> <li>• CPO consultation requirements including contact with stakeholders, publication of notices etc.</li> </ul>

<p><b>Section 2: Implications and Impact Assessment</b></p>	
<b>11.</b>	<p><b>What are the financial and legal implications?</b></p> <p>The DfE has recognised the pressures facing the LA on school places and has awarded the Council £8.6m to address the projected shortfall.</p> <p>This funding is specifically allocated to enable the LA to fulfil its statutory obligation to provide sufficient high quality school places for children in the local area; failure to do so would be in breach of that duty and the allocations may have to be repaid or future allocations would be reduced as a result.</p> <p>This £8.6m is sufficient to cover the schemes outlined in the Schools' Capital Programme. Therefore there is no call on Council resources.</p> <p>The proposed projects would potentially lead to revenue savings for the Council by reducing expensive out of area special school placements and any possible additional transport costs if pupils are placed out of area.</p> <p>The DfE's Schools' Condition Allocation is allocated to address priority repair works at maintained schools.</p> <p>The LA as a responsible body, corporate parent and service provider, has a duty to protect the wellbeing and health &amp; safety of the pupils, staff and others attending school sites and consequently has a duty to ensure the buildings are maintained to a reasonable condition.</p> <p>There are also potentially revenue savings for the schools through the replacement or repair of elements which are life expired or are inefficient. Any recouped</p>

	<p>resources can then be used by the school for investment in other priorities such as learning resources.</p> <p>In respect of the CPO(s) funding for acquisition of the Land for the primary school is set out above. This includes any costs incurred in respect of making and implementing a CPO(s). The costs of construction of the school will be covered by DfE which is considered sufficient by DfE to construct a 2 form entry primary school with nursery. Once the Land is acquired the land required for the primary school will be transferred to DfE at nil value.</p> <p>The proposal would authorise the making of a Compulsory Purchase Order which seeks to authorise the acquisition of property against the wishes of the owners. Following the making of the order, confirmation would be sought from the Secretary of State who will seek representations on whether the order should be confirmed and may hold an inquiry before making their decision. The Secretary of State's consideration will include considering whether the Council has established that all of the legal tests for obtaining an Order have been met.</p> <p>Section 530 of the Education Act 1996 enables the Secretary of State to authorise the Council to compulsorily purchase any land (whether within or outside their area) which is required for the purposes of any school or institution which is, or is to be, maintained by them or which they have power to assist, or is otherwise required for the purposes of their functions under this Act or is required for the purposes of an Academy (whether established or to be established). This, coupled with the general powers of acquisition under the compulsory purchase legislation including the Acquisition of Land Act 1981, are the most appropriate powers in this case.</p> <p>Government Guidance on Compulsory purchase process and the Crichel Down Rules is also relevant and advises that, when making a CPO under section 530 of the Education Act 1996, the Council have had regard to any requirements from the DfE and is not aware of any other impediments to the delivery of the school on the Land.</p> <p>If the Order is confirmed and the Council decides to exercise the powers granted then compensation will be payable to any landowner or right holder whose rights are compulsorily acquired. Compensation will be assessed as the value of land to the owner, and any increase or decrease in value attributable solely to the development of the Order Land for the scheme underlying the CPO must be discounted.</p> <p>The compensation liabilities will be borne by the Council.</p>
<p><b>12.</b></p>	<p><b>What are the risks?</b></p> <ul style="list-style-type: none"> <li>• If the Council is unable to provide sufficient school places then it would be in breach its statutory school place planning duty and could also incur unnecessary additional expense through transport costs and out of area placements.</li> <li>• If the school estate is not managed effectively then there is a risk of injury or harm to an individual with the LA being liable.</li> <li>• If condition issues are not addressed in a timely manner it could result in an escalation of the issue with possibly increasing costs.</li> </ul>

	<ul style="list-style-type: none"> <li>• If condition issues are not addressed they could potentially force the full or partial closure of a school.</li> <li>• CPO risks <ul style="list-style-type: none"> <li>➤ A key risk is the failure to acquire the Land in a timely manner, which would jeopardise the funding available to deliver the new primary school. This risk will be mitigated through progressing the compulsory acquisition.</li> <li>➤ It is likely that the CPO(s) will be made in advance of planning permission being obtained for the new primary school. Paragraph 15 of the CPO Guidance states that the acquiring authority will need to demonstrate that there are “no obvious reasons why it might be withheld”. It will be mitigated by the Council putting forward a compelling case for the CPO in advance of obtaining planning permission, and by demonstrating that, when applied for, there is no reason why planning permission for the primary school will not be granted. It can be noted in this regard that the view of Council’s planning department has been sought and the preliminary views received is that there is no in-principle reason why planning permission would not be granted.</li> <li>➤ The preparation of a CPO(s) and related documents is a technical and complex area, carrying a risk of challenge. However, the Council has retained experienced and expert external legal advice on this and will continue to do so.</li> <li>➤ In considering whether to make the CPO(s) the Human Rights Act 1998 applies. The relevant rights that have been considered and are set out below.</li> <li>➤ There is a risk that owners and occupiers will seek sums in excess of the estimates for the costs of land acquisition.</li> </ul> </li> </ul>
<p><b>13.</b></p>	<p><b>Public Services Value (Social Value) Act 2012</b></p> <p>All works procured in connection with the new accommodation will be procured in line with the Public services Value Act 2012.</p>
<p><b>14.</b></p>	<p><b>What evidence / data / research have you gathered in relation to this proposal?</b></p> <ul style="list-style-type: none"> <li>• Latest Admissions data, Special Educational Needs data, housing completion data and the most recent projections have been used to identify what capacity is needed in the area over the next 5 years and to identify where the shortfalls are expected.</li> <li>• Condition reports commissioned by Children’s Services have been used to identify and prioritise projects to be funded by the Schools Condition Allocation.</li> <li>• Officers have used DfE guidance and recommendations for school buildings when developing proposals to create optimum learning environments.</li> </ul> <p><b>Human Right Considerations</b></p> <p>The Human Rights Act 1998 (“HRA 1998”) incorporated into domestic law the European Convention on Human Rights (the “Convention”). Under the HRA 1998, it</p>

is unlawful for a public body such as the Council to act in contravention of the Convention.

In resolving to make a CPO(s) of the Land, the Council has considered the rights of the owners of the Land, in particular:

- (a) Article 1 of the First Protocol, which provides that every person is entitled to peaceful enjoyment of their possessions, and that no one should be deprived of his possession except in the public interest and subject to the law; and
- (b) Article 6 of the First Protocol which protects the right to a fair hearing by a tribunal in the determination of civil rights and obligations.
- (c) Article 14 of the First Protocol which provides for the rights in the Convention to be enjoyed without discrimination on any ground such as sex, race, colour, language, religion political or other opinion, national or social origin, association with a national minority, property, birth or other status.

The Council must be conscious of the need to strike a balance between the rights of the individual and the interests of the public.

It is considered that there is a compelling case in the public interest for the acquisition of the Land which outweighs the Convention rights and that the use of compulsory purchase is proportionate. This conclusion is based on the significant benefits generated by the scheme, which include but are not limited to the following:

- The Council would not be able to fulfil its statutory obligation to provide sufficient school places
- The Council would not be able to effectively manage demand and could face unknown costs arising from legal challenge, increased transport costs or out of area placements
- The Council would not be able to provide all children and young people in Torbay access to high quality education.

In this case it should be noted that the land which the Council is intending to acquire is currently unoccupied and, therefore, acquisition would not result in displacement of any occupier from the land nor relocation of any existing use being necessary.

#### **EQUALITY ACT 2010 AND PUBLIC SECTOR EQUALITY DUTY**

The Equality Act 2010 requires the promotion of understanding of the importance of equality and diversity, and the encouragement of good practice in relation thereto. In the promotion of the CPO(s), the Council has been mindful of the need to properly discharge its obligations under the provisions of this legislation. An assessment under the Equality Act 2010 has been carried out in connection with the proposed CPO(s) and is attached below.

**15. What are key findings from the consultation you have carried out?**

Not applicable.

<b>16.</b>	<b>Amendments to Proposal / Mitigating Actions</b>  Not applicable.
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## Equality Impacts

17.	Identify the potential positive and negative impacts on specific groups			
		<b>Positive Impact</b>	<b>Negative Impact &amp; Mitigating Actions</b>	<b>Neutral Impact</b>
	Older or younger people	Sufficient school capacity to meet local demand. School places provided within a reasonable distance from home location will have a positive impact on the local children who will not have to travel longer distances to school. Optimum learning environment in line with DfE recommendations. Safe learning environments.		
	People with caring Responsibilities	Sufficient school capacity to meet local demand. School places provided within a reasonable distance from home location will have a positive impact on the local children who will not have to travel longer distances to school. Optimum learning environment in line with DfE recommendations. Safe learning environments.		
	People with a disability	New provision will be DDA compliant &, wherever possible, look to address existing issues on the site. Increased specialist provision in the area.		

	Women or men			No differential impact
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			No differential impact
	Religion or belief (including lack of belief)			No differential impact
	People who are lesbian, gay or bisexual			No differential impact
	People who are transgendered			No differential impact
	People who are in a marriage or civil partnership			No differential impact
	Women who are pregnant / on maternity leave			No differential impact
	Socio-economic impacts (Including impact on child poverty issues and deprivation)	Ensuring all children have the best possible opportunity to thrive and succeed. Ensuring best outcomes for all children.		
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			No differential impact
<b>16</b>	<b>Cumulative Impacts – Council wide</b>	Insufficient school places to meet demand will mean the Council would be in breach of its statutory duty and will not be meeting its Corporate Priority to give every child the best possible start in life. Out of area placements and increased transport costs will place more pressure on Council's budgets.		
<b>17</b>	<b>Cumulative Impacts – Other public services</b>	None		

## APPENDIX 1

### SCHOOLS CAPITAL PROGRAMME 2020/21

The following funding allocations have been confirmed by the Department for Education for investment in Torbay schools:

**BASIC NEED 2021/22** - Torbay has been allocated £8,609,731 for the provision of new school places (all schools)

**SCHOOLS CONDITION ALLOCATION 2020/21** - £417,887 for Repairs & Maintenance (maintained schools only)

The Schools Capital Programme already includes some projects that will require additional funding from the BASIC NEED 2021/22 allocation. There are also new priorities for investment that are identified and explained in this report.

#### **PROJECTS ALREADY IN CHILDREN'S CAPITAL PROGRAMME**

##### **Paignton Academy Expansion - New Maths Block**

In 2018, Torbay Council approved a budget of £1.8m to support the expansion of Paignton Academy. The project approved was to fund up to 300 additional secondary school places to meet growing demand. At that time, Children's Services only had £800,000 left in its Capital Programme from Basic Need funding. To ensure that the project proceeded and could be delivered in time to meet the peak in demand from September 2020, Council agreed to fund the balance by "borrowing" from expected future Basic Need allocations.

In April 2020, the DfE confirmed a Basic Need allocation for Torbay of £8.6m. The majority of this funding is in recognition of the growing demand for secondary places across the Bay.

This is a generous allocation that will enable the LA to implement a number of expansion projects to ensure Torbay has sufficient school places. The first call on this funding is the amount borrowed to ensure that the Paignton Academy Expansion could proceed in a timely manner. The amount of the borrowing to top up the Paignton Academy project was £960,000.

In addition to repaying the borrowing element of this project, the delays resulting from COVID 19 are likely to result in an increase in capital cost. The contractor MIDAS Construction encountered significant problems with workforce and suppliers and had to suspend work from 7<sup>th</sup> April to 11<sup>th</sup> May. This five week delay will have two impacts. The first is that the building will not be ready for 1<sup>st</sup> September 2020 as planned and as a result, a contingency plan will have to be implemented to ensure that there is sufficient teaching space available for pupils in September. This will involve the alteration of a common room space in to two teaching spaces. The work can be completed as a variation to the existing contract and MIDAS have confirmed that they can complete this work by the start of the Autumn Term. The cost of the alterations is £35,000. The second impact of delays is additional contractual costs through extension of time requests and/or variations to the design as a result of unavailability of supplies and products. This cost is not yet known but is expected to be in the region of £25,000 to £50,000. It is recommended that an additional allowance is made of £50,000 to cover these unknown costs.

##### **Brunel Academy Vocational Block**

The Council have approved funding for various improvements to the site at Brunel Academy, including a new entrance and Multi-use games area. This was phase 1 of improvements and was completed over a year ago. Phase 2 of improvements is a new Vocational Block which was due for completion in the Summer ready for the start of the new academic year in September 2020. As a result of COVID 19, the contractor Mercury had to cease all works on site for several weeks. Although they are back on site there has been a delay to the completion date and additional costs as a result of the delays and also shortages of some products. The additional costs are expected to

be approximately £50,000. As a result, the LA is proposing to set aside a contingency from the capital allocations to cover any further costs over and above the existing budget. If this is not required then the amount will be reinstated to the Children's Capital Plan to be used on other priorities.

### **Burton Academy Extension**

As with Brunel Academy, the Council have previously approved funding for various improvements to the site at Burton Academy, including an extension to provide additional accommodation to enable them to amalgamate from two sites on to one. Although the tender process had been completed, the contract had not been awarded prior to the start of the COVID-19 pandemic. In consultation with the Council's Procurement department, the decision was taken early on not to award the contract until the situation stabilised.

As contractors are now actively returning to site, Officers have sought legal advice regarding awarding the contract at Burton. It has been agreed to proceed with awarding the project on the understanding that the risks associated with COVID 19 are managed in a collaborative way between the contractor and the LA. There may be additional costs due to delays or a shortage of certain products however the contractor has not sought to change and increase the tender cost submitted several months ago. Although this is a good starting point for the project, it is likely that there will be additional costs incurred at some stage. Officers are therefore recommending an additional provisional sum of £25,000 to be managed outside of the contract to cover any additional costs that may arise. The costs will only be agreed in negotiation between the LA and the contractor when it can be evidenced that the costs are solely COVID 19 related.

There has also been a small additional cost incurred for the legal advice around COVID 19 risks. This cost can be managed within the existing contingency.

A further impact will be that the Academy were due to vacate the Polsham Centre in the Autumn once the extension was complete. However, they are now unlikely to vacate the building until the end of the next academic year. Children's Services had plans for using this building for other purposes but this has been delayed. As a result, a temporary solution will be required in lieu of the Polsham Centre availability. This is set out in more detail under the Mayfield School proposals identified below.

## **NEW PROJECTS**

### **St Cuthbert Mayne School**

In response to an increase in demand for secondary school places in Torquay, St Cuthbert Mayne have agreed to take a bulge of an extra 60 pupils from September 2021. These places will ensure the LA is able to meet its statutory duty and manage school places during a period of short-term growth.

This agreement is subject to the LA providing capital funding to improve and increase the accommodation at the school. A feasibility study has been undertaken and a preferred solution has been identified and agreed between the LA and the school. The project would provide the school with the following:

- 4 additional classrooms
- A new entrance and access to the main Reception which will enhance the appearance and approach in to the school and will also improve security
- A new SEN block to provide specialist support for vulnerable pupils
- Refurbished technology spaces, improving and modernising existing poor condition workshops
- A larger and improved dining space
- Enhanced kitchen and servery facilities
- Improved access and links between blocks and external spaces
- Demolition of poor condition modular classroom block

This investment will not only provide extra space for the additional pupils, it will significantly improve facilities across the school which will improve the teaching and learning experience for pupils and should result in an increase in parental and pupil choice for places at the school.

The feasibility work has been reviewed by a quantity surveyor and the estimated cost is £3.6m. This may vary slightly depending on the tender returns. At this stage it is not known whether the COVID 19 pandemic will have an impact on tender costs. Therefore, the estimate includes an additional project contingency outside of the contract contingency to ensure that the cost of the scheme can be fully met.

### **Expansion at Mayfield**

Over the past few years, at the request of the LA, Mayfield Special School has increased the number of places available and the school currently has 172 pupils on roll in a building that was originally designed for 150 pupils. The demand for places is expected to continue to rise over the next few years. As a result, there is a requirement for capital investment to provide additional accommodation for both existing pupils and future demand. As Mayfield is a school for pupils with severe and profound learning difficulties, the accommodation requirements have a high space and equipment specification. Early feasibility work has identified an indicative cost of £1.5m to provide the extra facilities required.

### **Windmill Hill Academy Free School**

The DfE have given conditional approval for a second free school in Paignton (Windmill Academy). The approval is dependent on future housing growth in the area. If there is continued development over the next 3 to 5 years then approval would be granted for the second free school and the DfE would provide capital to build the free school. The only contribution required from the Council to secure this inward investment is the actual site for the school. This is a standard requirement for LAs that have new schools funded through the free schools programme.

As part of its strategic planning for new school places in Paignton, Officers have sought Section 106 contributions from developers and have been trying to secure a school site for several years. The proposed development at Inglewood, Paignton has a school site identified as the developers contribution and this site was named in the second free school application. As this development has not been approved despite the planning application being submitted some time ago, Officers have approached the DfE asking for them to consider an alternative site for the free school. The DfE have confirmed that they will consider an alternative site for the school and have visited the Wilkins Drive site which is the alternative site being proposed. This site has been previously considered for the first free school St Michael's Primary School but was considered to be in the wrong part of Paignton. An alternative site for that school has now been secured at the old Tower House School site. Over the last 5 years, the Council and the DfE's own consultants LocatEd have invested significant time and resource in trying to identify a possible site for a new school in Paignton. A number of sites have been considered and rejected due to issues and concerns with either size, access, drainage, planning restrictions, location, etc. There are no easy, quick win alternative sites of sufficient size that could be acquired within the necessary timeframe in the Paignton area. As a result, it is necessary and essential that the Council acquire the site at Wilkins Drive in order to secure the inward capital investment from the free schools programme. The DfE have indicated that if a site is not identified within the next 12 months and secured within the next 24 months then it is likely that the approval for the second free school will be withdrawn. There is no guarantee that Torbay would be successful in securing approval from future free school waves.

Torbay Council's Strategic Planning Department supports the need for a new primary school in the area of Wilkins Drive as it would provide important infrastructure for numerous large developments that have either already been approved and built or are proposed within the Local Plan in the medium to long term.

To ensure that the site at Wilkins Drive is of sufficient size and is suitable for the new primary school, Officers have commissioned some high level feasibility drawings to show how the school would fit on to the site. This plan is attached as Appendix 3. Although the site at 3.5 ha is slightly smaller than the DfE recommended area for a school of this size (3.9ha), this is not an unusual scenario as a large proportion of primary schools in Paignton are located on sites smaller than the recommended area. There are design solutions to enable a 2FE primary school to be delivered on this site. The Plan at Appendix 3 indicates that the site could comfortably accommodate the size of buildings required and provision of a multi-use games area would increase the usability of the outdoor space.

Although primary numbers in Torbay are stabilising, there is still a need for a new primary school in the Western part of Paignton to meet the demand arising from recently completed, on site and approved housing developments. Since 2012, 650 homes have been built on the Western Corridor of Paignton. Another 500 houses

are currently under construction and another 170 are expected to be given planning approval within the next 2 months. There is no primary school within this new community.

In addition, there are a further 900 houses proposed for the Western corridor that do not yet have planning approval. All of these developments are in the Western corridor separated from the rest of Paignton by the Brixham Road and Totnes Road. These are main roads that act as a distinct boundary/barrier for parents. There are NO primary schools within the Western corridor where all of these housing developments are happening. This equates to nearly 2100 new dwellings (mainly 2/3 bedroom houses) without a primary school to serve them.

For this reason alone there is a strategic need for a primary school to serve this new community. Add in the number of houses completed/being built/still to be built, there is a clear need for a new primary school within this location.

Officers are seeking Council approval for funding from the Children’s Services Basic Need fund to negotiate the acquisition of the Wilkins Drive site and if negotiations are unsuccessful then approval to commence with compulsory purchase (CPO). See main report for more detail on the CPO requirements.

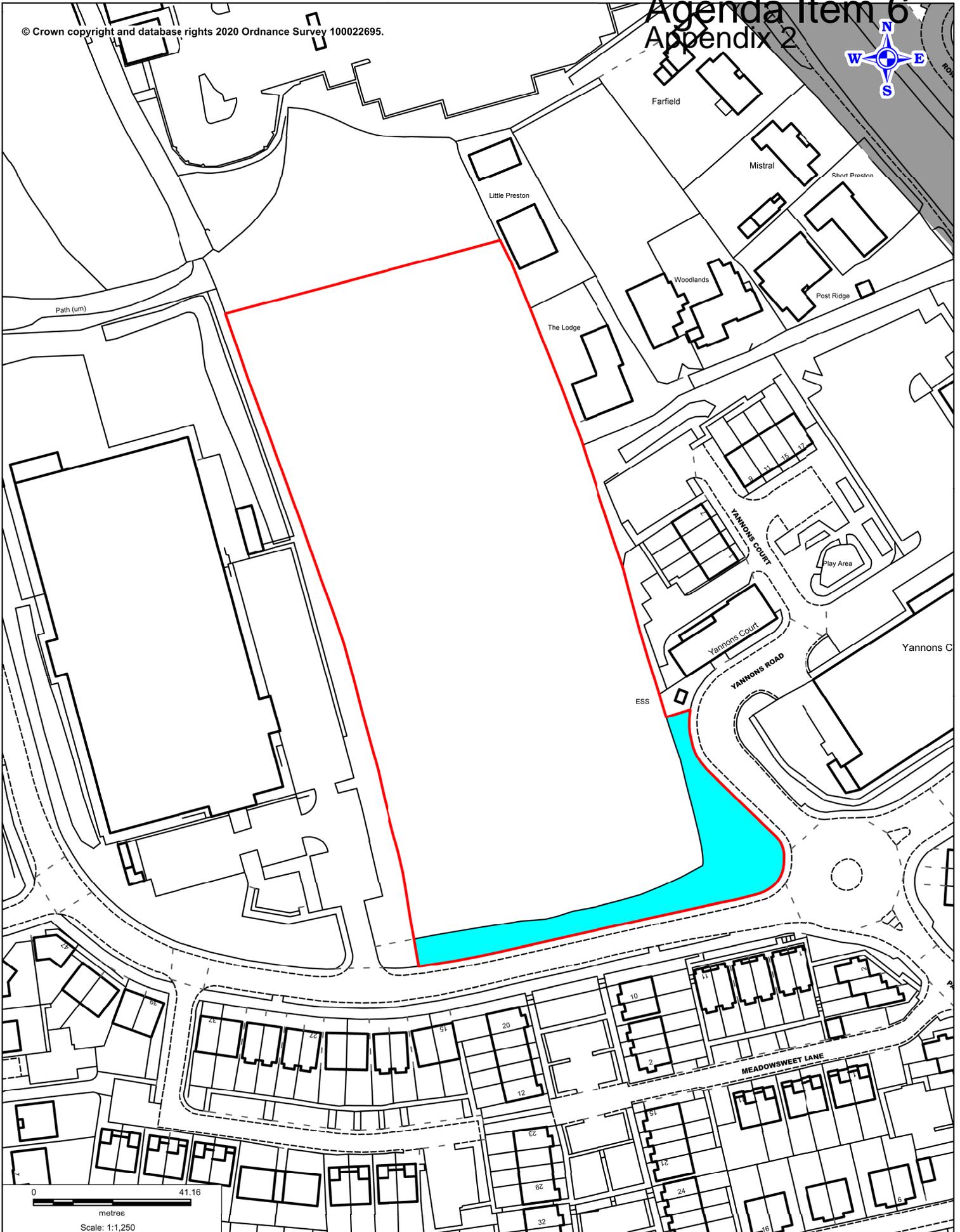
### **REQUESTED FUNDING ALLOCATIONS FROM THE BASIC NEED 2021/22 ALLOCATION**

Basic Need 2021/22 Allocation = £8,609,731

<b>Project (in priority order)</b>	<b>Amount</b>	<b>Description</b>
<b>Paignton Academy Expansion Maths Block</b>	£960,000	Reimbursement of borrowing against future allocations agreed to fund project.
<b>Paignton Academy Expansion Classroom Adaptations</b>	£35,000	Additional work required to mitigate against delays caused by COVID 19
<b>Paignton Academy Expansion Contractual Costs</b>	£50,000	Additional contractual costs as a result of COVID 19 delays
<b>Brunel Academy Vocational Block</b>	£50,000	Additional contractual costs as a result of COVID 19 delays
<b>Burton Academy Extension</b>	£25,000	Additional contractual costs as a result of COVID 19 delays
<b>St Cuthbert Mayne Expansion</b>	£3,600,000	New project to provide additional secondary school places in Torquay
<b>Mayfield Special School Expansion</b>	£1,500,000	New project to provide additional special school places
<b>Sixth Day Provision – Temporary Solution</b>	£250,000	A temporary solution is required as a result of growing numbers at Mayfield and the delays at Burton resulting in a delay to the availability of the Polsham Centre.
<b>SUB-TOTAL</b>	<b>£6,470,000</b>	

### **LA REPAIRS & MAINTENANCE PROGRAMME 2020/21**

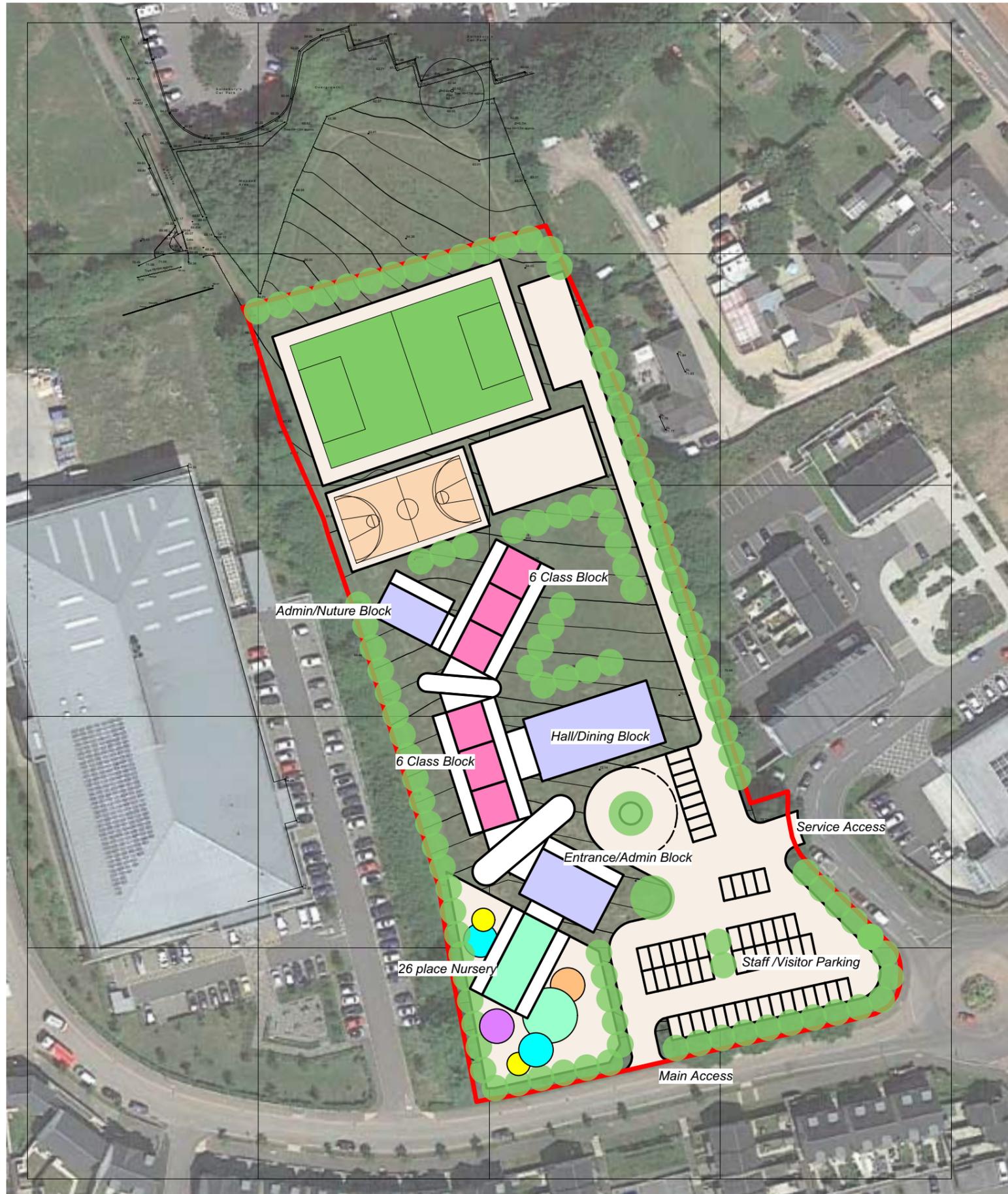
The DfE have confirmed the LA’s 2020/21 allocation for Schools’ Condition Works. Officers have compiled a list of priorities for investment that will be managed in two phases. Larger projects will be undertaken during the summer holidays or programmed to fit in with school holidays. To support this work and to assist with the prioritisation of work in phase two and over the next four years, the LA has commissioned condition surveys for its remaining maintained schools.



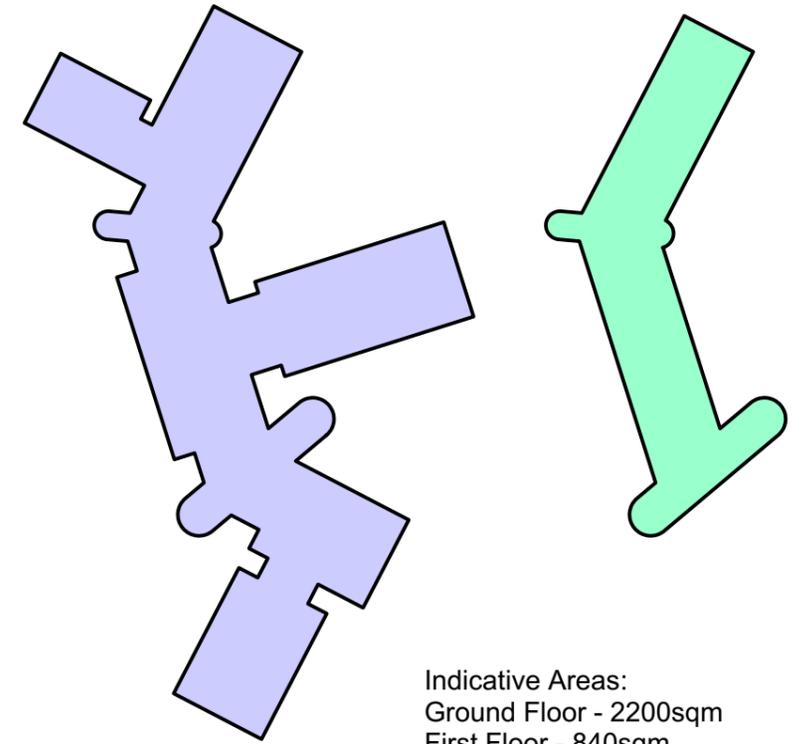
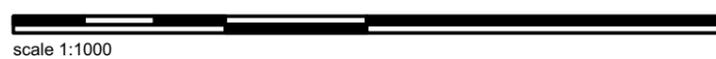
EM Plan No: EM3506  
Date: 1st June 2020  
Title: Land at Wilkins Drive, Paignton.

LR Title No: DN450424 & DN168569  
Scale: 1:1250  
Area: 14,255 m<sup>2</sup>





SKETCH SITE LAYOUT



Indicative Areas:  
Ground Floor - 2200sqm  
First Floor - 840sqm

Rev.	Date	Details	Initials
Revisions			
<b>TDA</b> TOR HILL HOUSE TORQUAY, TQ2 5QW TEL: 01803 207948 enquiries@tda.uk.net www.tda.uk.net			
drawing title		date	
FEASIBILITY STUDY & SITE OPTION APPRAISAL		June 2020	
project		scale	
Yannons Trade Park, Wilkins Drive, Paignton.		1:1000	
drawing		size	
PROPOSED SKETCH SITE LAYOUT		A3	
drawing no.		drawn	
3855.SK.03		JLC	
rev.			

This drawing is the copyright of TDA and must not be used or reproduced without permission. Registered in England & Wales Registration No. 02773632. Registered Office: Tor Hill House, Union Street, Torquay TQ2 5QW.

**Meeting: Council**

**Date: 16 July 2020**

**Wards Affected: All Wards in Torbay**

**Report Title: Treasury Management Outturn 2019/20**

**Is the decision a key decision? No**

**When does the decision need to be implemented?**

**Cabinet Member Contact Details:** Councillor Darren Cowell, [Darren.Cowell@torbay.gov.uk](mailto:Darren.Cowell@torbay.gov.uk)

**Supporting Officer Contact Details:** Pete Truman, Principal Accountant,  
[pete.truman@torbay.gov.uk](mailto:pete.truman@torbay.gov.uk)

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### **1. Purpose and Introduction**

- 1.1 The purpose of this report is to provide members with an annual report on the treasury management activities undertaken during the year 2019/20, which is compared to the [2019/20 Treasury Management Strategy](#).

In February 2019 the Council approved the 2019/20 Treasury Management Strategy, followed by the Mid-Year Review in October 2019. This report concludes the treasury management reporting for 2019/20.

### **2. Proposed Decision**

- 2.1 **That the Treasury Management decisions made during 2019/20, as detailed in the submitted report be noted; and**
- 2.2 **That the performance against the approved Prudential and Treasury Indicators as set out in Appendix 1 to this report be noted.**

### **3. Reason for Decision**

- 3.1 The Council is required through regulations issued under the Local Government Act 2003 to produce an annual outturn report reviewing treasury management activities and the actual prudential and treasury indicators for 2019/20.
- 3.2 This report also meets the requirements of the CIPFA Code of Practice on Treasury Management (the Code) and the CIPFA Prudential Code for Capital Finance in Local Authorities (the Prudential Code).

## Supporting Information

### 4. Position

4.1 Treasury Management is defined by the 2017 Code of Practice as:

*“The management of the authority’s borrowing, investments and cash flows, it’s banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks”.*

4.2 During 2019/20 the minimum reporting requirements were that full Council should receive the following reports:

- An annual treasury strategy in advance of the year (Council 7<sup>th</sup> February 2019)
- A mid-year review report (Council 24<sup>th</sup> October 2019)
- An annual report following the year describing the activity compared to the strategy (this report)

4.3 The regulatory environment places responsibility on Members for the review and scrutiny of treasury management policy and activities. This report is therefore important in that respect, as it provides details of the outturn position for treasury activities and highlights compliance with the policies previously approved by Members.

4.4 The Council confirms that it has complied with the requirement under the Code to give prior scrutiny to the above strategy and mid-year treasury management reports by the Audit Committee before they were reported to full Council.

4.5 Treasury Management strategies were planned and implemented in conjunction with the Council’s appointed advisors for the year, Link Asset Services although the Council officers were the final arbiters of the recommended approach. At the beginning of 2020 Officers undertook a tender exercise to appoint a treasury management advisor for the next contract period from 1<sup>st</sup> May 2020. The successful applicants were Arlingclose Ltd.

4.7 This report covers:

- Treasury Position at year end;
- Borrowing strategy and control of interest rate risk;
- Borrowing Outturn for 2019/20;
- Investment Outturn for 2019/20;
- Revenue Budget Performance;
- Reporting Arrangements and Management Evaluation
- Non-Treasury Management Investments

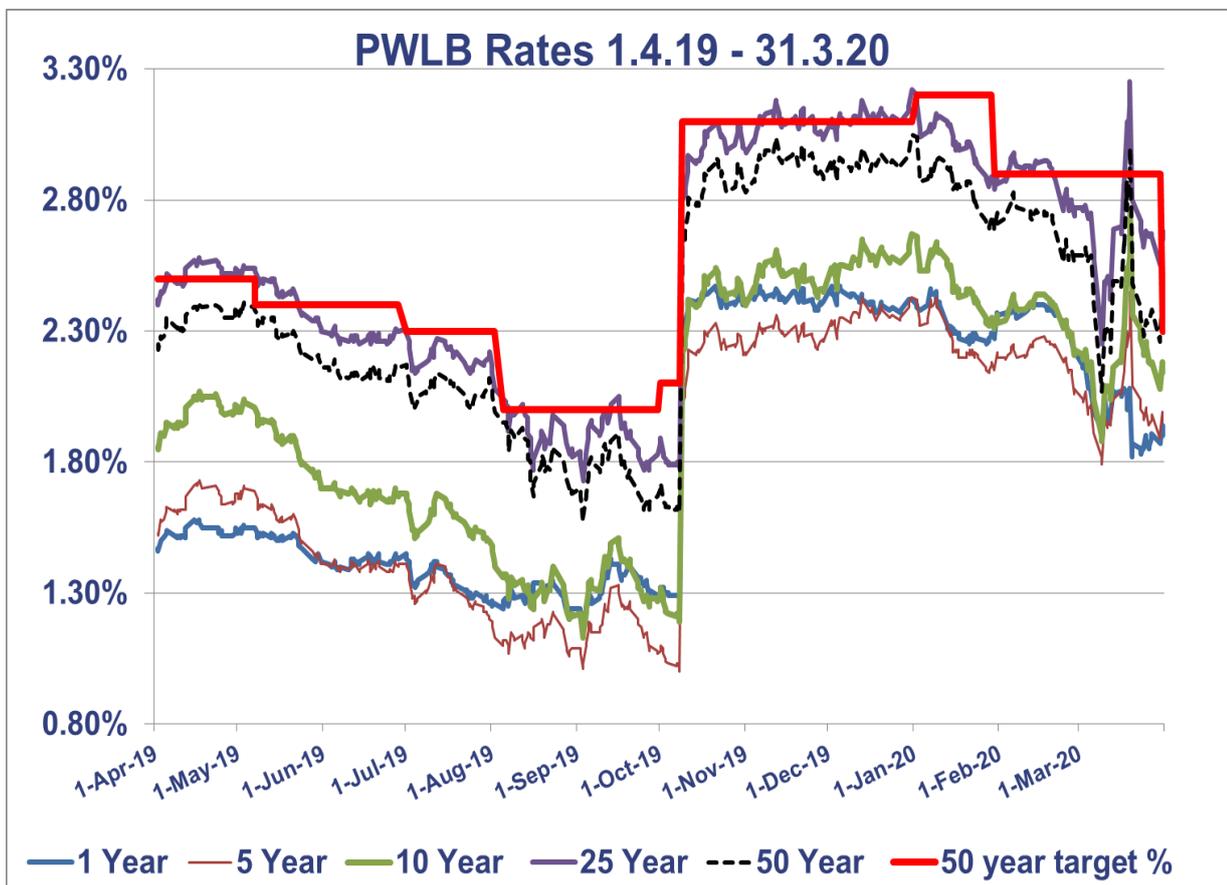
### 5. Overall Treasury Position as at 31 March 2020

5.1 At the beginning and the end of 2019/20 the Council’s treasury position was as follows:

TABLE 1	31 March 2019 Principal	Rate/Return	Average Life yrs	31 March 2020 Principal	Rate/Return	Average Life yrs
Borrowing	£302.9m	3.29%	29.5 years	£395.2 m	3.00%	29.5 years
Other long term liabilities	£18.2m	5.14%	16.9 years	£17.5m	5.14%	15.9 years
<b>Total debt</b>	<b>£321.1m</b>	<b>3.39%</b>	<b>28.9 years</b>	<b>£412.7m</b>	<b>3.09%</b>	<b>28.2 years</b>
<b>Capital Financing Requirement</b>	<b>£320.7m</b>			<b>£413.4m</b>		
(Under)/over borrowing	£0.4m			£(0.7)m		
<b>Total investments</b>	<b>£58.1m</b>	<b>0.83%</b>		<b>£66.2m</b>	<b>1.16%</b>	
Net debt	£263.0m	3.16%		£346.5m	2.97%	

## 6 Borrowing strategy and control of interest rate risk

- 6.1 During 2019/20, the Council aimed to achieve an under-borrowed position. This meant that the capital borrowing need, (the Capital Financing Requirement), was not fully funded with loan debt, as cash supporting the Council's reserves, balances and cash flow was used as an interim measure. This strategy was prudent as investment returns were low and minimising counterparty risk on placing investments also needed to be considered.
- 6.2 However, this strategy had to be kept under review to avoid a situation of the Council incurring higher borrowing costs in the future impacting upon the General Fund and the affordability of approved capital schemes.
- 6.3 The primary strategy in para 6.1 was predicated on Interest rate forecasts expecting only gradual rises in medium and longer term fixed borrowing rates during 2019/20 and the two subsequent financial years. The actual path of borrowing rates, during the year is illustrated in the table below



- 6.5 A number of new loans were taken during the first half of 2019/20 taking advantage of the continuous fall in yields. The context for this fall was heightened expectations that the US could have been heading for a recession in 2020, and a general background of a downturn in world economic growth, especially due to fears around the impact of the trade war between the US and China, together with inflation generally at low levels in most countries and expected to remain subdued.
- 6.6 However, on 9th October 2019 HM Treasury, concerned about the overall level of local authority debt, imposed an increase in the margin over gilt yields for PWLB rates by 100 basis points (to 180 basis points) without any prior warning; this added an immediate, additional 1% margin to all PWLB rates. PWLB borrowing remains available but this new margin of 180bp above gilt yields made the rates relatively expensive.
- 6.6 Following this announcement the Chief Finance Officer restricted PWLB activity pending evaluation of the new levels against alternative funding sources. New PWLB borrowing was limited to 50% of imminent Investment Fund acquisitions. Treasury officers met with a selection of external funding providers to pave the way for potential future facilities as an alternative to PWLB.
- 6.7 Two further tranches of PWLB borrowing were taken in March to capitalise on market fears surrounding Covid-19 bringing borrowing costs back down to levels seen earlier in the year prior to the PWLB hike and to affordability of the Capital Plan over the longer term.
- 6.8 HM Treasury subsequently announced that there would be a consultation with local authorities on possibly further amending the margin levels over gilts; this ends on 4 June 2020. The proposals include the potential for cheaper PWLB rates for some borrowing

but it is clear that the Treasury intends to put a stop to local authorities borrowing money from the PWLB to purchase commercial property i.e. debt for yield.

- 6.9 With the potential for PWLB rates to become cheaper dialogue with alternative providers has not been followed and in the short term the Chief Finance Officer will implement the primary strategy of internally borrowing against the Council's own resources
- 6.10 The level of cash investments was higher than anticipated due to slippage of £10m in the Capital Plan, a number of government grants received but not spent including the £5m COVID funding.

## 7. Borrowing Outturn 2019/20

- 7.1 Loans were drawn to fund unfinanced capital expenditure and maturing debt (worth £0.7million) and are summarised below:

Lender	No. of Loans	Principal	Type	Average Interest Rate	Average Maturity
PWLB	19	£93m	Fixed interest rate	2.05%	32.2 years

- 7.2 As a result of the new loans the borrowing portfolio (excluding other long term liabilities) has increased to £395.2 million and the average rate of interest paid across all loans in 2019/20 was 3.13%. The average rate of the borrowing portfolio at 31<sup>st</sup> March was 3.00%.
- 7.3 No rescheduling of the borrowing portfolio was done during the year as the average 1% differential between PWLB new borrowing rates and premature repayment rates made rescheduling unviable.

## 8. Investment Outturn 2019/20

- 8.1 The Council's investment policy is governed by MHCLG investment guidance, which was been implemented in the annual investment strategy approved by Council on 7<sup>th</sup> February 2019. This policy set out the approach for choosing investment counterparties, and is based on credit ratings provided by the three main credit rating agencies, supplemented by additional market data, (such as rating outlooks, credit default swaps, bank share prices etc.).
- 8.2 The investment activity during the year conformed to the approved strategy, and the Council had no liquidity difficulties. A proportion of long term deals maturing during the year were re-invested for a periods of one and two years to provide some protection to yield levels. Other deposits were limited to a duration of six months and extensive use

made of well performing money market funds to ensure availability of cash for capital financing purposes.

- 8.3 **Performance Analysis** - Detailed below is the result of the investments undertaken in 2019/20. The Council's investment returns remain well in excess of the market benchmark while still maintaining availability of funds for internal borrowing

	Average Investment Principal	Rate of Return for year (gross of fees)	Rate of Return for year (net of fees)	Market Benchmark/ Target Return
<b>Internally Managed</b>	£63.7M	0.88%	0.88%	0.53%
<b>CCLA Property Fund</b>	£5.0M	4.78%	4.16%	
<b>Combined</b>	£68.7M	1.16%	1.12%	0.53%

- 8.4 No further investment was made in the CCLA Property Fund, despite the high return due to uncertainty of funds in the longer term and changes to accounting treatment in future years.
- 8.5 In interest terms, the treasury strategy and decisions implemented contributed an additional £432,000 (after fees) to the General Fund over and above what would have been attained from the benchmark return.
- 8.6 A list of those institutions with which the in-house team invested funds during the year is provided at Appendix 2. No institutions with which investments were made showed any difficulty in repaying investments and interest in full during the year.

## 9 Revenue Budget Performance

- 9.1 The effect of the decisions outlined in this report on the approved revenue budget is summarised in the table below.

	Revised Budget 2019/20	Actual 2019/20	Variation
	£M	£M	£M
Investment Income	(0.7)	(1.3)	(0.6)
Interest Paid on Borrowing	10.2	10.8	0.6
<b>Net Position (Interest)</b>	<b>9.5</b>	<b>9.5</b>	<b>0.0</b>
Minimum Revenue Provision (MRP)	5.0	4.6	(0.4)

MRP re: PFI	0.7	0.7	0
<b>Net Position (Other)</b>	<b>5.7</b>	<b>5.3</b>	<b>(0.4)</b>
<b>Net Position Overall</b>	<b>15.2</b>	<b>14.8</b>	<b>(0.4)</b>

9.2 The position was regularly reported to OSB and Council throughout the year as part of the budget monitoring reports to Members

## 10 Reporting Arrangements and Management Evaluation

10.1 The management and evaluation arrangements identified in the annual strategy and followed for 2019/20 were as follows:

- Monthly monitoring report to the Leader, Cabinet Member for Finance, Chairman of Audit Committee and Head of Finance.
- Regular meeting of the Treasury Manager and Finance Manager to review previous months performance and plan following months activities
- Regular meetings with the Council's treasury advisors
- Membership and participation in Link Asset Services Investment Benchmarking Club

## 11 Non-Treasury Management Investments (NTI)

11.1 Appendix 3 sets out the current activities being undertaken by Torbay Council primarily to generate a financial return e.g. Investment Properties. Governance of these activities is incorporated into the CIPFA Code of Practice for Treasury Management.

11.2 The [Council's Capital Strategy 2020/21](#) also includes references to Non-Treasury Management Investments, as this expenditure is classified as capital. The risk associated with investment properties and the Council's strategy in mitigating these risks are outlined and described in the Council's [Investment and Regeneration Fund Strategy](#) last update approved by Council in July 2019.

11.3 The Investment Strategy will need to be updated to ensure the Council's compliance with the March PWLB consultation and the CIPFA Statement on 'Debt for Yield' purchases.

## 12 COVID 2019 Implications

12.1 The COVID 2019 pandemic started to impact on the UK during March 2020 with its longer term impact still unknown. This will have a number of impacts on Treasury Management and NTI including:

- Bank base rate reduced to 0.1% impacting on interest returns

- In the longer term value of investment property could reduce, however not as at 31<sup>st</sup> March due to material valuation uncertainty. Any valuation change would be unrealised as asset to be held for long term
- Potential reduction in counterparties and greater use of higher rated counterparties
- CCLA property fund reduced in value as at 31/3/20, however an unrealised loss as asset to be held for long term
- No other Treasury Investments impacted as all at fixed rates
- Greater scrutiny of potential changes in cash flow from both reduced income and changes in the timing of government grants

## **Appendices**

Appendix 1: Prudential and Treasury Indicators 2019/20

Appendix 2: Counterparties with which funds have been deposited in 2019/20

Exempt Appendix 3: Non-Treasury Management Investments

## **Additional Information**

Treasury Management Strategy 2019/20

Treasury Management Mid-Year Review 2019/20

### Appendix 1

#### Prudential and Treasury Indicators 2019/20

#### Capital Expenditure and Financing 2019/20

The Council undertakes capital expenditure on long-term assets. These activities may either be:

- Financed immediately through the application of capital or revenue resources (capital receipts, capital grants, revenue contributions etc.), which has no resultant impact on the Council's borrowing need; or
- If insufficient financing is available, or a decision is taken not to apply resources, the capital expenditure will give rise to a borrowing need (though the timing of borrowing may be delayed through the application of cash balances held by the Council).

The actual capital expenditure forms one of the required prudential indicators and is shown in the table below.

	2018/19 Actual £m	2019/20 Revised Budget £m	2019/20 Actual £m
Total capital expenditure	66	125	115

#### The Council's Overall Borrowing Need

The Council's underlying need to borrow to finance capital expenditure is termed the Capital Financing Requirement (CFR).

**Gross borrowing and the CFR** - in order to ensure that borrowing levels are prudent over the medium term and only for a capital purpose, the Council should ensure that its gross external borrowing does not, except in the short term, exceed the total of the capital financing requirement in the preceding year (2019/20) plus the estimates of any additional capital financing requirement for the current (2020/21) and next two financial years. This essentially means that the Council is not borrowing to support revenue expenditure. This indicator allowed the Council some flexibility to borrow in advance of its immediate capital needs in 2019/20. The table below highlights the Council's gross borrowing position against the CFR. The Council has complied with this prudential indicator.

CFR (£m)	31 March 2019 Actual	31 March 2020 Actual
Total CFR	320.7	413.4

CFR (£m)	31 March 2019 Actual	31 March 2020 Actual
Gross Borrowing Position	321.1	412.7
(Under)/over funding of CFR	0.4	(0.7)

**The authorised limit** - the authorised limit is the “affordable borrowing limit” required by s3 of the Local Government Act 2003. The Council does not have the power to borrow above this level. The table below demonstrates that during 2019/20 the Council has maintained gross borrowing within its authorised limit.

**The operational boundary** – the operational boundary is the expected borrowing position of the Council during the year. Periods where the actual position is either below or over the boundary is acceptable subject to the authorised limit not being breached. Borrowing levels were maintained well below the operational boundary throughout the year.

**Actual financing costs as a proportion of net revenue stream** - this indicator identifies the trend in the cost of capital (borrowing and other long term liabilities net of investment income) against the net revenue stream.

	2019/20
Authorised limit	£520m
Maximum gross borrowing position	£414.1m
Operational boundary	£470m
Average gross borrowing position ;	£347.1m
Financing costs as a proportion of net revenue stream	13%
<i>Financing costs as a proportion of net revenue stream including Gross Investment Property income</i>	4%

#### Treasury Indicators:

**Maturity Structure of the fixed rate borrowing portfolio** - This indicator assists Authorities avoid large concentrations of fixed rate debt that has the same maturity structure and would therefore need to be replaced at the same time.

	<b>31 March 2020 Actual</b>	<b>31 March 2020 Proportion</b>	<b>2019/20 Original Limits Lower-Upper</b>
Under 12 months	£3.6M	1%	0% - 30%
12 months to 2 years	£2.6M	1%	0% - 30%
2 years to 5 years	£14.9M	4%	0% - 30%
5 years to 10 years	£25.8M	7%	0% - 40%
10 years to 20 years	£66.9M	17%	0% - 50%
20 years to 30 years	£69.2M	10%	0% - 60%
30 years to 40 years	£100.1M	33%	0% - 50%
Over 40 years	£112.0M	28%	0% - 50%

**Principal sums invested for over 364 days** - The purpose of this indicator is to contain the Council's exposure to the possibility of losses that might arise as a result of it having to seek early repayment or redemption of principal sums invested. The Actual figure reflects investment in the CCLA Property Fund

	<b>2019/20 Limit</b>	<b>2019/20 Actual</b>
Investments of 1 year and over	£20M	£5m

**Appendix 2**

**Counterparties with which funds were deposited (April 2019 – March 2020)**

**Banks and Building Societies**

Goldman Sachs International Bank  
Lloyds Bank  
National Westminster Bank  
Santander UK  
Svenska Handelsbanken

**Local Authorities**

Lancashire County Council  
Nottinghamshire Police and Crime Commissioner  
Slough Borough Council  
Northumbria Police and Crime Commissioner  
Moray Council  
Mid Suffolk District Council

**Other Approved Institutions**

Public Sector Deposit Fund  
Goldman Sachs Sterling Reserve Fund  
Aberdeen Asset Management Ltd  
Funding Circle  
CCLA Local Authorities Property Fund

Document is Restricted

**Officer Scheme of Delegation  
Urgent decisions taken by the Chief Executive**

**Paragraph 1.19 of Schedule 6 to Part 3 (Responsibility of Functions) of the Council's Constitution**

**Report to the Meeting of the Council to be held on 16 July 2020**

The Officer Scheme of Delegation states that the Chief Executive may take an urgent decision in relation to an council function (in consultation with the relevant member) if he/she considers it to be in the best interests of the Council or the inhabitants of the Borough and where he/she does not consider it reasonably practicable to convene a meeting of the Council.

A report detailing the action taken in accordance with the Officer Scheme of Delegation must be submitted to the Council. The table below sets out the details of the action taken:

<b>Matter for decision</b>	<b>Decision taken by</b>	<b>Decision and Alternative Options Considered</b>	<b>Reasons for urgency</b>	<b>Date of decision</b>
<p>Extension to existing Annual Strategic Agreement between Torbay Council, South Devon and Torbay Clinical Commissioning Group and South Devon NHS Foundation Trust</p>	<p>Chief Executive of Torbay Council</p>	<p><b>Decision:</b></p> <p>That, following the decision of the Council on 27 February 2020, (Minute 122/20 refers), the extension to the existing Annual Strategic Agreement between Torbay Council, South Devon and Torbay Clinical Commissioning Group and Torbay and South Devon NHS Foundation Trust be presented to Council on 24 September 2020.</p> <p><b>Alternative Options Considered:</b></p> <p>None</p>	<p>The decision to defer the report needed to be taken urgently in order to relieve pressure on health and social care colleagues across the Council and the South Devon and Torbay Clinical Commissioning Group and the South Devon NHS Foundation Trust during the response phase to the COVID-19 pandemic.</p>	<p>30 March 2020</p>
<p>Riviera International Conference Centre Company Acquisition</p>	<p>Chief Executive of Torbay Council</p>	<p><b>Decision:</b></p> <p>The decision was exempt in accordance with the paragraph 3 of Part 1 of Schedule 12A of the</p>	<p>Any delay likely to be caused by convening a meeting of the Council would prejudice the</p>	<p>1 April 2020</p>

		<p>Local Government Act 1972 (as amended).</p> <p><b>Alternative Options Considered:</b></p> <p>Alternative options were set out in the exempt Record of Decision.</p>	Council's and/or the public's interests.	
<p>Acquisition of 10-10a and 12-14 Strand, Torquay.</p>	<p>Chief Executive of Torbay Council</p>	<p><b>Decision:</b></p> <p>The decision was exempt in accordance with the paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).</p> <p><b>Alternative Options Considered:</b></p> <p>Alternative options were set out in the exempt Record of Decision.</p>	<p>Any delay likely to be caused by convening a meeting of the Council would prejudice the Council's and/or the public's interests.</p>	<p>28 April 2020</p>
<p>Edginswell Station Funding Bid</p>	<p>Chief Executive of Torbay Council</p>	<p><b>Decision:</b></p> <p>That £1,500,000 from the Council's Local Integrated Transport Capital budget along with £3 to 4 million from the Town Deal Funding bid be allocated to the Edginswell Station Project, for match funding of any successful bid to the DfT's New Stations Funding.</p> <p><b>Alternative Options Considered:</b></p> <p>An alternative option would be to include match funding from another source, such as borrowing or not submit a bid for DfT New Stations Funding, however this would result in a key strategic area lacking access to the rail network.</p>	<p>Any delay likely to be caused by convening a meeting of the Council would prejudice the Council's and/or the public's interests.</p>	<p>4 June 2020</p>
<p>Appointment of Representatives to</p>	<p>Chief Executive of</p>	<p><b>Decision:</b></p>	<p>Any delay likely to be caused by convening a</p>	<p>26 June 2020</p>

<p>the Torbay Local Outbreak Engagement Board</p>	<p>Torbay Council</p>	<p>That the following Councillors be appointed to the Torbay Local Outbreak Engagement Board:</p> <ul style="list-style-type: none"> <li>(i) Leader of the Liberal Democrat Group (Councillor Steve Darling) or nominee;</li> <li>(ii) Leader of the Conservative Group (Councillor David Thomas) or nominee;</li> <li>(iii) Leader of the Independent Group (Councillor Loxton) or nominee; and</li> <li>(iv) The Chair of the Health and Wellbeing Board and Cabinet Member for Public Health (Councillor Stockman).</li> </ul> <p><b>Alternative Options Considered:</b></p> <p>None.</p>	<p>meeting of the Council would prejudice the Council's and/or the public's interests.</p>	
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## Record of Decisions

### TDA Business Plan 2020-2025

#### Decision Taker

Cabinet on 16 June 2020.

#### Decision

The Cabinet recommends to Council:

- (i) That the TDA business plan 2020-2025 be approved; and
- (ii) That the TDA business plan is removed from the Council policy framework.

#### Reason for the Decision

The existing business plan for TDA was approved in late 2016, progress against that plan was set out in the exempt business plan for 2020-2025. The TDA's Board requested that the plan be refreshed in order to take into account the progress made and the Council's requirement for TDA to assume responsibility for the housing company aspirations.

#### Implementation

The recommendations of the Cabinet will be considered at the Council meeting on 16 July 2020.

#### Information

TDA is Torbay Council's wholly owned economic development company. The purpose of TDA is to deliver economic development and regeneration for Torbay and manages the Council's assets. TDA is also a trading company providing a range of services for other clients. The business plan sets out how the commercial direction for TDA will develop.

The existing business plan was approved in late 2016 and broadly progress against the plan has been good. TDA's Board requested that the plan be refreshed to take into account the progress made and the Council's requirement for TDA to assume responsibility for the housing company aspirations. The plan has been reviewed further to take into account the impact on the business as a consequence of the COVID-19 pandemic with several changes having been made to reflect the increased uncertainty around the economy.

The business plan had been endorsed by the TDA Board and the Council's support as the shareholder in TDA was being sought.

Councillor Long proposed and Councillor Law seconded a motion that was agreed unanimously by the Cabinet as set out above.

#### Alternative Options considered and rejected at the time of the decision

The only alternative option would be for the existing business plan to be left to run its course until 2021, however due to the impact of housing related activity this option is not viable.

#### Is this a Key Decision?

No

**Does the call-in procedure apply?**

No

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

None.

**Published**

19 June 2020

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Leader of Torbay Council on behalf of the Cabinet



**Meeting: Council**

**Date: 16 July 2020**

**Wards Affected: All**

**Report Title: TDA Business Plan 2025**

**Is the decision a key decision? Yes**

**When does the decision need to be implemented?**

**Cabinet Member Contact Details: Cllr Swithin Long, Cabinet member for Regeneration, Tourism and Housing**

**Supporting Officer Contact Details:** Alan Denby, Director of Economic Strategy, [alan.denby@tda.uk.net](mailto:alan.denby@tda.uk.net) 01803 208671

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## **1. Proposal and Introduction**

- 1.1 Established in 2011 and known as TDA, Torbay Economic Development Company Limited (TEDC Ltd) is responsible for promoting economic development, physical regeneration and business growth within the Borough of Torbay, together with the provision of other services across the South West of England. These other services provide the company with surpluses and working capital.
- 1.2 TDA is a wholly owned and controlled subsidiary of Torbay Council and was set up to deliver a coherent programme of economic development and increase the pace of delivery of regeneration. It was established to increase both public and private sector investment; provide more job opportunities and facilitate better business development and engagement. This social purpose is supported by delivery of a variety of services on a commercial basis with clients coming from across the public sector alongside the operation and development of property.

## **2. Reason for Proposal and associated financial commitments**

- 2.1 The existing business plan for TDA was approved in late 2016 and progress against that plan is set out in the business plan 2020-2025. Broadly progress has been good however TDA's board requested that the plan is refreshed to take into account that progress and the Council's requirement for TDA to assume responsibility for the housing company aspirations.
- 2.2 The attached business plan has been developed by TDA taking into account feedback from the Council Leader and Cabinet informally alongside the operational direction from the Council's commissioning officers. The business plan has been

endorsed now by TDA's board and the Council's support as the shareholder in TDA is now sought. The plan has also been reviewed to take into account the impact on the business as a consequence of the Covid 19 pandemic with several changes now having been made to reflect the increased uncertainty around the economy alongside certain of TDA's commercial services. This uncertainty is expected to bring some additional risks and opportunities.

- 2.3 The plan as presented is predicated, financially, on assumptions which include the housing company (development & rental) beginning operation in the first year of the plan alongside acquiring another professional services business. Other assumptions are set out in the Finance section of the business plan.
  - 2.4 Councillors will note that the plan contains a consolidated forecast of the group financial position rather than separate income, expenditure and profit forecasts for TEDC Ltd, individual services or subsidiaries.
  - 2.5 The business plan includes ambitious commercial performance targets. Increasing the intensity and range of TDA's social purpose, supporting the economic development of Torbay, is absolutely reliant on improving commercial performance. TDA will therefore seek to bring forward a business case for a loan from Torbay Council to TDA to allow the company to grow and to accelerate the achievement of the strategic objectives set out in the business plan. A loan would be subject to a separate decision and business case and would likely be used for acquisition and development of sites and assets which will in turn fund greater economic development and regeneration delivery giving more social value for the shareholder.
  - 2.6 TDA will continue to work with the Community and seek out best practice from the Cooperative Council's Innovation Network.
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### **3. Recommendation(s) / Proposed Decision**

- (i) To approve the TDA business plan 2020-2025.
- (ii) That the TDA business plan is removed from the Council policy framework.

### **Appendices**

Exempt Appendix 1: TDA Business Plan 2020-25

## Section 1: Background Information

1.	<p><b>What is the proposal / issue?</b></p> <p>TDA is Torbay Council's wholly owned economic development company. The purpose of TDA is to deliver economic development and regeneration for the borough of Torbay. TDA also provides a range of property related services for the Council and for other clients. The business plan sets out how the commercial direction for TDA will develop.</p>
2.	<p><b>What is the current situation?</b></p> <p>TDA's business plan requires updating following the request for TDA to take responsibility for housing delivery on behalf of Torbay Council.</p>
3.	<p><b>What options have been considered?</b></p> <p>The only alternative would be for the existing business plan to be left to run its course till 2021 however because of the impact of housing related activity this option is not viable.</p>
4.	<p><b>What is the relationship with the priorities within the Partnership Memorandum and the Council's Principles?</b></p> <p>The business plan supports TDA in delivering for the Council while there are sustained financial pressures to the council and growing requirement for the area to improve its economic performance. The plan therefore supports using reducing resources to best effect.</p>
5.	<p><b>How does this proposal/issue contribute towards the Council's responsibilities as corporate parents?</b></p> <p>There are few direct impacts through the plan but in delivering its activity TDA works with Children's Services and is promoting opportunities for care leavers through skills and apprenticeship work. TDA is also working with schools in Torbay to widen work experience opportunities.</p>

<p>6.</p>	<p><b>How does this proposal/issue tackle poverty, deprivation and vulnerability?</b></p> <p>There are no direct impacts from the plan, TDA's work around the economy is determined by the Council's corporate plan and economic strategy.</p>
<p>7.</p>	<p><b>How does the proposal/issue impact on people with learning disabilities?</b></p> <p><i>None</i></p>
<p>8.</p>	<p><b>Who will be affected by this proposal and who do you need to consult with? How will the Council engage with the community? How can the Council empower the community?</b></p> <p>There has been consultation with the Council at member and officer level alongside TDA board.</p>

## Section 2: Implications and Impact Assessment

9.	<p><b>What are the financial and legal implications?</b></p> <p>No legal implications, the Council is being asked to extend a loan facility to TDA repaid at an interest rate to be determined.</p>
10.	<p><b>What are the risks?</b></p> <p>Set out in business plan.</p>
11.	<p><b>Public Services Value (Social Value) Act 2012</b></p>
12.	<p><b>What evidence / data / research have you gathered in relation to this proposal?</b></p> <p>Set out in business plan.</p>
13.	<p><b>What are key findings from the consultation you have carried out?</b></p>
14.	<p><b>Amendments to Proposal / Mitigating Actions</b></p> <p>The business plan has been developed through four versions taking into account feedback at each stage.</p>

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