

**Meeting:** Cabinet                      **Date:** 21 March 2023

**Wards affected:** Preston and Blatchcombe Report

**Report Title:** Appointment of a preferred bidder for the future development of homes at land located at Preston Down Road, Paignton

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

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## 1. Purpose of Report

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- 1.1 Approval is sought to appoint a Registered Provider delivery partner, as the successful 'preferred bidder', following a tender exercise and to enter into a Development and Sale Agreement with that partner.

## 2. Reason for Proposal and its benefits

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- 2.1 The Preston Down Road (PDR) site has been identified in the Local Plan for a potential housing allocation.
- 2.2 The PDR site should deliver 100 plus new homes, at least 30% of which will be affordable housing for local people. At least 5% of the affordable provision will be adapted accommodation for households with mobility difficulties.
- 2.3 The PDR site will help ensure a mixed and balanced community, supplying housing of the right type, size and design in the right locations.
- 2.4 Through building new homes, the PDR site will help deliver the corporate ambitions for thriving people; thriving economy; and tackling climate change.
- 2.5 Delivery of new homes on the PDR site will help meet the Council's responsibilities as corporate parents and for people with learning disabilities, whilst tackling poverty, deprivation and vulnerability.
- 2.5 The PDR site will deliver a Planning Policy compliant scheme for new housing.

2.6 The 'preferred bidder', as the Registered Provider housing delivery partner for PDR will:

- Ensure that the Council's strategic policies are fully adhered to
- Ensure that the Council's statutory requirements are fully adhered to
- Provide the Council with an opportunity to shape scheme outputs
- Enable the Council to influence affordable housing split
- Provide the Council with a capital receipt to contribute towards the capital programme
- Nomination rights for the Council, on the affordable units, in perpetuity

### 3. Recommendation(s) / Proposed Decision

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3.1 That the successful Registered Provider delivery partner, identified in Exempt Appendix 3 and 4, be approved as the 'preferred bidder' for the future development of homes at Preston Down Road, Paignton (PDR) and that in principle approval is given to enter into a Development and Sale Agreement with this Registered Provider delivery partner.

3.2 That the Chief Executive be given delegated authority to agree and finalise any Heads of Terms and the details of the Housing Delivery Partner Development and Sale Agreement in consultation with the Cabinet Member for Economic Regeneration, Tourism and Housing and the Section 151 Officer.

### Appendices

Appendix 1: Preston Down Road – Site Plan

Appendix 2: PDR Tender Specification (tender reference TPL5722)

### Exempt Appendices – Part II

Appendix 3: Preferred Bidder Tender Award Questionnaire Response

Appendix 4: Further Financial Details

### Background Documents

- Torbay Local Plan: [Local Plan 2012-2030 - Torbay Council](#)
- Paignton Neighbourhood Plan: <http://www.paigntonneighbourhoodplan.org.uk/>
- Decision to transfer land - Extraordinary Council meeting on 8 October 2020  
Link - [Minutes Template](#)

# Supporting Information

## 1. Introduction

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- 1.1 The Preston Down Road site currently comprises a vacant agricultural land. It extends to approximately 4 hectares (10 acres), with potential for approximately 101 residential units. Boundaries are defined by trees and mature hedgerows. The site is bordered centrally by Preston Down Road, by residential dwellings to the east and west and open countryside or woodland to the north and south. It is in an excellent location and is well connected by road. Straddling Preston Down Road the site offers an opportunity to create a high-profile gateway development.
- 1.2 In February 2018, this site received grant funding from the Land Release Fund (LRF). This LRF funding has been used to procure various technical reports, however, not all the funding allowance for this site has been spent and a balance remains. The balance of the grant funding is available as a contribution towards further site works and surveys.
- 1.3 The Council owns the freehold of the Preston Down Road site, having previously acquired the land back from the Torbay Coast and Countryside Trust, who had held the land on a long lease arrangement.
- 1.4 In October 2020, the Council agreed to dispose of the freehold interest of the land at Preston Down Road to TorVista Homes or a company wholly owned by the Council (see Background Documents). This was in part to satisfy the terms of the LRF grant. The disposal was subsequently concluded with TorVista Homes conditional upon TorVista submitting a business plan to develop the site which would need to be approved (or not) by the Council. Also, the sale agreement has provision to either require TorVista to sell the site back to the Council, or for the Council to instruct TorVista to sell the site to a third party on behalf of the Council.
- 1.5 The TDA were asked by the Council to prepare and proceed with a full, policy compliant, planning application for the site, which will soon come forward to the Planning Committee for determination. This planning application has been subject to community consultation. The Preston Down Road site has been identified for future housing need in the Council's Adopted Local Plan (A Landscape for Success) 2012-30.
- 1.6 Following the disposal of the site to TorVista in October 2020, a structured soft market testing exercise was conducted in September 2022 with external Registered Providers (RPs). The purpose of this exercise was to test the market for interest in delivering a scheme which could meet and exceed the Council's ambition to increase the supply of affordable/social housing in Torbay. All six RPs that submitted an 'expression of interest' (EOI), said they could meet our requirements on a land receipt and deliver a minimum of

30% affordable housing on the site. All respondents also indicated they would aim to achieve more than 30% affordable housing. There was also a positive response to providing a mixed development with the ambition to deliver homes by 2026.

- 1.7 This soft market testing initiative was partly in response to the ongoing 'housing crisis', but also as the result of concerns about the financial pressure and/or risks to the Council of developing a large site through its own housing company.
- 1.8 In December 2022, following the positive outcome of the soft market testing, Cabinet Members and the Senior Leadership Team received an Emerging Issues Paper, to discuss an alternative disposal option for the Preston Down Road site. The paper proposed a two-stage tender process, with the potential to award 'preferred bidder' status to a Registered Provider delivery partner in March 2023.
- 1.9 As an outcome of the Emerging Issues Paper discussion a two-stage tender process was launched in January 2023, to select a Register Provider delivery partner for the future development of homes at Preston Down Road. The purpose of the tender was to allow RPs to bid against a benchmark scheme and to select a preferred bidder.
- 1.10 The two-stage tender process allows for the approval of a 'preferred bidder' for the future development of homes at Preston Down Road (stage one), along with in principle approval to enter into a Development and Sale Agreement with the Registered Provider delivery partner (stage two). This allows Council officers to work with the preferred bidder and the appropriate Cabinet Member, to agree the final scheme for the delivery of new homes, including affordable homes, on the site. The details of the scheme, particularly in respect of detailed design and the construction plan, will be worked through with the preferred bidder.
- 1.11 Following selection, the Registered Provider delivery partner will be expected to deliver the Objectives, Outputs and Housing Mix set out in the Tender Specification (Appendix 2), which will help ensure the following :-
  - That the Council maximise the on-site delivery of affordable housing over and above policy compliant levels while maintaining a sustainable mix and balance of tenures
  - Delivery of a capital receipt
  - To provide a good mix of house types to demonstrate a balanced community, including wheelchair accessible accommodation.
  - To deliver environmentally sustainable solutions within both the construction and occupancy of the properties
  - Nomination rights for the Council, on the affordable units, in perpetuity
- 1.12 If this disposal decision is made by Cabinet on 21<sup>st</sup> March 2023, it will override the Council's previous disposal decision made on 8<sup>th</sup> October 2020.

1.13 The selection of the successful Registered Provider delivery partner (preferred bidder) has subject to the Council's Procurement Policy and evaluation process.

## 2. Options under consideration

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2.1 The options available to the Cabinet are :

Option 1 - to appoint the successful bidder from the outcome of the tender exercise (Recommendation 3.1 above), or

Option 2 to decline to appoint.

2.2 The tender submission from the 'preferred bidder' meets the Council's Corporate objectives, including the specific expectations set out in the tender documentation (Appendix 2) and has passed the evaluation exercise criteria as can be evidenced in Exempt Appendix 3.

2.3 Option 1 is therefore recommended as set out in paragraph 3.1.

## 3. Financial Opportunities and Implications

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3.1 In February 2018 this site received grant funding from the Land Release Fund (LRF). This LRF funding has been used to procure various technical reports, however, not all the funding allowance for this site has been spent and approximately £600,000 remains. This remaining grant is available as a contribution towards further site works and surveys (where required) as it has been deemed that a developer led approach is more appropriate in respect of the following :-

- Highways enabling works, including associated fees in the design, and overseeing of the highways works
- Site surveys and investigations to include undertaking percolation tests
- Grounds maintenance works required in accordance with feedback from RSPB and specialist environmental and legal advice
- Drainage strategy review
- Traffic impact assessment
- Ecology mitigation works
- Procurement of Environmental Impact Assessments and Habitats Regulations Assessment advice and reports
- Site servicing and utilities

3.2 Some of the works identified above have already been undertaken as part of the current Planning Application for this site.

- 3.3 A net capital receipt for the Council is envisaged. The receipt should be more than the costs the Council has incurred in obtaining vacant possession.
- 3.3 See Exempt Appendix 4 for further financial details.

## 4. Legal Implications

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- 4.1 Local authorities are given powers under the Local Government Act 1972 Act to dispose of land in any manner they wish, including sale of their freehold interest. The only constraint is that a disposal must be for the best consideration reasonably obtainable, unless the Secretary of State consents to the disposal.
- 4.2 The Local Government Act 1972: General Disposal Consent (England) 2003, removes the requirement for authorities to seek specific consent from the Secretary of State and it allows a local authority to dispose of land in the circumstances specified below :-
- (a) the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;
    - (i) the promotion or improvement of economic well-being.
    - (ii) the promotion or improvement of social well-being.
    - (iii) the promotion or improvement of environmental well-being; and
  - (b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).
- 4.3 Before disposing of any interest in land, whether for a price which may be less than the best consideration reasonably obtainable, or not, local authorities are strongly advised in all cases to ensure that they obtain a realistic valuation of that interest. The TDA were instructed to obtain this valuation following the October 2020 decision and this valuation may need to be updated.
- 4.4 When the Chief Executive finalises the detailed disposal terms, the Development and Sale Agreement will ensure that the Registered Provider delivery partner will be required to deliver the Objectives, Outputs and Housing Mix set out in the Tender Specification (Appendix 2).
- 4.5 The land transfer contract will also include nomination rights for the Council, under section 25 of the Local Government Act 1988.

## 5. Engagement and Consultation

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- 5.1 Extensive consultation has occurred throughout the Local Plan planning process.
- 5.2 As part of any existing or future planning process the community will be fully consulted on the detail of any development proposed, however, there will be a benefit to the local

community in terms of additional supply of good quality housing and an improved mix of units.

- 5.3 Briefings have been held with the Cabinet and Group Leaders and further briefings with all political groups will take place throughout the process.
- 5.4 The proposed agreement will be fully compliant with Torbay's Housing Strategy 2023 – 2030 and the Planning Contributions and Affordable Housing SPD, where applicable.

## 6. Purchasing or Hiring of Goods and/or Services

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- 6.1 The Council's procurement team has been fully consulted and this tender process has been undertaken in accordance with the Council's financial regulations and standing orders. Legal advice has been and will be procured in accordance with the Council's protocol.

## 7. Tackling Climate Change

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- 7.1 On 24<sup>th</sup> June 2019, Torbay Council declared a 'Climate Emergency' and are committed to helping to tackle climate change and to become carbon neutral by 2030. We want to ensure the environmental impact of the Council's procurement of goods, services and works is minimised in line with our response to the climate emergency.
- 7.2 The Council's expectation is that the successful Registered Provider delivery partner meets the following 'Climate Emergency' criteria set out in the Tender Specification (Appendix 2) :-
- (a) know the impact their organisation has on the environment;
  - (b) have an environmental policy which embeds a culture of reducing negative environmental impacts within their organisation;
  - (c) ensure their environmental impact is measured, regularly reported, and overseen at the highest level;
  - (d) specifically in relation to this Development and Sale Agreement/Contract, can outline how carbon emissions will be minimised, with a clear action plan outlining the work to be undertaken focussing on the biggest impacts, with key targets and timelines to the actions to be undertaken, for example:
    - if travel is used, mileage is reduced. For the miles that are unable to be reduced more environmentally friendly ways to travel are used;
    - if buildings are used, environmental building survey(s) have been undertaken and any negative environmental impacts are mitigated / reduced;
    - if purchasing new vehicles low emission alternatives are considered
  - (e) work with their supply chain to know the environmental impact of the goods / services they purchase and mitigate / reduce negative impact, where the negative impact is not able to be reduced offset the impact;

(f) work towards their organisation being Carbon Net Zero by 2030.

7.3 Furthermore, the Tender Specification requires the Registered Provider delivery partner to undertake the following :-

- Integrate green infrastructure into the development
- Deliver environmentally sustainable solutions within both the construction and occupancy of the properties

## 8. Associated Risks

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- 8.1 If the Preston Down Road site is not brought forward for development it cannot help in the response the ongoing 'housing crisis'.
- 8.2 If the Preston Down Road site is not brought forward for development, it will not be able to contribute towards the Council's 5-year housing land supply. Consequently, this increases the risk to the Council of unwelcome planning applications from sites not identified in the local plan.
- 8.3 Having concluded the soft market testing in September 2022, and the most recent tendering exercise in the early months of 2023, there would be a significant reputational risk for the Council if a Registered Provider delivery partner (preferred bidder) were not identified and approved. The Council has worked hard over recent years to improve strategic relationships with housing sector partners and especially with Registered Providers.
- 8.4 Also, having previously passed this site to TorVista Homes, it is important that the Council maintains a strong and close working understanding with TorVista Homes, to avoid any risk to this important and ongoing collaborative relationship.
- 8.5 It is important to avoid any unnecessary financial pressure and/or risks to the Council of developing a large site through its own housing company (TorVista Homes), especially as the company does not currently have experience of developing a site on this scale.
- 8.6 If the Preston Down Road site is not brought forward for development it cannot help to reduce the housing waiting list.

## 9. Equality Impacts - Identify the potential positive and negative impacts on specific groups

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- 9.1 The proposal will help deliver better quality housing in the Paignton area and for all age groups. As per Council policy at least 30% of the development will be affordable housing thus helping to deliver housing stock for local people and reduce the housing waiting list.

- 9.2 The proposal is consistent with Local Plan policies for planning for sustainable development in the Torbay area.
- 9.3 The proposal will consider the overall level of housing and jobs growth to represent a balanced and sustainable approach to future growth.
- 9.4 Significant social benefits will be generated by the provision of a mix of dwelling types and tenures which will encourage mixed communities and provide a range of local facilities. It is envisaged that the new development will offer the opportunity to design out crime within residential layouts and could support the vibrancy of existing local centres.
- 9.5 Public Health impacts - The scheme shall include provision of affordable housing which is likely to reduce poverty in the area and improve health.

	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people	Yes – increase supply of new homes		
People with caring Responsibilities			There is no differential impact
People with a disability	Yes – increase supply of accessible homes		
Women or men			There is no differential impact
People who are black or from a minority ethnic background (BME) (Please note Gypsies / Roma are within this community)			There is no differential impact
Religion or belief (including lack of belief)			There is no differential impact
People who are lesbian, gay or bisexual			There is no differential impact
People who are transgendered			There is no differential impact
People who are in a marriage or civil partnership			There is no differential impact
Women who are pregnant / on maternity leave			There is no differential impact

Socio-economic impacts (Including impact on child poverty issues and deprivation)	Yes – increase supply of social & affordable homes		
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	Yes – provide new, better quality sustainable and energy efficient homes		

## 10. Cumulative Council Impact

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10.1 The proposals are compliant with Policy SS11 Sustainable Communities as there will be opportunities to contribute to sustainable community objectives.

## 11. Cumulative Community Impacts

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11.1 No cumulative community impacts have been identified.