

Meeting: Council

Date: 26th September 2019

Wards Affected: Roundham with Hyde

Report Title: Compulsory Purchase of Crossways Shopping Centre, Paignton

Is the decision a key decision? Yes

When does the decision need to be implemented? Immediately

Cabinet Member Contact Details: Councillor Swithin Long, Cabinet Member for Economic Development, Tourism and Housing

Supporting Officer Contact Details: Liam Montgomery, Director of Asset Management, Investment and Housing

1 PROPOSAL AND INTRODUCTION

- 1.1 This report seeks Council's approval to progress a compulsory purchase order ("CPO") to compulsorily acquire land for redevelopment and regeneration. The land subject to the proposed compulsory purchase order is land at Crossways Shopping Centre, Paignton [(the "Order Land")].
- 1.2 On 27 October 2016 the Council resolved to consider acquisition/compulsory purchase of appropriate sites (including the Order Land) in support of the objectives of the Town Centre Masterplan programme subject to a satisfactory business case being made
- 1.3 The purchase of the land at Crossways is necessary to facilitate regeneration of the site which has not been progressed by the landowner and private sector. The proposed regeneration would be for a mixed use with retail units on part of the ground floors and residential uses (proposed to be extra-care accommodation) on the upper floors ("the Project"). The intended outcome of the Project is to regenerate the built environment, and rejuvenate the economic health of the area by providing high quality retail units which can attract occupiers back into the locality and improve the retail offering. The proposed extra-care accommodation on the upper floors would go towards meeting an identified need for this type of accommodation in a sustainable and accessible town centre location. The Project also aims to improve connectivity and provide a rejuvenated tourist destination with enhanced appeal for residents and visitors. The proposed illustrative masterplan notes the aspiration to develop the Order Land as an attractive retail, residential and employment space.

2 THE COUNCIL'S POWERS OF COMPULSORY ACQUISITION

- 2.1 The proposal would authorise the making of a Compulsory Purchase Order which would allow the acquisition of property by the Council from the Owners and others

with an interest in the Order Land. 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 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 an Order have been met.

- 2.2 The Council has compulsory purchase powers within the Town and Country Planning Act 1990 to acquire land, which it considers to be the appropriate powers in this case. Specifically, section 226(1)(a) allows the Council to acquire land for the purposes of development, re-development or improvement, so long as it thinks this will contribute to promotion or improvement of economic, social or environmental well-being of the area. It is considered that these are tests are met and are dealt with in this report.
- 2.3 Government Guidance on Compulsory purchase process and the Crichel Down Rules is also relevant and advises that, in utilising the section 226 powers, there should be a clear strategic framework justifying the land acquisition. In this case there is a detailed planning framework (which is dealt with in this report) with an up to date development plan which supports the proposed redevelopment and regeneration of Crossways. It is considered that the proposed development will contribute to the promotion and/or improvement of the economic, social and environmental wellbeing of the area and it is not considered that this can be achieved otherwise than by the use of compulsory purchase powers.

3 REASON FOR PROPOSAL AND ASSOCIATED FINANCIAL COMMITMENTS

- 3.1 The Adopted Torbay Local Plan 2012-30, "A Landscape for Success" (the "Local Plan") identifies Crossways Shopping Centre as a town centre regeneration site (Area SDP2) under Policy SS4 for the economy and employment. It states that after careful assessment of spatial options for growth, the three town centres, including Paignton, are shown to be the most sustainable locations. The Order Land is shown on the Paignton town centre map of the Policies Maps of the Local Plan, with reference "PNPH11 PNPE1".
- 3.2 The Paignton Neighbourhood Plan was made in June 2019. Within that document policy PNP8 Crossways P37-38 supports development proposals in the Crossways, Hyde Road and Torquay Road area that meets three criteria, namely:-
- (a) Retain the secondary retail frontages along Hyde Road and Torquay Road;
 - (b) enable reoccupation of the existing Crossways shopping centre for retail use, or redevelopment for retail or mixed use at ground floor level with residential accommodation above; and
 - (c) retain a pedestrian link between Torquay Road and Hyde Road in a manner that contributes towards the improvement of the pedestrian network and green infrastructure links
- 3.3 The Order Land is owned by Gaelic Investments who acquired it in 2009 for £1.86M. Although the Council has entered into negotiations with Gaelic Investments to acquire the Order Land, those negotiations have not yet been successfully concluded. Powers of compulsory acquisition are needed to secure the land in the event those negotiations are not successful in order to ensure that the land can be released for regeneration.

- 3.4 Negotiations with Gaelic Investments were actively pursued up to early 2019. Due to Gaelic's indication of an intention to itself redevelop the site, those negotiations were placed on hold at that stage. Despite the period of time which has since passed, there is no indication of any redevelopment proposals being actively pursued by Gaelic Investments and the site, therefore, remains undeveloped and in need of regeneration.. In particular, no application for planning permission has been made. To ensure the site is appropriately redeveloped, the Council is, therefore, now proposing to take the lead in the redevelopment of the site through its compulsory purchase powers. In parallel with this, the Council will restart negotiations with Gaelic Investments, and the remaining tenants of the Order Land, with the intention of acquiring all interests by private treaty where practicable.
- 3.5 Subject to Council's approval of the CPO, funding is available from a variety of sources to enable the land to be acquired and for the redevelopment to be completed. This includes affordable housing grant from both Homes England and Torbay Council. Additional grant is also available from ring fenced adult social care funds and it is intended that the balance of funding will be secured via Prudential Borrowing. Further details of this funding are available at the exempt appendix 1
- 3.6 It is proposed that a planning application process will commence once a decision on CPO is made. This planning process will run in parallel to the formal CPO process. The redevelopment of the site will be carried out through the Council's Housing Company to deliver a mixed use scheme containing Extra Care Affordable housing, a small number of open market units and retail/commercial space providing an active street frontage to the development
- 3.7 The Council has considered the best way to bring the Order Land forward for regeneration and has determined that, given the history of this site and that landowner proposals for regeneration have not demonstrated any meaningful progress, authority should be sought for compulsory powers to acquire this site to facilitate regeneration. This approach aligns with the CPO Guidance as the Council has a clear idea of how it intends to use the land and has outlined how the necessary resources are likely to be available within a reasonable time-scale. The acquisition is considered to be necessary and needed in order to allow redevelopment of the Order Land to proceed. It is considered that there is a compelling case in the public interest to utilise the Council's powers of compulsory acquisition to bring forward the site's redevelopment, without which there is no certainty that the site will be regenerated.
- 3.8 Funding for the redevelopment works has been identified to fund a total development cost of circa £22,500,000. This funding is made up from a variety of grant sources and Prudential borrowing (see paragraph 2.5 above). In addition to this the Council has previously committed £100,000 towards the feasibility of the project.
- 3.9 Compensation will be payable to any landowner or rightholder 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 in value resulting solely from the Council's proposed scheme. The Council has previously received advice from an expert valuer on the likely value of the Order Land if acquired by compulsory purchase and will continue to do so as part of any compulsory or voluntary acquisition.
- 3.10 The compensation liabilities, including the acquisition of Gaelic Investment's interest, will be met by the Council. Funding will be made available to meet any liabilities arising immediately upon the making of the CPO if a blight notice were served by any

party affected by the CPO. It is intended that any payments made by the Council will be recouped from monies received through the variety of grant funding in so far as possible]

4 PROPOSED DECISION

- (a) That delegated authority be given to the Chief Executive to continue negotiations with Gaeilic Investment and their tenants, to acquire by agreement the land at Crossways identified red and blue on the plans attached at Appendix 2 and any other land, interests or rights subsequently required in consultation with the Cabinet Member for Economic Development, Tourism and Housing and Section 151 Officer on any Heads of Terms.
- (b) That, having taken into account the options to acquire the Crossways Shopping Centre, Paignton, the making of the Compulsory Purchase Order for the site be approved under section 226(1)(a) of the Town and Country Planning Act 1990, as outlined below, for land (as shown edged in red and blue on the plans attached at Appendix 2 to this report) and any other land, interests or rights subsequently required to deliver the redevelopment. 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 and for the subsequent confirmation and implementation of the CPO 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 Compulsory Purchase Order by the Secretary of State;
 - (ii) to carry out any surveys on the Order Land and enter as may be required in order to deliver the proposed development by Compulsory Purchase Order(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 Compulsory Purchase Order(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 scheme; and
 - (iv) to pay all necessary compensation either as agreed or as determined by the Lands Chamber of the Upper Tribunal in relation to the acquisition of land and other interests or for the overriding or acquisition of rights.
- (c) That Council delegate to the Chief Finance Officer the approval of the expenditure of monies (including by prudential borrowing if necessary) required to cover the acquisition of the land at Crossways identified red and blue on the plan attached at Appendix 2 and any land, interests or rights as may be required for the scheme, either by agreement or by CPO, on the basis that there continues to be a clear business case which demonstrates how the monies are to be used, and how any prudential borrowing (if necessary) is to be repaid.

- (d) That once the land identified red and blue on the plan attached at Appendix 2 has been acquired either by negotiation or via a CPO Council approve the disposal of this land to the Council's Housing Company at Nil Value in return for nomination rights under the Local Government Act 1972: General Disposal Consent 2003.
- (e) That Council approve Prudential borrowing of up to £11million in order deliver the Project, and authorise a loan for a capital purpose to the Housing Company, with the terms of the loan to be delegated to the Chief Finance Officer in consultation with the Cabinet Member for Finance, on the basis that there continues to be a viable business case for the redevelopment of Crossways, Paignton.

Exempt Appendices

- 1 High level appraisal and funding sources
- 2 Plan showing Order Land
- 3 Indicative timeline
- 4 Feasibility Layout

Section 1: Background Information

1.

What is the proposal / issue

This report concerns a proposed compulsory purchase order (a "CPO"). The land subject to the proposed compulsory purchase order (the "Order Land") is land at Crossways Shopping Centre, Paignton, at this time the Order Land is occupied by a 1960's shopping precinct. The precinct has had little investment over the past 10 years and the number of voids has continued to grow. The centre is now poor quality and has a negative impact on Paignton as a place and specifically the Town Centre.

The Order Land Site has been identified in local planning policy as being suitable for mixed use residential and Commercial development. It is considered to be a good site for such uses in terms of sustainability of the location and accessibility the Council proposes to enable regeneration of the site for commercial and residential (extra-care accommodation) use.

The Paignton Neighbourhood Plan was made in June 2019. Within that document policy PNP8 Crossways P37-38 supports development proposals in the Crossways, Hyde Road and Torquay Road area that meets three criteria.

- (a) Retain the secondary retail frontages along Hyde Road and Torquay Road;
- (b) enable reoccupation of the existing Crossways shopping centre for retail use, or redevelopment for retail or mixed use at ground floor level with residential accommodation above; and
- (c) retain a pedestrian link between Torquay Road and Hyde Road in a manner that contributes towards the improvement of the pedestrian network and green infrastructure links

2.

What is the current situation

Negotiations to acquire the Order Land have not so far been successful.

Negotiations with the landowner Gaelic Investments were actively pursued up to early 2019. These negotiations did not proceed smoothly as Gaelic were seeking a purchase price far in excess of what the Council's advisors assessed as the market value. In early 2019 Gaelic indicated its intention to redevelop the site themselves, those negotiations were placed on hold at that stage, so as to allow Gaelic Investments to bring forward their own proposals for the site. Despite the significant period of time which has since passed, there is no indication of any redevelopment proposals being actively pursued. No application for planning permission has been made. The Council considers that it is important to bring forward the site and it is therefore now proposing to take the lead in the redevelopment of the site

	<p>through its compulsory purchase powers. The intention will be to acquire all interests by private treaty where practicable and compulsory powers will only be used where this is unsuccessful.</p> <p>Funding for the redevelopment works has been identified to fund a total development cost of circa £22,500,000. This funding is made up from a variety of grant sources and borrowing from Prudential borrowing. In addition to this the Council has previously committed £100,000 towards the feasibility of the project.</p>
<p>3.</p>	<p>What options have been considered?</p> <p>The Council has considered the following alternative options to compulsorily acquiring the Order Land:</p> <p>(a) <i>Do nothing</i></p> <p>If the Council decided to do nothing it is unlikely that this site would be regenerated and the opportunity to provide extra-care accommodation in the town centre at this location would not be taken up. Given the difficulties in releasing the Order Land for redevelopment one option available to the Council is to take no action in respect of this land. This is not the preferred option. Having regard to previous negotiations with Gaelic Investments, it is not anticipated that this approach would achieve the regeneration aims. To avoid loss of further time it is recommended that the option of having a CPO available is progressed.</p> <p>(b) <i>Negotiations for voluntary acquisition</i></p> <p>The Council has previously entered into negotiations with Gaelic Investments and a number of the tenants for voluntary acquisition of the Order Land. For the reasons described above, those negotiations were placed on hold, but will be recommenced and it remains possible that terms can be agreed. However, progressing the CPO in parallel increases the likelihood of voluntary agreements being reached with some owners as they have greater incentive to engage with the Council. It also means that any 'hold out' owners cannot frustrate the development where agreement can be reached with some but not all parties.</p> <p>(c) <i>Obtain but not implement the CPO</i></p> <p>The option of not implementing the CPO if it is confirmed has also been considered. If agreement is reached with Gaelic Investments and those with an interest to release the land for redevelopment 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. A 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>
<p>4.</p>	<p>What is the relationship with the priorities within the Partnership Memorandum and the Council's Principles?</p>

The proposals set out in this report aligns with the Partnership Memorandum priorities in relation to driving a thriving economy and boosting the theme, thriving people and communities, and a climate fit for the future.

Reuse of previously developed land (often called brownfield land) represents a more sustainable use of resources than building on new sites. The town centre location of the Order Land is a sustainable location which locates development near existing services and infrastructure, thereby reducing the need to provide new infrastructure.

The project complies with planning policy which is supportive of the Priorities Policy SDP1 which provides a broad spatial overview for development within and around Paignton. It specifically aims to facilitate delivery of a rejuvenated town centre (as well as the harbour and waterfront). Policy SDP2 (Paignton Town Centre and waterfront) identifies a regeneration focus on the economy, built and natural environments. It looks at improvement to connectivity and providing a rejuvenated tourist destination with enhanced appeal for residents and visitors. Policy TC1 (Town Centres) supports these aims.

Policy SS4 (the economy and employment) supports the regeneration of Torbay and improvement in its economic performance. Policy SS5 deals with employment space and recognises that, in order to meet the needs of existing, growing and new businesses, sufficient high quality space will be provided to meet existing and arising requirements of employers. The provision of new and improvement of existing employment space will be supported in areas including Town Centres. This will include space and facilities for employment uses and health, leisure, retail, tourism and education.

The Order Land is referred to as one of the sources of employment land as a 'Town centre regeneration site' (Area SDP2) and is noted as a mixed use scheme as part of a harbour-side, waterfront and town centre regeneration. The Paignton Town Centre Masterplan (June 2015) sets out a clear vision for Paignton Town Centre as a vibrant, clean, green, well designed, prosperous and multi-functional location. It is acknowledged that the strategy for the future of Paignton needs to focus on a number of important features including offering tourism, leisure and retail attractions that enable Paignton to compete as a 21st century resort of distinction and ensure that it is a successful economic engine for the town and wider area, is safe and welcoming to residents, visitors and people who work in Paignton, is easy to move around and understand and includes a balanced and vibrant residential community.

The Order Land is out with the nearby Conservation Area. The proximity means that the height, massing and external design of new buildings have to be carefully considered in order to ensure they complement and integrate with the Conservation Area.

Section 06 of the Masterplan deals with Crossways and Torquay Road. The Masterplan states that it is widely accepted among the local community that the existing Crossways development detracts from the overall character of the town. Its development potential has the ability to regenerate this whole area and improve its appeal for the local business community.

	<p>The Order Land Site is recognised as one of the town’s key development opportunities. It is also acknowledged that its redevelopment will be influenced by what is happening around it, including changes to the traffic network. Any future development will need to relate to the changing environment. The Masterplan explains that the heart of the scheme is a covered arcade which forms part of a strategic cross-town heritage route. Redevelopment will need to respect this route.</p> <p>The ground floor would be best suited to retail and other related high street uses. Upper levels of the main building could incorporate a multi-storey car park with high level residential accommodation and the feasibility drawings provided.</p> <p>The Masterplan recognises that if landowner constraints are perceived to hinder a redevelopment opportunity and the tangible economic or community benefits which would be generated by the development, the Council will consider the use of CPO to remove such barriers and enable key delivery of sites as may be required.</p> <p>The Masterplan does refer to proposed traffic changes in the area, in particular to Torquay Road and Hyde Road. However, such changes are not required in order to deliver the development of Crossways and are not needed in order to make the proposals viable (and therefore do not represent an impediment to delivery).</p> <p>Policy PNP8 gives support for development proposals which, inter alia, enable reoccupation of the existing shopping centre for retail use, or redevelopment for retail or mixed use at ground floor level with residential accommodation above and retain the pedestrian link between Torbay Road and Hyde Road in a manner which contributes towards improvement of the pedestrian network and green infrastructure links.</p> <p>There is, therefore, a lot of policy support for the redevelopment of Crossways and a number of improvements will be secured through its regeneration. It will help drive and boost the economy and will rejuvenate the town centre. It will provide new and improved employment space to a building which currently detracts from the overall character of the town. The potential to regenerate this whole area is a key consideration and a significant opportunity. It also provides an opportunity for much needed extra care accommodation for local people to be delivered. It is therefore considered critical to progress the redevelopment of this important site, the delivery of which will help achieve improvements to the economic, social and environmental well-being of the area.</p>
<p>5.</p>	<p>How does this proposal/issue contribute towards the Council’s responsibilities as corporate parents?</p> <p>Not specifically applicable</p>

<p>6.</p>	<p>How does this proposal/issue tackle poverty, deprivation and vulnerability?</p> <p>The current proposal is designed to regenerate the economy, employment and connectivity. Improvement of these three areas will in turn reduce inequalities and deprivation.</p> <p>National Planning Policy Framework (“NPPF”) recognises the need to ensure the continued vitality of town centres, specifically that town centres are at the heart of their communities and that policies should support their viability and vitality. A range of suitable sites should be provided for a variety of uses. The importance of good design in delivering sustainable development is recognised as is the need to promote healthy communities. The NPPF notes the need to plan positively for the provision and use of shared spaces and community facilities which can enhance the sustainability of communities. This requires Local Plans to plan proactively for economic growth, to provide sufficient land and support to meet existing and future needs of businesses and other employers.</p>
<p>7.</p>	<p>How does the proposal/issue impact on people with learning disabilities?</p> <p>The proposed redevelopment will provide Extra Care accommodation for local people. This accommodation will provide sustainable homes for those with care and support needs including, but not limited to, those with learning disabilities.</p> <p>This fit for purpose accommodation will have a positive impact on their health and wellbeing.</p>
<p>8.</p>	<p>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?</p> <p>The Neighbourhood Plan for Paignton was adopted on 19 June 2019 following the positive outcome of the Referendum held on 2nd May 2019. The plan recognises that the Torquay Road area provides a thriving scene of business frontages save for Crossways shopping centre which is stated to have a high level of unoccupied space. The plan states that, ideally, the shopping centre will provide space for growth of new retail opportunities that will add vitality and attraction to the experience of tourists and residents. The plan lists the objectives for Crossways as development of a multi-use site, including residential accommodation and retail and the priority town centre location for a supermarket (should one be needed). It is also an objective to retain the primary and secondary role of Hyde Road and Torquay Road as a shopping street. The Project will therefore help to deliver the aims of the Neighbourhood Plan.</p> <p>The whole of the Order Land is within the freehold ownership of Gaelic Investments There are also a number of commercial tenancies. All Rights, unless acquired voluntarily, will be the subject of the CPO.</p> <p>Utilities searches have been carried out in respect of the whole of the Order Land which have revealed the presence of various statutory undertakers’ apparatus. Those include Openreach / BT, South West Water, Virgin Media, Wales and West Utilities and Western Power Distribution. The Council will be</p>

	<p>required to enter into discussions with the relevant utilities companies to ensure that appropriate protective measures and/or relocation of apparatus affected by the proposed development will be carried out. These discussions will be required whether the development is brought forward by CPO or voluntary agreement.</p> <p>Searches of public rights of way in the vicinity of the Order Land have also been carried out. Nothing has been revealed which is anticipated will interfere with the proposed redevelopment.</p> <p>In 2019, the Council carried out, with consultancy support, feasibility designs and cost appraisals to inform its decision making and also to confirm the viability of any redevelopment. These designs are in accordance with planning policy and the aspirations set out in both the Local Plan and Neighbourhood Plan</p> <p>The Council has previously entered into negotiations with Gaelic Investments surrounding the acquisition of the Order Land. As mentioned above, negotiations to agree terms with Gaelic Investments for the voluntary acquisition of the Order Land will be recommenced now that a CPO is being proposed by the Council.</p>
--	---

Section 2: Implications and Impact Assessment

9.

What are the financial and legal implications?

Funding for the redevelopment works has been identified to cover a total development cost of circa £22,500,000. This funding is made up from a variety of grant sources and borrowing from Prudential borrowing therefore the Prudential Code will apply in terms of the business case being prudent and affordable.

It is likely that a loan for a capital purpose will be made to the Housing Company to develop the site, therefore the borrowing will ultimately be repaid from future rental income in the form of loan repayments over an appropriate asset life from the Housing Company. In addition to this the Council has previously committed £100,000 towards the feasibility of the project.

If the project is developed for Extra Care Housing the future arrangements for the provision of the “care” element will need to be funded from adult social care. 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 made a suitable case that all of the legal tests for obtaining an Order have been met.

Section 226(1)(a) allows the Council to acquire land for the purposes of development, re-development or improvement, so long as it thinks this will contribute to promotion or improvement of economic, social or environmental well-being of the area. This power has been carefully considered and dealt with in this report to minimise the risk that the Secretary of State does not consider that the relevant tests have been met in this case.

If the Order is confirmed and the Council decides to exercise the powers granted then compensation will be payable to any landowner or rightholder whose rights 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 in value resulting solely from the Council's proposed scheme. The Council has obtained a report from an expert valuer on the likely value of the Order Land if acquired by compulsory purchase.

The compensation liabilities, including the acquisition of Gaelic Investment’s interest, will be underwritten by the Council. Funding will be made available to meet any liabilities arising immediately upon the making of the CPO if a blight notice were served by any party affected by the CPO. Compensation and blight payments will ultimately repaid to Council funds by monies received when the land is released for development.

<p>10.</p>	<p>What are the risks?</p> <p>A key risk is the failure to acquire the Order Land in a timely manner, which would jeopardise the funding available to deliver the redevelopment. This risk will be mitigated through progressing the compulsory acquisition.</p> <p>There is a strong possibility that the CPO will be made in advance of planning permission being obtained for the proposed scheme. Though paragraph 105 of the CPO Guidance makes it clear that planning permission is not required before a CPO can be made, 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, planning permission for the proposed scheme will be awarded. It can be noted in this regard that the land is already identified in the Local Plan as a key site for employment, a key site for housing (with the ability to provide up to 150 units) and for town centre regeneration. The view of Council’s planning department has been sought and the preliminary views received is that there is no in-principle reason planning permission could not be granted for a suitable development on this site of the type considered in the feasibility study.</p> <p>The preparation of a CPO 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.</p> <p>In considering whether to make the CPOs the Human Rights Act 1998 applies. The relevant rights that have been considered and are set out below.</p> <p>There is a risk that owners and occupiers will seek sums in excess of the estimates for the costs of land acquisition. This risk has been mitigated through the receipt of professional valuation advice.</p>
<p>11.</p>	<p>Public Services Value (Social Value) Act 2012</p> <p>Legal advice has already been procured.</p>
<p>12.</p>	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>ENVIRONMENTAL IMPLICATIONS</p> <p>Discussions have already taken place with the Council’s Planning Department prior to formal requests being made for Environmental Impact Assessment and Habitats Regulations Assessment screening. The relevant application forms are in the process of being prepared.</p> <p>The site was assessed as part of the Local Plan Habitats Regulations Assessment and was found to be broadly acceptable at a strategic level of assessment.</p>

HUMAN RIGHTS IMPLICATIONS

The Human Rights Act 1998 (“HRA 1998”) incorporated into domestic law the European Convention on Human Rights (the “Convention”). Under the HRA 1998, it is unlawful for a public body such as the Council to act in contravention of the Convention.

In resolving to make a compulsory acquisition of the Order Land, the Council will consider the rights of the owners of the Order 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 8 of the First Protocol, which provides that every person is entitled to respect for their home and family life.
- (d) 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 Order 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:

- (a) Regeneration of the town centre to improve amenity for the community;
- (b) Assisting the local economy by providing high quality retail spaces to attract investment and employment opportunities; and
- (c) Addressing an identified need for extra-care residential accommodation in an accessible and sustainable location.

The Council will work with the existing tenants to find alternative premises, where possible or as part of the new proposed development or elsewhere within Torbay.

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 redevelopment, the Council has

	<p>been mindful of the need to properly discharge its obligations under the provisions of this legislation.</p> <p>An assessment under the Equality Act 2010 has been carried out in connection with the redevelopment scheme and proposed CPO and is attached at the bottom of this report.</p>
13.	<p>What are key findings from the consultation you have carried out?</p> <p>[tbc]</p>
14.	<p>Amendments to Proposal / Mitigating Actions</p>

Equality Impacts

15.	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people	<p>The proposed redevelopment will provide Extra Care accommodation for local people, this affordable housing will be open to those with care and support needs regardless of their age and therefore benefit both older and young people.</p> <p>This development will provide sustainable homes for those with care and support needs and the fit for purpose accommodation will have a positive impact on their health and wellbeing and further independence.</p>		
	People with caring Responsibilities	It will allow those who may currently be cared for by family members at home in accommodation that doesn't meet their needs an opportunity to move into appropriate accommodation.		
	People with a disability	The proposed redevelopment will provide Extra Care accommodation for local people. This accommodation will provide sustainable homes for those with		

	<p>care and support needs including, but not limited to, those with learning disabilities, physical disabilities, dementia and other care needs.</p> <p>Due to tenants being able to stay independent for longer, having their own living space and knowing that the care and support is there as and when needed this fit for purpose accommodation will have a positive impact on their health and wellbeing.</p>		
Women or men	The accommodation is open to both men and women		No differential impact
People who are black or from a minority ethnic background (BME) (<i>Please note Gypsies / Roma are within this community</i>)	The accommodation is open to everyone who has a care and support need with a local connection.		No differential impact
Religion or belief (including lack of belief)	The accommodation is open to everyone who has a care and support need with a local connection.		No differential impact
People who are lesbian, gay or bisexual	The accommodation is open to everyone who has a care and support need with a local connection.		No differential impact
People who are transgendered	The accommodation is open to everyone who has a care and support need with a local connection.		No differential impact
People who are in a marriage or civil partnership	The accommodation is open to everyone who has a care and		No differential impact

		support need with a local connection.		
	Women who are pregnant / on maternity leave	The accommodation is open to everyone who has a care and support need with a local connection.		No differential impact
	Socio-economic impacts (Including impact on child poverty issues and deprivation)			No differential impact
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	The proposed development will impact positively on those residents who are allocated this accommodation. The homes provided will be fit for purpose and suitable for all care needs and as such the development will have a positive impact on those people with care and support needs and in need of this type of accommodation.		
16.	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	N/A		
17.	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	N/A		



Minutes of the Council
(Council decisions shown in bold text)

26 September 2019

-: Present :-

The Worshipful The Mayor of Torbay (Councillor Douglas-Dunbar) (In the Chair)
Deputy Civic Mayor of Torbay (Councillor Manning)

Councillors Amil, Atiya-Alla, Barrand, Brooks, Brown, Bye, Carter, Cowell, Steve Darling, Dart, Doggett, Dudley, Ellery, Foster, Hill, Howgate, Kavanagh, Kennedy, Law, Barbara Lewis, Chris Lewis, Long, Loxton, Mills, Morey, O'Dwyer, Pentney, Sykes and John Thomas

55 Opening of meeting

The meeting was opened with a prayer.

56 Apologies for absence

Apologies for absence were received from Councillors Mandy Darling, Heyse, Stockman, David Thomas and Jacqueline Thomas.

The Monitoring Officer advised that Councillors Barrand and Sykes had indicated they would be leaving the meeting early.

57 Minutes

The Minutes of the Extraordinary meeting of the Council held on 22 August 2019 were confirmed as a correct record and signed by the Worshipful the Mayor of Torbay.

58 Declarations of interests

Councillor Loxton declared a non-pecuniary interest in respect of Minute 65 as he was associated with a tenant at the site.

Councillor O'Dwyer declared a pecuniary interest in respect of Minute 65.

59 Communications

The Worshipful the Mayor of Torbay welcomed Pat Teague, Trustee of Healthwatch Torbay to the meeting. Members then received a presentation from Mrs Teague on the results of Healthwatch Torbay's survey work on 'What does it feel like to be a young person living in Torbay?'

The Worshipful the Mayor of Torbay further announced that her Civic Lunch held on 9 August 2019 at the Riviera International Conference Centre was a success and thanked those who attended. The event raised over £200 towards the Worshipful the Mayor of Torbay's charities, Torquay Museum and the RNLI.

The Leader of the Council:

- a) thanked Healthwatch Torbay for their work on 'What does it feel like to be a young person living in Torbay?' and advised that he was keen to involve the young people of Torbay in the development of the Council's vision for Torbay;
- b) welcomed the fact that Torbay had achieved Future High Street funds for Paignton and had been invited to develop proposals for the Government's multi-million pound Towns Fund Scheme for Torquay; and
- c) thanked all those who participated in the Council's first Community Conference, particularly members of the community, and advised the Council would be changing the way it engaged with the community.

The Overview and Scrutiny Co-ordinator:

- a) thanked Councillor Kennedy for her work on reviewing the Land Release Fund which was presented to the Overview and Scrutiny Board on 19 September 2019; and
- b) advised that the Turning the Tide on Poverty and Climate Change Task and Finish Groups were due to commence and encouraged members' participation and involvement.

60 Members' questions

Members received a paper detailing questions, notice of which had been given in accordance with Standing Order A13. The paper also contained the answers to the questions which had been prepared by Councillors Carter, Cowell, Steve Darling and Morey, and was circulated prior to the meeting.

Supplementary questions were put and answered by Councillors Carter, Cowell, Steve Darling and Morey, arising from their responses to the questions.

61 Echo Building, St James Road, Torquay - Consideration of Community Proposal

The Council considered the recommendation of the Cabinet on a proposal for the disposal of the freehold interest of the Echo Building, Torquay, under the Council's Asset of Community Value Policy (as set out in the submitted report). It was noted the offer received for the building was below market value, but the purchaser had evidenced significant added benefit for the community through the projects and initiatives intended to be implemented at the property.

Councillor Long proposed and Councillor Law seconded a motion, which was agreed (unanimously) by the Council as set out below:

that the Interim Director of Place, in consultation with the Chief Executive, be authorised to dispose of the freehold interest of land and building known as the Echo Building, St James Road, Torquay, as shown on Plan EM3127 set out at Appendix 1 to the submitted report, at below market value to the King's Arms Church Charity. The disposal will include a first refusal buy back provision in favour of the Council and a suitable provision that will enable the Council to recover any uplift in value should the community group dispose of the building at a future point for any alternative use.

(Note: Councillor Barrand left the meeting after this item.)

62 Additional Funds for Special Educational Needs and Disabilities

Members considered the submitted report on proposals to extend funding to ensure the Council was meeting its statutory obligations under the Special Educational Needs and Disability Code (SEND). It was noted the SEND aimed to integrate education, social care and health support to improve outcomes for children and families. A revised officer recommendation was circulated prior to the meeting.

Councillor Law proposed and Councillor Steve Darling seconded a motion, which was agreed (unanimously) by the Council as set out below:

that the Education budget is allocated up to an additional £200,000 to support Special Educational Needs and Disabilities from the Comprehensive Spending Review Reserve in 2019/2020. The Education budget is rebased as part of the 2020/2021 budget proposals with an additional maximum investment up to £650,000.

63 Appointment of Independent Person for Audit Committee

The Council considered the proposal of the Audit Committee to appoint and co-opt an Independent Person on the Audit Committee as recommended by CIPFA's 'Audit Committees: Practical Guidance for Local Authorities and Police' 2018 edition. A revised officer recommendation was circulated prior to the meeting.

Councillor Carter proposed and Councillor Loxton seconded a motion, which was agreed (unanimously) by the Council as set out below:

- (i) that the advert and role profile as set out in Appendix 1 to the submitted report be approved;**
- (ii) that authority be delegated to the Employment Committee to appoint an Independent Person for the Audit Committee for an initial term of 5 years, in accordance with the role profile set out in Appendix 1 to the submitted report; and**
- (iii) that the Monitoring Officer updates the Constitution to reflect the appointment of an Independent Person to the Audit Committee and Employment Committee's role in the appointment process.**

64 Standing Order D11 (in relation to Overview and Scrutiny) - Call-in and Urgency

Members noted the submitted report setting out three executive decisions taken by the Cabinet (namely Investment Opportunities referenced 1/7/19, 2/7/19, 3/7/19, 5/6/19 and 6/7/19) to which the call-in procedure did not apply.

65 Compulsory Purchase of Crossways Shopping Centre, Paignton

The Council considered a proposal to progress the acquisition/compulsory purchase of land at Crossways, Paignton, to facilitate regeneration of the site for mixed use with retail units and extra-care residential accommodation, as set out in the submitted report.

Councillor Long proposed and Councillor Chris Lewis seconded a motion, which was agreed (unanimously) by the Council as set out below:

- (i) that delegated authority be given to the Chief Executive to continue negotiations with Gaelic Investment and their tenants, to acquire by agreement the land at Crossways identified red and blue on the plans attached at exempt Appendix 2 to the submitted report, and any other land, interests or rights subsequently required in consultation with the Cabinet Member for Economic Development, Tourism and Housing and Section 151 Officer on any Heads of Terms;**
- (ii) that, having taken into account the options to acquire the Crossways Shopping Centre, Paignton, the making of the Compulsory Purchase Order for the site be approved under section 226(1)(a) of the Town and Country Planning Act 1990, as outlined below, for land (as shown edged in red and blue on the plans attached at exempt Appendix 2 to the submitted report) and any other land, interests or rights subsequently required to deliver the redevelopment. The Chief Executive be given delegated authority to give effect to this decision, including:**

- (a) the taking of all necessary steps required to secure the making of the CPO and for the subsequent confirmation and implementation of the CPO 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 Compulsory Purchase Order by the Secretary of State;**
 - (b) to carry out any surveys on the Order Land and enter as may be required in order to deliver the proposed development by Compulsory Purchase Order(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;**
 - (c) to enter into agreement(s) with any person or body to secure the withdrawal of objections to the Compulsory Purchase Order(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 scheme; and**
 - (d) to pay all necessary compensation either as agreed or as determined by the Lands Chamber of the Upper Tribunal in relation to the acquisition of land and other interests or for the overriding or acquisition of rights.**
- (iii) that Council delegate to the Chief Finance Officer the approval of the expenditure of monies (including by prudential borrowing if necessary) required to cover the acquisition of the land at Crossways identified red and blue on the plan attached at exempt Appendix 2 to the submitted report, and any land, interests or rights as may be required for the scheme, either by agreement or by CPO, on the basis that there continues to be a clear business case for the provision of mixed use with retail units and extra-care residential accommodation, which demonstrates how the monies are to be used, and how any prudential borrowing (if necessary) is to be repaid;**
- (iv) that, once the land identified red and blue on the plan attached at exempt Appendix 2 to the submitted report has been acquired either by negotiation or via a CPO, Council approve the disposal of this land to the Council's Housing Company at Nil Value in return for nomination rights under the Local Government Act 1972: General Disposal Consent 2003; and**
- (v) that Council approve Prudential borrowing of up to £11million in order deliver the Project, and authorise a loan for a capital purpose to the Housing Company, with the terms of the loan to be delegated to the Chief Finance Officer in consultation with the**

Cabinet Member for Finance, on the basis that there continues to be a viable business case for the redevelopment of Crossways, Paignton.

(Note 1: Prior to consideration of Minute 65: Councillor O'Dwyer declared his pecuniary interest and left the meeting; and Councillor Loxton declared his non-pecuniary interest as detailed in Minute 58 above, took part in debate and voted on the item.)

(Note 2: During consideration of Minute 65, Councillor Sykes left the meeting.)

66 Cabinet Recommendation - Investment Opportunity

The Worshipful the Mayor of Torbay advised that there were no recommendations from the Cabinet and therefore this item was withdrawn from the agenda.

The Worshipful The Mayor of Torbay
