

Wednesday, 10 July 2024

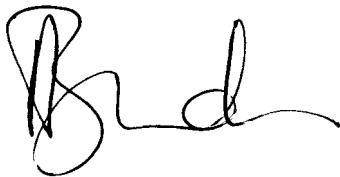
Meeting of the Council

Dear Member

I am pleased to invite you to attend a meeting of Torbay Council which will be held in **The Forum, Riviera International Conference Centre, Chestnut Avenue, Torquay, TQ2 5LZ** on **Thursday, 18 July 2024** commencing at **5.30 pm**

The items to be discussed at this meeting are attached.

Yours sincerely,



Anne-Marie Bond
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.)

A Healthy, Happy and Prosperous Torbay

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

Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

Meeting of the Council Agenda

1. **Opening of meeting**

2. **Apologies for absence**

3. **Minutes**

(Pages 5 - 20)

To confirm as a correct record the minutes of the Annual meeting of the Council, Adjourned Annual meeting of the Council and the Extraordinary meeting of the Council held on 16 May 2024, 20 June 2024 and 3 July 2024 respectively.

4. **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.)

5. **Communications**

To receive any communications or announcements from the Civic Mayor, the Leader of the Council, the Overview and Scrutiny Co-ordinator or the Chief Executive.

6. **Public question time**

(Pages 21 - 22)

To hear and respond to any written questions or statements from members of the public which have been submitted in accordance with Standing Order A24.

7. **Members' questions**

(Pages 23 - 26)

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

8. **Notice of Motion - Appointment of Overview and Scrutiny Co-ordinator** (Pages 27 - 28)
To consider the attached motion, notice of which has been given in accordance with Standing Order A13 by the members indicated.
9. **Election of The Worshipful The Mayor of Torbay**
To elect The Worshipful the Mayor of Torbay for the remainder of 2024/2025 Municipal Year.
10. **Election of Deputy Civic Mayor**
To elect the Deputy Civic Mayor of the Council for the remainder of 2024/2025 Municipal Year.
11. **Brokenbury Solar Farm** (Pages 29 - 64)
To consider the recommendations of the Cabinet and the submitted report which seeks updated authorisation for prudential borrowing in order to bring the project forward.
12. **Nightingale Solar Farm** (Pages 65 - 106)
To consider the recommendations of the Cabinet and the submitted report which seeks updated authorisation for prudential borrowing in order to bring the project forward.
13. **Budget Monitoring - Outturn 2023/24** (Pages 107 - 154)
To consider the recommendations of the Cabinet and the submitted report that sets out a high-level budget summary of the Council's revenue and capital position for the financial year 2023/24. The report was based on the final outturn position for the year ended 31 March 2024.
14. **Constitution Amendment - Officer Scheme of Delegation** (Pages 155 - 174)
To consider a report that sets out proposed amendments to the Officer Scheme of Delegation to align delegation levels with the revised Contract Procedures (approved in February 2024) and the Procurement Act 2023 which comes into force on 28 October 2024.
15. **Urgent Council Decisions taken by the Chief Executive** (Pages 175 - 178)
To note the submitted report on urgent Council decisions taken by the Chief Executive.

Live Streaming

To encourage more people to engage in our public meetings the Council is live streaming our Council meetings on our YouTube channel in addition to recording the meetings and publishing the recording on our website. To watch the meeting live please visit <https://www.youtube.com/user/torbaycouncil>.

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

16 May 2024

-: Present :-

The Worshipful The Mayor of Torbay (Councillor Spacagna) (In the Chair)
Deputy Civic Mayor of Torbay (Councillor Stevens)

Councillors Amil, Atiya-Alla, Billings, Brook, Bryant, Bye, Carter, Cowell, George Darling, Steve Darling, Douglas-Dunbar, Fellows, Fox, Harvey, Hutchings, Johns, Law, Barbara Lewis, Chris Lewis, Long, Maddison, Nicolaou, Penny, Pentney, Strang, David Thomas, Jacqueline Thomas, Tolchard, Tranter, Twelves, Tyerman and Virdee

10 Opening of meeting

The meeting was opened with a prayer.

11 Apologies for absence

An apology for absence was received from Councillor Mandy Darling.

12 Election of The Worshipful The Mayor of Torbay

Councillor Maddison proposed and Councillor Cowell seconded a motion as set out below:

that Councillor Long be elected The Worshipful the Mayor of Torbay for the Municipal Year 2024/2025.

A recorded vote was taken on the motion. The voting was taken by roll call as follows: For: Councillors Amil, Atiya-Alla, Carter, Cowell, George Darling, Steve Darling, Douglas-Dunbar, Fox, Harvey, Johns, Law, Maddison, Nicolaou, Penny, Pentney and Virdee (16); Against: Councillors Billings, Brook, Bryant, Bye, Fellows, Hutchings, Barbara Lewis, Chris Lewis, Spacagna, Stevens, Strang, David Thomas, Jacqueline Thomas, Tolchard, Tranter, Twelves and Tyerman (17); Standing Order A1.2(iii) Councillor Long excluded from voting (1); and Absent: Councillor Mandy Darling (1). The motion was declared lost.

The Chief Executive advised that, as a result of the vote, Section 3 of the Local Government Act 1972 applied, and Councillor Spacagna would continue as The Worshipful the Mayor of Torbay until the Council elected his successor.

13 Election of Deputy Civic Mayor

Councillor George Darling proposed and Councillor Atiya-Alla seconded a motion, as set out below:

that Councillor Harvey be elected The Deputy Civic Mayor of Torbay for the Municipal Year 2024/2025.

A recorded vote was taken on the motion. The voting was taken by roll call as follows: For: Councillors Amil, Atiya-Alla, Carter, Cowell, George Darling, Steve Darling, Douglas-Dunbar, Fox, Harvey, Johns, Law, Long, Maddison, Nicolaou, Penny, Pentney and Virdee (17); Against: Councillors Billings, Brook, Bryant, Bye, Fellows, Hutchings, Barbara Lewis, Chris Lewis, Spacagna, Stevens, Strang, David Thomas, Jacqueline Thomas, Tolchard, Tranter, Twelves and Tyerman (17); and Absent: Councillor Mandy Darling (1). Therefore, in accordance with Standing Order A18.2, The Worshipful the Mayor of Torbay used his casting vote, voted against the motion and the motion was declared lost.

14 Adjournment

At this juncture, a procedural motion (in accordance with Standing Order A14.1(xii)) was proposed by Councillor David Thomas and seconded by Councillor Chris Lewis. The Chief Executive confirmed that, following discussion with the Deputy Monitoring Officer and Director of Finance, there was no business that needed to be transacted at this meeting. The motion was then agreed by the Council (by recorded vote) as set out below:

that the Annual meeting of the Council be adjourned to 20 June 2024 to deal with the remainder of the business as set out on the published agenda.

The voting was taken by roll call as follows: For: Councillors Billings, Brook, Bryant, Bye, Fellows, Hutchings, Barbara Lewis, Chris Lewis, Spacagna, Stevens, Strang, David Thomas, Jacqueline Thomas, Tolchard, Tranter, Twelves and Tyerman (17); Against: Councillors Amil and Carter (2); and Absent: Councillors Atiya-Alla, Cowell, George Darling, Mandy Darling, Steve Darling, Douglas-Dunbar, Fox, Harvey, Johns, Law, Long, Maddison, Nicolaou, Penny, Pentney and Virdee (16).

The Worshipful The Mayor of Torbay

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

20 June 2024

-: Present :-

The Worshipful The Mayor of Torbay (Councillor Spacagna) (In the Chair)

Councillors Amil, Atiya-Alla, Billings, Brook, Bryant, Bye, Carter, Cowell, George Darling, Mandy Darling, Steve Darling, Douglas-Dunbar, Fellows, Fox, Harvey, Hutchings, Johns, Law, Barbara Lewis, Chris Lewis, Long, Maddison, Nicolaou, Penny, Pentney, Stevens, Strang, David Thomas, Jacqueline Thomas, Tolchard, Tranter, Twelves, Tyerman, Virdee and Foster

15 Minutes

The Worshipful The Mayor of Torbay proposed and Councillor David Thomas seconded a motion, which was agreed (unanimously) by the Council as set out below:

that the Minutes of the extraordinary meeting of the Council held on 30 April 2024 be confirmed as a correct record and signed by The Worshipful the Mayor of Torbay.

16 Communications

The Leader of the Council:

- a) welcomed Councillor Foster to her first Council meeting following her election at the recent Wellswood By-Election;
- b) referred to the success of the Torbay Airshow and the intention to establish a Cabinet Working Party to review funding for future Airshows; and
- c) advised members of Devon and Cornwall Police's award for Neighbourhood Beat Manager of the Year being won by PC Jo Fawke from Torquay. On behalf of the Council, the Leader of the Council congratulated PC Fawke on her award.

17 Order of Business

In accordance with Standing Order A2.2 in relation to Council meetings, the Worshipful the Mayor of Torbay varied the order of business to enable Item 6 on the

agenda (Appointment of Overview and Scrutiny Co-ordinator and Scrutiny Lead Members) to be considered after Item 7 (Appointments to Council Committees, Working Parties and Appointment of Committee Chairmen/women and Vice-Chairmen/women for 2024/2025).

18 Petition

In accordance with Standing Order A23, the Council received a petition requesting the Council to consider measures to improve the safety of Ilsham Road in Torquay (approximately 84 paper signatures and 38 e-petition signatures).

At the invitation of the The Worshipful The Mayor of Torbay, Bethan Huntley addressed the Council in relation to the petition.

It was noted that the petition would be referred to the Director of Pride in Place, for consideration in consultation with the Cabinet Member for Pride in Place, Transport and Parking, Councillor Billings.

19 Appointments to Council Committees, Working Parties and Appointment of Committee Chairmen/women and Vice-Chairmen/women for 2024/2025

The Council considered the submitted report on the annual appointment of committees, working parties, Chairman/women and Vice-Chairman/women and the allocation of seats in accordance with political balance. The report set out political balance following passing of Councillor Joyce and the subsequent by-election for the Wellswood Ward. The report also requested the Council to appoint an Independent Member to the Audit Committee. A revised Appendix 1 and an updated Appendix 3 (which included Group Leaders nominations) was circulated prior to the meeting.

Councillor David Thomas proposed and Councillor Chris Lewis seconded a motion, as set out below:

1. that the overall political balance of the committees as set out at Appendix 1 to the submitted report be approved;
2. that, in accordance with the Local Protocol for Working Parties, the overall political balance of working parties as set out in Appendix 2 to the submitted report be approved;
3. that, subject to 1. and 2. above, the Terms of Reference and membership for the Council's Committee's and working parties be approved as set out in Appendix 3 to the submitted report;
4. That, subject to 3. above being approved, nominations from Group Leaders be received to fill the seats on the committees;
5. That, subject to 3. above, the Chairmen/women and Vice-Chairmen/women of those Committee's be approved as set out in

revised Appendix 4 to the submitted report, circulated on 19 June 2024, subject to the following:

Councillor Penny to replace Councillor Maddison as Chair of the Audit Committee

Vice-Chair of Harbour Committee: Councillor Twelves

Vice-Chair of Statutory Licensing Committee and Regulatory Committee: Councillor Foster

Vice-Chair of Overview and Scrutiny Board: Councillor Tolchard

Chair of Children and Young People Overview and Scrutiny Board (Sub-Committee of Overview and Scrutiny): Councillor Law

Vice-Chair of Adult Social Care and Health Overview and Scrutiny Sub-Board (Sub-Committee of Overview and Scrutiny): Councillor Johns

Vice-Chair of Standards Committee: Councillor Chris Lewis;

6. that, a sub-committee of both the Statutory Licensing Committee and Regulatory Committee be established both to comprise three Members of the relevant Statutory Licensing Committee or Regulatory Committee;
7. that both the Statutory Licensing Sub-Committee and Regulatory Sub-Committee be exempted from the rules of committee proportionality as defined in the Local Government and Housing Act 1989 and supporting regulations;
8. that Members' Allowance Scheme be updated to reflect the changes to the Licensing Committee with the SRA being the same for both Committees and Sub-Committees;
9. that the Head of Governance Support be authorised to empanel Members from the Statutory Licensing Committee and Regulatory Committee to serve on the Statutory Licensing Sub-Committee and Regulatory Sub-Committee as and when required; and
10. that Mr Kristian Hawkes be appointed as the Independent Member to the Audit Committee effective from 27 March 2024, that the effectiveness of the Independent Member be kept under review by the Director of Finance in consultation with the Chairman of the Audit Committee and Head of Devon Audit Partnership.

During the debate, Councillors Law, Johns and Penny raised a Point of Personal Explanation and stated they did not wish to be appointed as Chairs and Vice-Chair as proposed by Councillor David Thomas in his motion above.

The Worshipful the Mayor of Torbay requested Councillor David Thomas to alter his original motion accordingly.

Councillor David Thomas proposed and Councillor Chris Lewis seconded an alternative motion as set out below:

1. that, subject to the Overview and Scrutiny Board membership being increased from 8 to 10, with an additional seat allocated to the Conservative Group and an additional seat allocated to the Liberal Democrat Group, the overall political balance of the committees as set out at Appendix 1 to the submitted report be approved;
2. that, in accordance with the Local Protocol for Working Parties, the overall political balance of working parties as set out in Appendix 2 to the submitted report be approved;
3. that, subject to 1. and 2. above, the Terms of Reference and membership for the Council's Committee's and working parties be approved as set out in Appendix 3 to the submitted report;
4. that, subject to 3. above being approved, nominations from Group Leaders be received to fill the seats on the committees;
5. that, subject to 3. above, the Chairmen/women and Vice-Chairmen/women of those Committee's be approved as set out in revised Appendix 4 to the submitted report, circulated on 19 June 2024, subject to the following:

Councillor Brook to replace Councillor Maddison as Chair of the Audit Committee

Councillor Fellows to replace Councillor Brook as Vice-Chair of the Audit Committee

Vice-Chair of Harbour Committee: Councillor Twelves

Vice-Chair of Statutory Licensing Committee and Regulatory Committee: Councillor Foster

Vice-Chair of Overview and Scrutiny Board: Councillor Tolchard

Chair of Children and Young People Overview and Scrutiny Board (Sub-Committee of Overview and Scrutiny): Councillor Fellows

Vice-Chair of Adult Social Care and Health Overview and Scrutiny Sub-Board (Sub-Committee of Overview and Scrutiny): Councillor Foster

Vice-Chair of Standards Committee: Councillor Chris Lewis;

6. that, a sub-committee of both the Statutory Licensing Committee and Regulatory Committee be established both to comprise three Members of the relevant Statutory Licensing Committee or Regulatory Committee;
7. that both the Statutory Licensing Sub-Committee and Regulatory Sub-Committee be exempted from the rules of committee proportionality as defined in the Local Government and Housing Act 1989 and supporting regulations;
8. that Members' Allowance Scheme be updated to reflect the changes to the Licensing Committee with the SRA being the same for both Committees and Sub-Committees;
9. that the Head of Governance Support be authorised to empanel Members from the Statutory Licensing Committee and Regulatory Committee to serve on the Statutory Licensing Sub-Committee and Regulatory Sub-Committee as and when required; and
10. that Mr Kristian Hawkes be appointed as the Independent Member to the Audit Committee effective from 27 March 2024, that the effectiveness of the Independent Member be kept under review by the Director of Finance in consultation with the Chairman of the Audit Committee and Head of Devon Audit Partnership.

During the debate Councillor Steve Darling proposed and Councillor Cowell seconded an amendment to the motion as follows:

1. that the overall political balance of the committees as set out at Appendix 1 to the submitted report be approved;
2. that, in accordance with the Local Protocol for Working Parties, the overall political balance of working parties as set out in Appendix 2 to the submitted report be approved, subject to the reinstatement of the Airshow Working Party, Oldway Mansion and Grounds Steering Group (Working Party) and Transport and Parking Working Party with the political balance as follows, and the Group Leaders being requested to nominate their representatives:

Group	Airshow	Oldway	Transport
Conservative	2	3	4
Liberal Democrat	2	2	3
Independent Group	1	0	0
Cllr Maddison	0	0	0
Total	5	5	7

3. that, subject to 1. and 2. above, the Terms of Reference and membership for the Council's Committee's and working parties be

approved as set out in Appendix 3 to the submitted report and that the following Terms of Reference be included:

Airshow Working Party:

1. To enable Members to be kept fully briefed on the progress of the Torbay Air Show.
2. To monitor the budget allocated for the Torbay Air Show.
3. To consider how the Torbay Air Show can provide an opportunity to create greater benefits which support the Council's broader corporate objectives (including providing opportunities for the Council's Looked After Children).

The Oldway Mansion and Grounds Steering Group (Working Party):

1. To review any condition surveys for buildings on the site.
2. To review proposals for use of buildings and grounds.
3. To ascertain community views in respect of these matters.
4. To make recommendations about how future use of building should be taken forward.
5. To identify relevant members from the local community and relevant representatives from the business, public and voluntary sectors to be invited to meetings.
6. To specify, fully cost and prioritise the works to Oldway as identified in Phase 1 of the DCA report (presented to Council on 21 June 2018).
7. To explore with the community all potential sources of funding for the entirety of the Phases, including, but not limited to:
 - Grant funding
 - Fund raising events
 - Crowd funding
 - Business opportunities and investment
 - Legacies
 - Philanthropic contributions
8. To produce a flexible programme of proposed delivery of restoration works which aligns with the availability of funding.

9. To provide strategic oversight of commissioning and delivery of any restoration works.

Transport and Parking Working Party:

1. To consider current and emerging highways and transportation issues and to make recommendations to the appropriate decision-maker.
2. To consider current and emerging parking issues and to make recommendations to the appropriate decision maker;
4. that, subject to 3. above being approved, nominations from Group Leaders be received to fill the seats on the committees, noting that the Leader of the Liberal Democrat Group wishes to allocate a Liberal Democrat seat on the Planning Committee to Councillor Maddison;
5. that, subject to 3. above, the Chairmen/women and Vice-Chairmen/women of those Committee's be approved as set out in revised Appendix 4 to the submitted report, circulated on 19 June 2024, subject to the following:
 - a. Councillor Maddison to replace Councillor Brook as the Chair of the Planning Committee;
 - b. Councillor Steve Darling to replace Councillor Twelves as Chair of the Overview and Scrutiny Board;
 - c. Councillor Penny to replace Councillor Maddison as the Chair of the Audit Committee;
 - d. Councillor Amil to replace Councillor Strang as the Chair of the Harbour Committee;
 - e. Councillor Law to be the Chair of the Children and Young People's Overview and Scrutiny Sub-Board; and
 - f. Councillor Johns to be the Vice-Chair of the Adult Social Care and Health Overview and Scrutiny Sub-Board.

A recorded vote was taken on the amendment. The voting was taken by roll call as follows: For: Councillors Amil, Atiya-Alla, Carter, Cowell, George Darling, Mandy Darling, Steve Darling, Douglas-Dunbar, Fox, Harvey, Johns, Law, Long, Maddison, Nicolaou, Penny, Pentney and Virdee (18); and Against: Councillors Billings, Brook, Bryant, Bye, Fellows, Foster, Hutchings, Barbara Lewis, Chris Lewis, Spacagna, Stevens, Strang, David Thomas, Jacqueline Thomas, Tolchard, Tranter, Twelves and Tyerman (18). Therefore, in accordance with Standing Order A18.2, The Worshipful The Mayor of Torbay used his casting vote, voted against the amendment and the amendment was declared lost.

Councillor David Thomas' and Councillor Chris Lewis' original (alternative) motion was then considered by the Council which was agreed (by recorded vote), as set out below:

1. **that, subject to the Overview and Scrutiny Board membership being increased from 8 to 10, with an additional seat allocated to the Conservative Group and an additional seat allocated to the Liberal Democrat Group, the overall political balance of the committees as set out at Appendix 1 to the submitted report be approved;**
2. **that, in accordance with the Local Protocol for Working Parties, the overall political balance of working parties as set out in Appendix 2 to the submitted report be approved;**
3. **that, subject to 1. and 2. above, the Terms of Reference and membership for the Council's Committee's and working parties be approved as set out in Appendix 3 to the submitted report;**
4. **that, subject to 3. above being approved, nominations from Group Leaders be received to fill the seats on the committees;**
5. **that, subject to 3. above, the Chairmen/women and Vice-Chairmen/women of those Committee's be approved as set out in revised Appendix 4 to the submitted report, circulated on 19 June 2024, subject to the following:**

Councillor Brook to replace Councillor Maddison as Chair of the Audit Committee

Councillor Fellows to replace Councillor Brook as Vice-Chair of the Audit Committee

Vice-Chair of Harbour Committee: Councillor Twelves

Vice-Chair of Statutory Licensing Committee and Regulatory Committee: Councillor Foster

Vice-Chair of Overview and Scrutiny Board: Councillor Tolchard

Chair of Children and Young People Overview and Scrutiny Board (Sub-Committee of Overview and Scrutiny): Councillor Fellows

Vice-Chair of Adult Social Care and Health Overview and Scrutiny Sub-Board (Sub-Committee of Overview and Scrutiny): Councillor Foster

Vice-Chair of Standards Committee: Councillor Chris Lewis;

6. **that, a sub-committee of both the Statutory Licensing Committee and Regulatory Committee be established both to comprise three Members of the relevant Statutory Licensing Committee or Regulatory Committee;**
7. **that both the Statutory Licensing Sub-Committee and Regulatory Sub-Committee be exempted from the rules of committee proportionality as defined in the Local Government and Housing Act 1989 and supporting regulations;**
8. **that Members' Allowance Scheme be updated to reflect the changes to the Licensing Committee with the SRA being the same for both Committees and Sub-Committees;**
9. **that the Head of Governance Support be authorised to empanel Members from the Statutory Licensing Committee and Regulatory Committee to serve on the Statutory Licensing Sub-Committee and Regulatory Sub-Committee as and when required; and**
10. **that Mr Kristian Hawkes be appointed as the Independent Member to the Audit Committee effective from 27 March 2024, that the effectiveness of the Independent Member be kept under review by the Director of Finance in consultation with the Chairman of the Audit Committee and Head of Devon Audit Partnership.**

A recorded vote was taken on the motion. The voting was taken by roll call as follows: For: Councillors Billings, Brook, Bryant, Bye, Fellows, Foster, Hutchings, Barbara Lewis, Chris Lewis, Spacagna, Stevens, Strang, David Thomas, Jacqueline Thomas, Tolchard, Tranter, Twelves and Tyerman (18); and Against: Councillors Amil, Atiya-Alla, Carter, Cowell, George Darling, Mandy Darling, Steve Darling, Douglas-Dunbar, Fox, Harvey, Johns, Law, Long, Maddison, Nicolaou, Penny, Pentney and Virdee (18). Therefore, in accordance with Standing Order A18.2, The Worshipful The Mayor of Torbay used his casting vote, voted for the motion and the motion was declared carried.

Following the vote, the nominations for members to serve on each committee and other bodies were confirmed by the Leaders of the Conservative, Independent and Liberal Democrat Groups, as set out in Appendix 3 to the submitted report and circulated on 20 June 2024.

The Chief Executive advised members that the Leader of the Conservative Group and the Leader of the Liberal Democrat Group would put forward their additional nominations for the Overview and Scrutiny Board to the Head of Governance Support after the meeting.

20 **Appointment of Overview and Scrutiny Co-ordinator and Scrutiny Lead Members**

The Council was requested to consider the appointment of the Overview and Scrutiny Co-ordinator and the appointment of Scrutiny Lead Members for the 2024/2025 Municipal Year.

Councillor David Thomas proposed and Councillor Chris Lewis seconded a motion which was agreed (by recorded vote) as set out below:

1. **that Councillor Twelves be appointed as the Overview and Scrutiny Co-ordinator for the 2024/25 Municipal Year; and**
2. **that the following Councillors be appointed as the Overview and Scrutiny Leads for the 2024/2025 Municipal Year:**
 - **Councillor Fellows - Overview and Scrutiny Lead for Children's Services;**
 - **Councillor Tolchard - Overview and Scrutiny Lead for Adults, Community Services, Public Health and Inequalities;**
 - **Councillor Hutchings - Overview and Scrutiny Lead for Place Development, Economic Growth and Culture; and**
 - **Councillor Foster - Overview and Scrutiny Lead for Housing, Finance, Corporate and Place Based Services.**

A recorded vote was taken on the motion. The voting was taken by roll call as follows: For: Councillors Billings, Brook, Bryant, Bye, Fellows, Foster, Hutchings, Barbara Lewis, Chris Lewis, Spacagna, Stevens, Strang, David Thomas, Jacqueline Thomas, Tolchard, Tranter, Twelves and Tyerman (18); and Against: Councillors Amil, Atiya-Alla, Carter, Cowell, George Darling, Mandy Darling, Steve Darling, Douglas-Dunbar, Fox, Harvey, Johns, Law, Long, Maddison, Nicolaou, Penny, Pentney and Virdee (18). Therefore, in accordance with Standing Order A18.2, The Worshipful The Mayor of Torbay used his casting vote, voted for the motion and the motion was declared carried.

21 **Composition and Constitution of the Cabinet and Record of Delegations of Executive Functions**

Members noted the submitted report on the above, which provided details of the portfolios of the Cabinet Members and delegation arrangements of executive functions, as appointed by the Leader of the Council.

22 Scheme of Delegation for Council Functions

Councillor David Thomas proposed and Councillor Chris Lewis seconded a motion, as set out below:

that the Scheme of Delegation for Council Functions and the Schedule of Responsibility for Local Choice Functions, as set out in Part 3 of the Constitution (web link contained on the agenda), in so far as they relate to Council functions, be approved.

A recorded vote was taken on the motion. The voting was taken by roll call as follows: For: Councillors Billings, Brook, Bryant, Bye, Fellows, Foster, Hutchings, Barbara Lewis, Chris Lewis, Spacagna, Stevens, Strang, David Thomas, Jacqueline Thomas, Tranter, Twelves and Tyerman (17); Against: Councillors Amil, Atiya-Alla, Carter, Cowell, George Darling, Mandy Darling, Steve Darling, Douglas-Dunbar, Fox, Harvey, Johns, Law, Long, Maddison, Nicolaou, Penny, Pentney and Virdee (18); and Absent: Councillor Tolchard (1). The motion was declared lost.

(Note: Councillor Tolchard left the meeting prior to consideration of this item.)

23 Overview and Scrutiny Annual Report 2023/2024

The Council received and noted the Overview and Scrutiny Annual Report for 2023/2024, as presented by the former Overview and Scrutiny Co-ordinator Councillor Steve Darling.

24 Constitution Amendments - Local Code of Good Practice - Members and Council Officers Involved in the Planning Process

The Council considered the submitted report on changes to the Council's Constitution in respect of operational arrangements for the Planning Committee and to reflect the current status of the Neighbourhood Forums in the Local Code of Good Practice - Members and Council Officers Involved in the Planning Process.

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

that Council approves the following revised Constitution document, as set out in Appendix 1 to the submitted report - Local Code of Good Practice - Members and Council Officers Involved in the Planning Process.

25 Constitution Amendments - Outside Bodies Reporting Protocol

The Council considered the submitted report on proposed changes to the Council's Constitution in respect of the reporting arrangements for Councillors who represent the Council on outside organisations, to ensure the Constitution was up to date and fit for purpose.

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

that Council approves the revised section E22 – Outside Bodies Reporting Protocol and requests the Head of Governance Support to update the Standing Orders – Access to Information to reflect the changes set out in Appendix 1 to the submitted report.

The Worshipful The Mayor of Torbay

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

3 July 2024

-: Present :-

The Worshipful The Mayor of Torbay (Councillor Spacagna) (In the Chair)

Councillors Amil, Billings, Brook, Bryant, Bye, Cowell, Fellows, Barbara Lewis, Chris Lewis, Maddison, Strang, David Thomas, Jacqueline Thomas, Tolchard, Tranter, Twelves and Tyerman

26 Apologies for absence

Apologies for absence were received from Councillors Atyia-Alla, Carter, George Darling, Mandy Darling, Steve Darling, Douglas-Dunbar, Foster, Fox, Harvey, Hutchings, Johns, Law, Long, Nicolaou, Penny, Pentney, Stevens and Virdee.

27 Scheme of Delegation for Council Functions

Further to the Adjourned Annual Council meeting held on 20 June 2024, when the motion to approve the Scheme of Delegation of Council Functions and the Schedule of Responsibility for Local Choice Functions, so far as they related to Council functions was lost (Minute 22/6/24 refers). Members considered a report which set out a clear Officer recommendation to approve the same, alongside the implications should it not be approved:

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

1. **that the Scheme of Delegation for Council Functions as set out in Part 3 of the Constitution, and the Schedule of Responsibility for Local Choice Functions, insofar as they relate to Council functions, be approved;**
2. **that, if any actions or decisions relating to Council functions have been taken since the Adjourned Annual Meeting of the Council held on 20 June 2024 and were in fact taken without delegated authority, but would have been authorised if the motion considered on 20 June 2024 had been passed, then all such actions and decisions are hereby ratified; and**
3. **that, if any actions or decisions relating to Local Choice Functions have been taken since the Adjourned Annual Meeting of the Council held on 20 June 2024 and were in fact taken by an inappropriate or unauthorised person or body, but would have been duly taken if the motion**

considered on 20 June 2024 had been passed, then all such actions and decisions are hereby ratified.

The Worshipful The Mayor of Torbay

**Meeting of the Council, Thursday, 18 July 2024
Public Question Under Standing Order A24**

Public Question 1

Paul Fraser to the Cabinet Member for Place Development and Economic Growth (Councillor Chris Lewis)

What is the latest update on Torquay Pavilion with regards to MDL's lease surrender, the proper securing of the building from vandals and arsonists, and the start of remedial works?

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Meeting of the Council, Thursday, 18 July 2024

Members' Questions Under Standing Order A12

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

Councillor Long to the Cabinet Member for Adult and Community Services, Public Health and Inequalities (Councillor Tranter)

According to information revealed in March by the Lib Dem MP for Somerton and Frome, Sarah Dyke in the House of Commons, Compassion in Care's helpline received 486 reports of homophobic abuse in care homes over the past 4 years, yet 481 of the service providers accounted for in those allegations are still rated as good by the Care Quality Commission.

Over that same time period, how many allegations of homophobia have been made against care homes in Torbay, and how many of those care homes are rated as good by the Care Quality Commission?

What work is being carried out in Torbay to end discrimination against LGBTQ+ residents in care homes to ensure they are safe in the care system?

Answer to Question 1 provided by Councillor Tranter

Question 2

Councillor Steve Darling to the Cabinet Member for Pride in Place, Transport and Parking (Councillor Billings)

Several clocks for a number of months or years have been out of action. These include Mallock Tower Clock, Old Maids Perch, Torquay Town Hall and St John's Parish Church, Paignton. I have been chasing up on a response about some of these for a number of years now. Last autumn a Project Initiation Document and a costings schedule had been sent by a Senior Building Surveyor at the TDA to a senior officer for his consideration. Can you advise when we can expect these clocks to be working again?

Answer to Question 2 provided by Councillor Billings

Question 3

Councillor George Darling to the Cabinet Member for Tourism, Events & Culture and Corporate Services (Councillor Jackie Thomas)

The Chilcote Memorial in St Marychurch has fallen into a poor state, in need of cleaning and repair. What is being done by this council to protect and maintain our statues and memorials?

Answer to Question 3 provided by Councillor Jackie Thomas:

Question 4

Councillor Cowell to the Cabinet Member for Tourism, Events & Culture and Corporate Services (Councillor Jackie Thomas)

Can you please confirm that the £100,000 identified during the budget process has now been fully allocated to support the Events Team and what has the full-time equivalent increase of staffing in the Events Team been following the increase in budget, to include job titles and contracted weekly hours?

Answer to Question 4 provided by Councillor Jackie Thomas:

Question 5

Councillor Johns to the Cabinet Member for Pride in Place, Transport and Parking (Councillor Billings)

Many residents are concerned that the Victoria Skate Park won't be replaced please can you clarify if the skate park will be restored?

Answer to Question 5 provided by Councillor Billings

Question 6

Councillor Nicolaou to the Cabinet Member for Pride in Place, Transport and Parking (Councillor Billings)

The Council press release on 'National Go Skateboarding Day' that the skate park at Victoria Park in Paignton will close has come as devastating news to many young people.

Please could the Cabinet Member for Pride in Place, Transport and Parking advise what consultation was carried out before the closure decision was made; and given that Victoria Park was designed to help tackle anti-social behaviour what effect does the administration think this closure will have on anti-social behaviour in the area?

Answer to Question 6 provided by Councillor Billings

Second Round

Question 7

Councillor George Darling to the Cabinet Member for Adult and Community Services, Public Health and Inequalities (Councillor Tranter)

A recent epidemic of graffiti has been seen across Torbay, what is the council doing to support the police in tackling this issue?

Answer to Question 7 provided by Councillor Tranter

Question 8

Councillor Long to the Cabinet Member for Place Development and Economic Growth (Councillor Chris Lewis)

Residents of Plantation Way (and surrounding roads) on the Willows have expressed concerns for child safety regarding a play area which has been placed on a significant bend in the road. Residents' concerns are that children crossing the road to access the play area may not see a car coming, and that car drivers may also not see a child crossing the road due to the bend and that the situation is an accident waiting to happen.

Residents would like to see (1) the gate at the entrance to the play park (which is situated right onto the road) moved to the rear of the play park so that children are not immediately stepping onto the road when exiting; and (2) increased signage advising cars to slow down when approaching the play park and also advising children to be aware of cars as they cross the road.

The developer (Cavanna) has been approached regarding these requests by both Councillors and residents, sadly to no avail.

Will the Council insist on these perfectly reasonable measures being put in place by the developer before the land is transferred to the Council?"

Answer to Question 8 provided by Councillor Chris Lewis

Question 9**Councillor Johns to the Cabinet Member for Place Development and Economic Development (Councillor Chris Lewis)**

At the Council meeting on 22 February 2024 Councillor Chris Lewis responded to my supplementary question about the Crossways project and that he would let me know who the end user would be at the end of spring. I am yet to be advised who the end user will be, so ask again for this information?

Answer to Question 9 provided by Councillor Chris Lewis

Third Round

Question 10**Councillor George Darling to the Cabinet Member for Pride in Place, Transport and Parking (Councillor Billings)**

Within the last year the 65 bus route was reduced from 3 to 2 days a week due to a lack of volunteer drivers. With the route becoming a commercial operation rather than voluntary, will the Cabinet be reviewing its subsidy to return the 65 bus route back to 3 days a week?

Answer to Question 10 provided by Councillor Billings

Question 11**Councillor Johns to the Leader of the Council (Councillor David Thomas)**

Why were the Oldway Working Party Group meetings disbanded?

Answer to Question 11 provided by Councillor David Thomas

Conservative Notice of Motion

Council

18 July 2024

Appointment of Overview and Scrutiny Co-ordinator

That the decision of the Council to appoint Councillor Twelves as Overview and Scrutiny Co-ordinator be rescinded (Minute 22(no1)/6/24 refers) and that Councillor Mark Spacagna be appointed as Overview and Scrutiny Co-ordinator and Chairman of the Overview and Scrutiny Board (in accordance with Article 5.04) for the remainder of the Municipal Year 2024/25.

In accordance with Standing Order A17.1(ii), this Notice of Motion is also signed by the same number of members for a quorum at Council meeting = 9 members in total:

Proposer Councillor (1) Cllr D. Thomas

Seconder Councillor (2) Cllr C. Lewis

Councillor (3) Cllr B. Lewis

Councillor (4) Cllr J. Thomas

Councillor (5) Cllr ~~H. Foster~~

Cllr S. BAYANT

Councillor (6) Cllr N. Bye

Councillor (7) Cllr H. Tranter

Councillor (8) Cllr A. Tyerman

Councillor (9) Cllr A. Billings

(Note: This Notice of Motion to be determined following the Council's consideration of the appointment of Civic Mayor.)

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Record of Decisions

Brokenbury Solar Farm

Decision Taker

Cabinet on 11 June 2024

Decision

1. that subject to 2 below the Director of Pride in Place be authorised to proceed with the project to deliver a solar farm at Brokenbury;
2. that Cabinet recommends to Council that up to £2,750,000 of prudential borrowing be approved subject to securing a unit rate per MWh that exceeds the loan repayments, covers projected maintenance and other operational and equipment replacement costs and provides an appropriate surplus per annum over the life of the scheme commensurate with level of risk; and
3. that the Chief Executive in consultation with the Leader of the Council, Finance Director and Cabinet Member for Finance should review and agree the final business plan after the EPC tender and Power Purchase Agreement (PPA) stage are complete and subject to that agreement is then authorised to agree and finalise the detailed terms and enter into contract with South West Water (SWW) or another purchaser of the electricity.

Reason for the Decision

To support the delivery of the Council's Energy and Climate Strategy which will help minimize the economic, social and environmental costs of climate change by demonstrating leadership and providing encouragement in working toward emission reductions and resilience to our changing climate. To also support the Government's net zero strategy "Build Back Greener". This strategy sets out policies and proposals for decarbonising all sectors of the UK economy to meet Central Governments net zero target by 2050. Renewable energy including solar power forms part of that strategy.

Implementation

This decisions in 1 and 3 will come into force and may be implemented on 24 June 2024 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

The recommendation in 2 will be considered at the Council meeting on 18 July 2024.

Information

The submitted report provided an update on the original decision in respect of Brokenbury Solar Farm, taken in May 2020 as considerable time had passed and sought updated authorisation for prudential borrowing to bring the project forward, subject to the income generating a positive margin. The margin would be defined on completion of procurement and a final refinement of project costs.

An overall scheme budget of up to £2,750,000 had previously been approved by Cabinet in May 2020 subject to conditions set out in the submitted report with the latest project costs

remain within that budget.

Councillor Chris Lewis proposed and Councillor Tyerman seconded a motion that was unanimously agreed by the Cabinet as set out above.

Alternative Options considered and rejected at the time of the decision

To build out the planning consented scheme after negotiating the Power Purchase Agreement and receiving EPC and O&M tender responses which confirm that the scheme was viable.

As an alternative to the private wire connection with an end user there was the potential to sell the renewable power direct to the national grid. However, the wider grid network has limited capacity. The earliest possible connection may not be until 2028 but this was likely to extend out to 2036 when more capacity within the network was expected. The issue with the wider network was that it needs upgrading to be able to handle significant extra capacity. Such upgrades delay the timeframe for a connection to be made. In addition to the programme delays there were also financial considerations. To connect to the grid will cost at least £250k (September 2021 estimate – this was likely to be more now). Furthermore the unit price when feeding into the national grid was likely to be considerably less when compared to a private wire end user scenario which would make the project unviable.

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes in respect of 1 and 3 but no in respect of 2 as this is a recommendation to Council.

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

None

Published

14 June 2024

Signed: _____
Leader of Torbay Council on behalf of the Cabinet

Date: _____

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Meeting: Cabinet **Date:** 11 June 2024

Wards affected: Churston with Galmpton

Report Title: Brokenbury Solar Farm

When does the decision need to be implemented? Immediately

Cabinet Member Contact Details: Cllr Chris Lewis, Cabinet Member for Place Development and Economic Growth and Deputy Leader, chris.lewis@torbay.gov.uk

Director Contact Details: Alan Denby, Director of Pride in Place, alan.denby@torbay.gov.uk

1. Purpose of Report

- 1.1 To provide an update as considerable time has passed since the original decision (May 2020) and to seek updated authorisation for prudential borrowing to bring the project forward, subject to the income generating a positive margin. The margin will be defined on completion of procurement and a final refinement of project costs.
- 1.3 An overall scheme budget of £2,750,000 has previously been approved by Cabinet in May 2020 subject to conditions set out below (6.1, 6.2 & 6.3 within the Introduction section). The latest project costs remain within budget.
- 1.4 For background reading the previous cabinet papers (May 2020) can be found in appendix 2.

2. Reason for Proposal and its benefits

- 2.1 On 24 June 2019, Torbay Council declared a 'Climate Emergency'. Torbay Council is a partner of and supports the work of the Devon Climate Emergency Response Group, which is aiming to produce a collaborative Devon-wide response to the climate emergency to achieve net zero carbon emissions by 2050 and prepare Devon for the necessary adaptation to infrastructure and services required to respond to climate change.
- 2.2 Torbay Council's current Energy and Climate Change Strategy describes how the Council will help minimize the economic, social and environmental costs of climate change by demonstrating leadership and providing encouragement in working toward emission reductions and resilience to our changing climate.
- 2.3 The UK government also has a net zero strategy "Build Back Greener". This strategy sets out policies and proposals for decarbonising all sectors of the UK economy to meet Central Governments net zero target by 2050. Renewable energy including solar power forms part of this strategy.
- 2.4 The proposed solar farm would allow the end user to buy and use sustainable electricity generated on Torbay Council owned land to power the end users site. The identified end users' site serves residents throughout Torbay. Delivery of the solar farm would be a positive step towards meeting the targets set out in the Climate Change Strategy.
- 2.5 The objective is to provide a 2MWP solar farm to generate renewable energy over a 25-year period which will:
- Contribute to Torbay's net zero target by reducing our carbon footprint by 458.75 tonnes of CO₂ a year or 11,468.75 tonnes of CO₂ over a 25-year period. These figures are approximate based on average sunlight.
 - Generate a surplus for Torbay Council. The detail of which is available within exempt appendix 1
- 2.6 The business case has been considered by Capital and Growth Board and is now recommended to Cabinet for approval.

3. Recommendation(s) / Proposed Decision

- 3.1 That subject to 3.2. below the Director of Pride in Place be authorised to proceed with the project to deliver a solar farm at Brokenbury.
- 3.2 That Cabinet recommends to Council that up to £2,750,000 of prudential borrowing be approved subject to securing a unit rate per MWh that exceeds the loan repayments, covers projected maintenance and other operational and equipment replacement costs and provides an appropriate surplus per annum over the life of the scheme commensurate with level of risk.

- 3.3 That the Chief Executive in consultation with the Leader of the Council, Finance Director and Cabinet Member for Finance should review and agree the final business plan after the EPC tender and PPA stage are complete and subject to that agreement is then authorised to agree and finalise the detailed terms and enter into contract with SWW or another purchaser of the electricity.

Appendices

Appendix 1: Exempt appendix – financial summary

Appendix 2: Exempt - The previous May 2020 Cabinet papers with appendices.

Background Documents

Cabinet Paper 19th May 2020 *“Briefing Document for creation of solar farm on land at Brokenbury funded from the Economic Growth Fund to assist with the Council’s Climate Change Strategy.”*

1. Introduction

- 1.1 On 19 May 2020 the cabinet approved funding for a solar farm at Brokenbury. The title of the report that went to cabinet is *Briefing Document for creation of solar farm on land at Brokenbury funded from the Economic Growth Fund to assist with the Council's Climate Change Strategy*.

The cabinet approved the following:

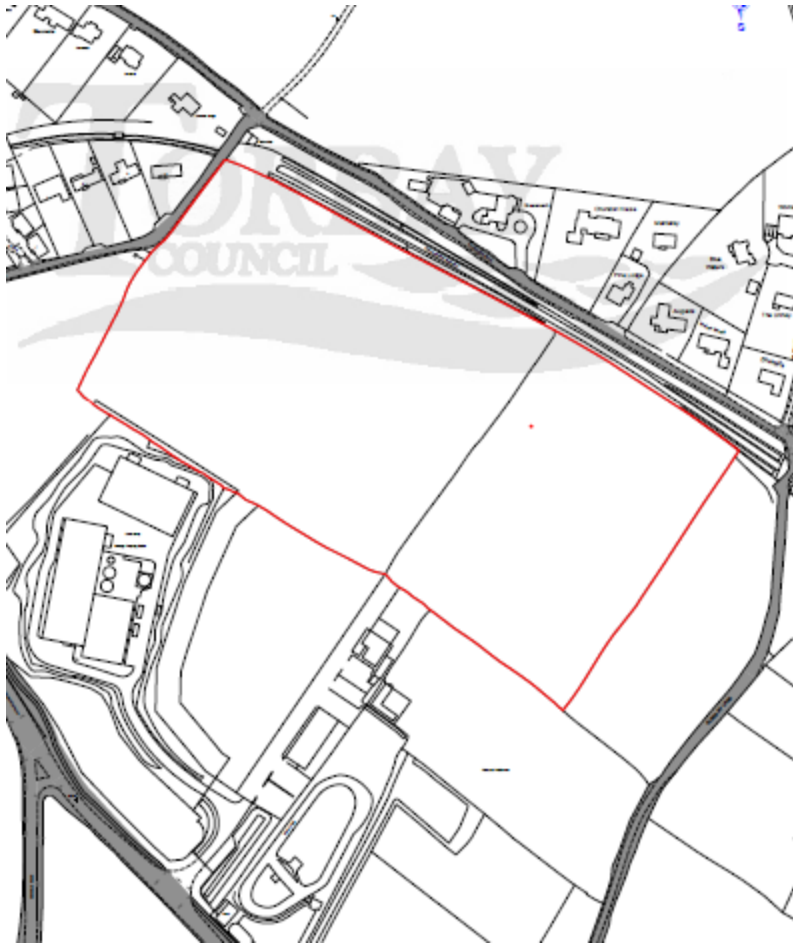
6.1 That the Chief Executive in consultation with the Leader of the Council and Chief Finance Officer be authorised to approve the detailed business case once the design and due diligence phase has been complete and in any event must meet the financial criteria set for the Economic Growth Fund

6.2 That, subject to 6.1 is approved that up to £2,750,000 from the Economic Growth Fund be allocated to develop a solar farm on either the 10acre or 16.66acrea site at Brokenbury Farm. Any development is subject to due diligence.

6.3 That the Chief Executive be authorised to agree and finalise the detailed terms with SWW, or another purchaser of the electricity.

Since the original approval the Economic Growth Fund is no longer in existence and due to the high level of existing Council borrowing, and viability and affordability issues across a number of approved capital projects, the Council has renewed its approach to setting a Capital Investment Plan for 2024/25, only detailing the specific stages, (gateways), of individual projects based on the corresponding funding available. To provide a greater understanding of the deliverability, and timing, of progressing key work, the Council has adopted an approach whereby initial funding is only allocated to projects to progress them to either Outline, or Final Business Case stage. This approach is intended to provide greater control over the Capital Programme.

- 1.2 Up to date financial projections which include total scheme cost (currently estimated at £2,275,000) confirm that the project remains within the previously approved £2,750,000 and subject to the agreed unit price a surplus can be made.
- 1.3 The two fields at Brokenbury (edged red below) are located off Bridge Road and to the north and east of the Southwest Water (SWW) treatment plant in Churston. The fields extend to 16.66 acres.



- 1.4 The previous cabinet paper (Appendix 2) from May 2020 explains that a private wire solar scheme at the pair of fields at Brokenbury can provide power to the adjacent Southwest Water treatment plant.
- 1.5 Planning consent has been obtained on 18.11.22 reference P/2021/0658. This is for a 2MWp solar farm. The consent has been granted for a 3-year time period whereby work must have started (but not completed). The below plan forms part of the planning consent and shows the location of the solar panels in blue.



- 1.6 A grid connection to export power up to 499kv has been accepted in December 2021. This allows the private wire from the solar farm to connect to the water treatment works whilst

using the existing grid connection for any export of excess power into the national grid capped at 499kv. The solar farm has been designed to meet the power requirements of the treatment works but at times there may be excess power that the treatment works cannot use which can be exported into the national grid.

- 1.7 The Heads of Terms (HoTs) for the Power Purchase Agreement (PPA) have been signed by both parties. They are not legally binding but do show a commitment toward the project and enable the Power Purchase Agreement discussions to proceed. Legal advice received in relation to the next phase is that the Power Purchase Agreement should only be signed in tandem with the EPC and O&M contract. One should not be signed without the other and both must accord with the obligations of the other. Solicitors are advising on the commercial EPC contract and the Power Purchase Agreement.
- 1.8 As the HOTS have developed it is clear that the end user wants confidence of delivery and there will be performance expectations set out in the agreement which will include matters such as the performance of the solar panels and the power output provided, commissioning of the installation within an agreed period with potential for termination if not achieved by a set date, and losses if the agreement is terminated
- 1.9 The financial appraisals to date have been produced to test different unit prices for the solar power to be sold. The unit price will be agreed through the Power Purchase Agreement. The Power Purchase Agreement can progress now the HOTS are signed. In principle the terms upon which the power would be sold to the end user are:
 1. A 25-year power purchase agreement (PPA). This is confirmed in the signed HOTS.
 2. The end user will buy 100% of all power generated from the planning approved site. A unit price of £ per MWh is stated within the HOTS although once the procurement is complete and the final build costs are known there may be a need to revisit this.
 3. Torbay Council will develop the solar array at its own cost, estimated at £2,275,000 (the EPC and O&M tender has not been run yet which will constitute the biggest cost to the scheme).
 4. Based on the planning consented scheme the end user would pay Torbay Council for the power the solar farm would generate, over a 25-year period. The unit price will be index linked over the 25 years. The unit price has not been agreed yet and would need to be agreed through the Power Purchase Agreement (PPA). Before the PPA can be drafted for a final time and signed, a successful EPC and O&M tender process must be completed with a final tender price agreed which will demonstrate the viability of the project.
- 1.10 The end user will be contractually obliged to purchase 100% of the power produced by the solar farm at the rate agreed.

- 1.11 The solar panels typically have a useable life span of up to 40 years. The efficiency of the panels reduces with their age. Typically, they are guaranteed to achieve 80 to 85% efficiency after 25 years. Degradation will be fully modelled as part of the due diligence during the tender stage with the EPC and O&M contractor.
- 1.12 After 25 years the PPA with the end user could be renegotiated but this not guaranteed. As such a full repayment model is set over the 25 yr contract period.
- 1.13 All of the capital required to develop the solar farm will be repaid over the 25yr term, matching the length of the agreement and therefore if there is a new agreement post yr 25 then the surplus to the Council from year 26 will be higher as the loan will have been repaid.

2. Options under consideration

- 2.1 Build out the planning consented scheme after negotiating the Power Purchase Agreement and receiving EPC and O&M tender responses which confirm that the scheme is viable.
- 2.2 As an alternative to the private wire connection with an end user there is the potential to sell the renewable power direct to the national grid.

The wider grid network has limited capacity. The earliest possible connection may not be until 2028 but this is likely to extend out to 2036 when more capacity within the network is expected. The issue with the wider network is that it needs upgrading to be able to handle significant extra capacity. Such upgrades delay the timeframe for a connection to be made. In addition to the programme delays there are also financial considerations. To connect to the grid will cost at least £250k (Sep 21 estimate – this is likely to be more now). Furthermore the unit price when feeding into the national grid is likely to be considerably less when compared to a private wire end user scenario which would make the project unviable.

3. Financial Opportunities and Implications

- 3.1 The Council had previously earmarked £2,750,000 from the Economic Growth Development Fund, however this was some years ago and following Council approval of the Capital budget prudential borrowing is now required as opposed to the use of the growth fund.
- 3.2 The next phase of work will consist of procurement EPC and O&M contractor and is estimated to require a budget of £42,900. This will include a period of technical design with the selected preferred supplier. Following this technical stage a Full Business Case (FBC) will be submitted and approved by CGB as a final viability check before committing to a contract.

- 3.3 The project and all its remaining phases are within the previously approved budget. The money will be borrowed on the Public Works Loan Board. The capital cost summary and ongoing revenue costs are detailed at exempt Appendix 1
- 3.4 The financial loans costs are repaid over the 25 year PPA period. The unit price charged for the electricity will cover the Councils loan repayment costs and further details of this can be found in the exempt financial summary appendix 1.

4. Legal Implications

- 4.1 The first draft of the Power Purchase Agreement is currently being drafted by the end user. In principle the terms upon which the power would be sold to the end user are:
- A 25-year power purchase agreement (PPA). This is confirmed in the HOTS.
 - The end user will buy 100% of all power generated from the planning approved site. A unit price of is stated within the HOTS.
 - Torbay Council will develop the solar array at its own cost, estimated at £2,275,000 (the EPC and O&M tender has not been run yet which will constitute the biggest cost to the scheme).
 - Based on the planning consented scheme end user will pay Torbay Council for the power the solar farm would generate. The unit price has not yet been finalised but the amount charged will be in excess of the Councils loan repayments and running costs.

5. Engagement and Consultation

- 5.1 Public consultation for the project has been carried out in line with the usual planning application process.
- 5.2 The key stakeholder and end user of the renewable energy, has been closely engaged with both during the strategic work up of the project which is ongoing.
- 5.3 A comms plans will be produced by Torbay Council comms team once a committed start on site date is defined. This will likely include local news and social media messages which will be updated as we progress through key stages of delivery.

6. Purchasing or Hiring of Goods and/or Services

- 6.1 The solar project is at a stage where an EPC and O&M contractor must be appointed through a tender process in order to progress but can only be appointed in tandem to the signing of the Power Purchase Agreement.
- 6.2 These contractors would then be responsible for acquiring the various components and delivering the scheme. .

Market analysis

- 6.3 The solar consultant has looked at comparable solar scheme costs that are reflected in the financial appraisal. The comparable solar farms are of a similar MW rating to the Councils to 2MWp scheme. The comparable schemes are either live or recently completed.
- 6.4 The costs from the comparable schemes provided by the solar consultant have informed the build costs contained within the financial appraisal.
- 6.5 The operating costs have been discussed with the solar consultant who has provided advice on comparable sized schemes. The O&M contract will be initially provided by the EPC contractor for a period of 2 years. After 2 years should the council be happy it could reappoint the same contractor or look to appoint another contractor.

Route to market

- 6.6 The Councils procurement team have identified the CCS framework as having a lot specific for EPC and O&M contractors. The solar consultant has reviewed the list of contractors on the CCS Framework. The CCS Framework has been approved as a compliant and appropriate route to market by the procurement team. There is no cost for the Council to use the framework. The cost is passed on to the contractor which will be reflected in the contractor's tender response.
- 6.7 Using the framework ensures there has already been an element of pre selection using robust quality and price criteria and furthermore reduces the number of potential bidders to a more manageable amount.
- 6.8 Using this framework is more likely to produce more committed responses from providers on the framework than in an open competition procedure where it is common to receive interest with no real potential behind them. As we will know the details of potential bidders in advance of the procurement process commencing targeted market engagement activities can be undertaken to establish the potential level of respondents.

7. Tackling Climate Change

- 7.1 The following text is an extract from the Council's Climate Change Strategy which remains in force:

Climate change is having a major impact on our planet. On 24 June 2019, Torbay Council declared a 'Climate Emergency'. Torbay Council is a partner of and supports the work of the Devon Climate Emergency Response Group, which is aiming to produce a collaborative Devon-wide response to the climate emergency to help us get to net zero carbon emissions by 2050 at the latest and also prepare Devon for the necessary adaptation to infrastructure and services required to respond to climate change.

- 7.2 Torbay Council's current Energy and Climate Change Strategy for Torbay describes how we aim to help minimize the economic, social and environmental costs of climate change in the Bay by demonstrating leadership and providing encouragement in working toward emission reductions and resilience to our changing climate.
- 7.3 The UK central government also has its net zero commitments called: Net Zero Strategy: Build Back Greener. This strategy sets out policies and proposals for decarbonising all sectors of the UK economy to meet Central Governments net zero target by 2050. Renewable energy including solar power forms part of this strategy.
- 7.4 The solar farm would allow the end user to buy and use sustainable electricity generated on Torbay Council owned land to power its site. Its site serves residents throughout Torbay. It would be a positive step, towards meeting the targets set out in the Climate Change Strategy.
- 7.5 The project will contribute to Torbay's net zero target by reducing our carbon footprint by 458.75 tonnes of CO₂ a year or 11,468.75 tonnes of CO₂ over a 25-year period. These figures are approximate based on average sunlight.

8. Associated Risks

- 8.1 If the end user does not sign the PPA there will be abortive costs. To date £212,240.87 has been spent with a further £25,417.49 committed. The next phase is estimated to cost £42,900 leading to potential overall abortive costs of £280,557. There are no competing private wire schemes in the area. Negotiations have been positive throughout and it is considered that this scenario is unlikely.
- 8.2 The EPC contract and PPA contract must be signed in tandem to ensure the obligations within each can be met when viewed in the round. This will involve some co-ordination internally and externally and potentially could add time to the programme. Progress has been slow during the HOTS discussion.

- 8.3 Inflation has meant that the longer it has taken to deliver the solar farm the higher the build costs, further prolongation of the programme will increase the scheme costs further.
- 8.4 The end user has made obligations within the HOTS that need to be reflected in any unit price agreement. The figures (£) will be negotiated through the Power Purchase Agreement. The greater the requested obligations the greater the unit price requested by the Council to cover the associated risks. The Council has considered fire risk. The transformer station design will be robust in consideration of fire suppression. A fire detection system (sprinklers) can be incorporated into the transformer station. The EPC contractor when carrying out the detailed design work will look at the overall design to reduce fire risk. The O&M contractor will ensure regular inspections are made on site. These actions will reduce fire risk and the likelihood of liquidated damages on the basis of the solar farm not being operational.

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

	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people			x
People with caring Responsibilities			x
People with a disability			x
Women or men			x
People who are black or from a minority ethnic background (BME) (Please note Gypsies / Roma are within this community)			x
Religion or belief (including lack of belief)			x
People who are lesbian, gay or bisexual			x
People who are transgendered			x
People who are in a marriage or civil partnership			x

Women who are pregnant / on maternity leave			x
Socio-economic impacts (Including impact on child poverty issues and deprivation)			x
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	Clean energy will prevent the use of fossil fuel alternative and help to sustain a cleaner atmosphere and environment for all in the local area.		

10. Cumulative Council Impact

10.1 None

11. Cumulative Community Impacts

11.1 None

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Meeting: Cabinet/Council **Date:** 11 July 2024/18 July 2024

Wards affected: Barton with Watcombe

Report Title: Nightingale Solar Farm

When does the decision need to be implemented? Immediately

Cabinet Member Contact Details:

Cabinet Member: Cllr Chris Lewis, Cabinet Member for Place Development and Economic Growth and Deputy Leader, chris.lewis@torbay.gov.uk

Director Contact Details: Alan Denby, Director of Pride in Place, alan.denby@torbay.gov.uk

1. Purpose of Report

- 1.1 To provide an update as considerable time has passed since the previous decision (August 2021) and to seek updated authorisation for prudential borrowing to bring the project forward, subject to the income generating a positive margin. The margin will be defined on completion of procurement and a final refinement of project costs.
- 1.2 On 24th August 2021 Cabinet approved to increase the budget to £3,100,000 acknowledging the refined cost estimates having identified an organisation as the potential end user. Latest estimated costs are contained in Exempt appendix 1. An increase to the budget is requested. The income (unit price) charged to the end user will increase to cover the increased costs so that the net income exceeds the loan repayment costs.
- 1.3 For background reading the previous cabinet papers (August 2021) can be found in appendix 2.

2. Reason for Proposal and its benefits

- 2.1 On 24 June 2019, Torbay Council declared a 'Climate Emergency'. Torbay Council is a partner of and supports the work of the Devon Climate Emergency Response Group, which is aiming to produce a collaborative Devon-wide response to the climate emergency to help us get to net zero carbon emissions by 2050 at the latest and prepare Devon for the necessary adaptation to infrastructure and services required to respond to climate change.
- 2.2 Torbay Council's current Energy and Climate Change Strategy for Torbay describes how we aim to help minimise the economic, social and environmental costs of climate change in

Torbay by demonstrating leadership and providing encouragement in working toward emission reductions and resilience to our changing climate.

- 2.3 The UK central government also has its net zero commitments called: Net Zero Strategy: Build Back Greener. This strategy sets out policies and proposals for decarbonising all sectors of the UK economy to meet Central Governments net zero target by 2050. Renewable energy, including solar power, forms part of this strategy.
- 2.4 The solar farm would allow the end user to buy and use sustainable electricity generated on Torbay Council owned land to power the end users site. The end users site serves residents throughout Torbay and beyond. It would be a positive step, towards meeting the targets set out in the Climate Change Strategy.
- 2.5 The objective is to provide a 3.2MWP solar farm to generate renewable energy over a 25-year period which will:
- Contribute to Torbay's net zero target by reducing our carbon footprint by 734 tonnes of CO₂ a year or 18,350 tonnes of CO₂ over a 25-year period. These figures are approximate based on average sunlight.
 - Generate a surplus for Torbay Council. The detail of which is available within exempt appendix 1.
- 2.6 The business case has been considered by Capital and Growth Board and is now recommended to Cabinet for approval.

3. Recommendation(s) / Proposed Decision

That Cabinet recommends that Council accept the following proposals;

- 3.1 That the Director of Pride of Place be authorised to proceed with the next stage of the Nightingale Solar Farm project that is to conduct the EPC tender process and negotiation of the Power Purchase Agreement and to then develop a final business case based on revised income and costs.
- 3.2 That Council approve up to £4,151,000 of prudential borrowing subject to the securing a unit rate per M/Wh that exceeds the loan repayments, covers projected maintenance and other operational costs including anticipated equipment replacement costs and produces an appropriate surplus per annum over the life of the scheme commensurate with levels of risk.
- 3.3 That the Chief Executive, in consultation with the Leader of the Council, Finance Director and Cabinet Member for Finance, be given delegated authority to review and agree that the final business case meets the conditions in 3.2 above, and subject to that agreement is then authorised to agree and finalise the detailed terms and enter into contract with The Health Trust or another user of the electricity.

- 3.4 That, subject to the Council entering into contract as per 3.3 above, the Director of Pride of Place in consultation with the Cabinet Member for Place, Development and Economic Growth be authorised to proceed with the project to deliver a solar farm on Nightingale Park.
- 3.5 That, in the event that the Chief Executive should determine that the final business case does not meet the criteria in 3.2 above, a paper should be brought back to cabinet and Council to determine the future of the project.
- 3.6 That a report be presented to a future Cabinet Meeting after completion of the scheme, as to the potential use of up to 10% of the actual surplus generated to be made available for community use within 1 mile straight line distance of Nightingale Park.

Appendices

Appendix 1: Exempt appendix - financial summary

Appendix 2: The previous August 2021 Cabinet papers with Exempt appendices.

Background Documents

Cabinet report 24th August 2021 *“Project update for the creation of a solar farm on land at Nightingale Park to sell the electricity for a return on investment and help meet the Council’s carbon neutral priority.”*

1. Introduction

- 1.1 On 28th July 2020 informal Cabinet authorised the borrowing of £2,000,000 to allow the delivery of a solar farm at Nightingale Park for the purposes of selling the power to end users in the area and to the national grid if necessary and provided delegated authority to the Chief Executive in consultation with the Chief Financial Officer to agree and finalise any Power Purchase Agreement with end users.
- 1.2 On 24.08.21 the budget was increased to £3,100,000 based upon knowing who the end user was going to be resulting in a more detailed set of project costs being produced. Cabinet approved the request of funding for £3,100,000 subject to conditions below:

That the i) to iii) of the exempt decision made by the Cabinet 11 August 2020 (Minute 115h/08/20 refers) be rescinded and that the following be approved:

- 1. That, subject to the criteria in the Growth Fund strategy being met and a detailed business case approved by the Section 151 Officer in consultation with the Cabinet Member for Economic regeneration, Tourism and Housing, Cabinet authorise up to £3.1m from the Growth Fund to fund the construction and delivery of the solar farm.*
- 2. That, Delegated authority be given to the Chief Executive in consultation with the Leader of the Council to agree and finalise the detailed terms of the power purchasing agreement with an end user.*
- 3. If necessary delegated authority be given to the Chief Executive in consultation with the Leader of the Council to agree and finalise the terms of setting up a separate special purpose vehicle with the Health Trust, if this is deemed the most appropriate route to ensuring both the sale of the energy by the Council and its purchase by the Health Trust is undertaken in accordance with the requirements of the Public Contracts Regulations.*
- 4. If the HealthTrust have not entered into a formal agreement to purchase the power generated by the solar farm by 31st October and subject to a detailed business case being approved by the Section 151 Officer then delegated authority be given to the Chief Executive in consultation with the Leader of the Council to use the power directly to create a sustainable energy source for the Council.*
- 5. That the Cabinet reconfirms their decision in respect of iv) of the exempt decision made by the Cabinet 11 August 2020 (Minute 115h/08/20 refers):*
'That a report be presented to the next Cabinet Meeting after completion of the deal, as to the potential use of up to 10% of the surplus generated, being made available for community use within 1 mile, straight line distance of Nightingale Park.'



- 1.3 The previous cabinet papers from August 2020 and August 2021 explain how a private wire solar scheme at Nightingale Park can provide power to the nearby Torbay Hospital.
- 1.4 Planning consent has been obtained on 16.06.22 reference P/2021/1287. This is for a 3.2MWp solar farm. The consent has been granted for a 3-year period whereby work must have started (but not completed). Enabling works to provide a new access road into the site and the levelling of the area to be filled with solar panels has been completed and therefore has implemented the planning consent. The Council can finish the consent at its own pace.
- 1.5 A grid connection to export power up to 999kv has been accepted in October 2022. This allows the private wire from the solar farm to connect to the end users site whilst using the existing grid connection for any export of excess power into the national grid capped at 999kv. The solar farm has been designed to meet the power requirements of the end users site but at times there may be excess power that the hospital cannot use which can be exported into the national grid. However, it should be noted that the end user is contractually obliged to purchase all the power produced at the site and then they will either store any power that is not used or export it to the grid.
- 1.6 The Heads of Terms (HoTs) for the Power Purchase Agreement (PPA) have been signed by the end user and Torbay Council. They are not legally binding but do show a commitment toward the project and enable the Power Purchase Agreement discussions to proceed. Legal advice received in relation to the next phase is that the Power Purchase Agreement should only be signed in tandem with the EPC and O&M contract. One should not be signed without the other and both must accord with the obligations of the other. Solicitors are advising on the commercial EPC contract and the Power Purchase Agreement.

- 1.8 The financial appraisals to date have been produced to test different unit prices for the solar power to be sold. The unit price will be agreed through the Power Purchase Agreement. The Power Purchase Agreement can progress now the HoTs are being signed. In principle the terms upon which the power would be sold to the end user are:
1. A 25-year power purchase agreement (PPA). This is confirmed in the HoTs.
 2. The end user will buy 100% of all power generated from the planning approved site. A unit price of £ per MWh is stated within the HoTs although once the procurement is complete and the final build costs are known there may be a need to revisit this.
 3. Torbay Council will develop the solar array at its own cost, estimated at £4,151,000 (the EPC and O&M tender has not been run yet which will constitute the biggest cost to the scheme).
 4. Based on the planning consented scheme the end user would pay Torbay Council for the power the solar farm would generate, over a 25-year period. At which point the Council's loan will be repaid. The unit price will be index linked over the 25 years. The unit price has not been agreed yet and would need to be agreed through the Power Purchase Agreement (PPA). Before the PPA can be drafted for a final time and signed, a successful EPC and O&M tender process must be completed with a final tender price agreed which will demonstrate the viability of the project.
- 1.9 The end user will be contractually obliged to purchase 100% of the power produced by the solar farm at the rate agreed.
- 1.10 The solar panels typically have a useable life span of up to 40 years. The efficiency of the panels reduces with their age. Typically, they are guaranteed to achieve 80 to 85% efficiency after 25 years. Degradation will be fully modelled as part of the due diligence during the tender stage with the EPC and O&M contractor.
- 1.11 After 25 years the PPA with the end user could be renegotiated. We do not envisage the end user moving its operation from its current site so it is entirely plausible that the end user would seek to negotiate a new arrangement.
- 1.12 All of the capital required to develop the solar farm will be repaid over the 25yr term, matching the length of the PPA agreement and therefore the surplus to the Council from year 26 will be considerably more.

2. Options under consideration

- 2.1 Build out the planning consented scheme after negotiating the Power Purchase Agreement and receiving EPC and O&M tender responses which confirm that the scheme is viable.
- 2.2 As an alternative to the private wire connection with an end user there is potential to sell the renewable power direct to the national grid.

- 2.3 The wider network has limited capacity. The earliest possible connection may not be until 2028 but this is likely to extend out to 2036 when more capacity within the network is expected. The issue with the wider network is that it needs upgrading to be able to handle significant extra capacity. Such upgrades delay the timeframe for a connection to be made. In addition to the programme delays there are also financial considerations. To connect to the grid will cost at least £420k (Sep 21 estimate – this is likely to be more now). Furthermore, the unit price when feeding into the national grid is likely to be considerably less when compared to a private wire end user scenario which would make the project unavailable.

3. Financial Opportunities and Implications

Funding

- 3.1 Previously the Council has approved a budget of £3,100,000 from the Economic Development Growth Fund.
- 3.2 The next phase of work will consist of procurement EPC and O&M contractor and is estimated to require a budget of £61,600. This will include a period of technical design with the selected preferred supplier. Following this technical stage a Full Business Case (FBC) will be submitted and approved by CGB as a final viability check before committing to a contract.
- 3.3 The money will be borrowed from the Public Works Loan Board. The capital cost summary and ongoing revenue costs are detailed at exempt Appendix 1.
- 3.4 The financial loans costs are repaid over the 25-year PPA period. The unit price charged for the electricity will cover the Councils loan repayment costs and further details of this can be found in the exempt financial summary appendix 1.

4. Legal Implications

- 4.1 The Power Purchase Agreement will progress shortly now the HOTS are signed. In principle the terms upon which the power would be sold to the end user are:
- A 25-year power purchase agreement (PPA). This is confirmed in the HoTs.
 - The end user will buy 100% of all power generated from the planning approved site. A unit price of is stated within the HOTS.
 - Torbay Council will develop the solar array at its own cost, estimated at £4,151,000 (the EPC and O&M tender has not been run yet which will constitute the biggest cost to the scheme).

- Based on the planning consented scheme end user will pay Torbay Council for the power the solar farm would generate. The unit price has not yet been finalised but the amount charged will be in excess of the Councils loan repayments and running costs.

5. Engagement and Consultation

- 5.1 Public consultation for the project has been carried out in line with the usual planning application process.
- 5.2 The key stakeholder and end user of the renewable energy, has been closely engaged with both during the strategic work up of the project which is ongoing.
- 5.3 A comms plans will be produced by Torbay Council comms team once a committed start on site date is defined. This will likely include local news and social media messages which will be updated as we progress through key stages of delivery.

6. Purchasing or Hiring of Goods and/or Services

- 6.1 The solar project is at a stage where an EPC and O&M contractor must be appointed to progress but can only be appointed in tandem to the signing of the Power Purchase Agreement.
- 6.2 These contractors would then be responsible for acquiring the various components and delivering the scheme.

Market analysis

- 6.3 The solar consultant has looked at comparable solar scheme costs that are reflected in the financial appraisal. The comparable solar farms are of a similar MW rating to the Councils to 3.2MWp scheme. The comparable schemes are either live or recently completed.
- 6.4 The costs from the comparable schemes provided by the solar consultant have informed the build costs contained within the financial appraisal.
- 6.5 The operating costs have been discussed with the solar consultant who has provided advice on comparable sized schemes. The O&M contract will be initially provided by the EPC contractor for a period of 2 years. After 2 years should the council be happy it could reappoint the same contractor or look to appoint another contractor.

Route to market

- 6.6 The Councils procurement team have identified the CCS framework as having a lot specific for EPC and O&M contractors. The solar consultant has reviewed the list of contractors on the CCS Framework. The CCS Framework has been confirmed as being acceptable to use by the Council's Procurement Officer. There is no cost for the Council to use the framework. The cost is passed on to the contractor which will be reflected in the contractor's tender response.

- 6.7 Using the framework ensures there has already been an element of pre selection using robust quality and price criteria and furthermore reduces the number of potential bidders to a more manageable amount.
- 6.8 Using this framework is more likely to produce more committed responses from providers on the framework than in an open competition procedure where it is common to receive interest with no real potential behind them. As we will know the details of potential bidders in advance of the procurement process commencing targeted market engagement activities can be undertaken to establish the potential level of respondents.

7. Tackling Climate Change

- 7.1 The following text is an extract from the Council's Climate Change Strategy which remains in force:

Climate change is having a major impact on our planet. On 24 June 2019, Torbay Council declared a 'Climate Emergency'. Torbay Council is a partner of and supports the work of the Devon Climate Emergency Response Group, which is aiming to produce a collaborative Devon-wide response to the climate emergency to help us get to net zero carbon emissions by 2050 at the latest and prepare Devon for the necessary adaptation to infrastructure and services required to respond to climate change.

- 7.2 Torbay Council's current Energy and Climate Change Strategy for Torbay describes how we aim to help minimize the economic, social and environmental costs of climate change in the Bay by demonstrating leadership and providing encouragement in working toward emission reductions and resilience to our changing climate.
- 7.2 The UK central government also has its net zero commitments called: Net Zero Strategy: Build Back Greener. This strategy sets out policies and proposals for decarbonising all sectors of the UK economy to meet Central Governments net zero target by 2050. Renewable energy including solar power forms part of this strategy.
- 7.3 The solar farm would allow the end user to buy and use sustainable electricity generated on Torbay Council owned land to power its site. Its site serves residents throughout Torbay and beyond. It would be a positive step, towards meeting the targets set out in the Climate Change Strategy.
- 7.4 The project will contribute to Torbay's net zero target by reducing our carbon footprint by 734 tonnes of CO₂ a year or 18,350 tonnes of CO₂ over a 25-year period. These figures are approximate based on average sunlight.

8. Associated Risks

- 8.1 If the end user does not sign the PPA there will be abortive costs. To date £809,219 has been spent with a further £33,210.90 committed. The next phase is estimated to cost £61,600 leading to potential overall abortive costs of £870,819. There are no competing

private wire schemes in the area. Negotiations have been positive throughout and it is considered that this scenario is unlikely.

- 8.2 The EPC contract and PPA contract must be signed in tandem to ensure the obligations within each can be met when viewed in the round. This will involve some co-ordination internally and externally and potentially could add time to the programme. Progress has been slow during the HoTs discussions.
- 8.3 Inflation has meant that the longer it has taken to deliver the solar farm the higher the build costs, further prolongation of the programme will increase the scheme costs further.
- 8.4 The end user has made obligations within the HOTS that need to be reflected in any unit price agreement. The figures (£) will be negotiated through the Power Purchase Agreement. The greater the requested obligations the greater the unit price requested by the Council to cover the associated risks.

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

	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people			X
People with caring Responsibilities			X
People with a disability			X
Women or men			X
People who are black or from a minority ethnic background (BME) (Please note Gypsies / Roma are within this community)			X
Religion or belief (including lack of belief)			X
People who are lesbian, gay or bisexual			X
People who are transgendered			X
People who are in a marriage or civil partnership			X

Women who are pregnant / on maternity leave			X
Socio-economic impacts (Including impact on child poverty issues and deprivation)			X
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	Clean energy will prevent the use of fossil fuel alternative and help to sustain a cleaner atmosphere and environment for all in the local area.		

10. Cumulative Council Impact

None

11. Cumulative Community Impacts

None

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Meeting: Overview & Scrutiny Board/Cabinet/Council

Date: 9 July /11 July/18 July 2024

Wards affected: All Wards

Report Title: Budget Monitoring – Outturn 2023/24

When does the decision need to be implemented? N/A

Cabinet Member Contact Details: Alan Tyerman, Cabinet Member for Finance
alan.tyerman@torbay.gov.uk

Supporting Officer Contact Details: Ian Rowswell, Deputy Director of Finance,
ian.rowswell@torbay.gov.uk,

1. Purpose and Introduction

- 1.1. This report provides a high-level budget summary of the Council's revenue and capital position for the financial year 2023/24. This report is based on the final outturn position for the year ended 31st March 2024.
- 1.2. The Council has delivered an end-of-year surplus of £0.678m. This is an improved position on the forecast at Quarter 3, which projected an overspend. It is proposed that this surplus is used as follows:
 - 1.2.1 £400k transferred to an earmarked capital reserve to assist with delivery of the Capital Investment Programme.
 - 1.2.2 The balance transferred to Comprehensive Spending Review (CSR) reserve and used to fund one off activities to accelerate the delivery of Operation Brighter Bay.
- 1.3 The Council A revised 4-year Capital Investment Programme was approved as part of setting the 2024/25 budget, which showed a revised Outturn forecast of £58.5m against an initial budget of £90m for 2023/24. Total expenditure of £46.8m has been spent in this financial year in relation to this programme, funded from capital receipts, grants and contributions, reserves and revenue budget contributions, and long-term borrowing.

2. Recommendation(s) / Proposed Decision

Recommendations for Overview & Scrutiny Board

- 2.1 That the Overview & Scrutiny Board notes the Council's revenue outturn position and makes any comments and/or recommendations to the Cabinet.
- 2.2 That the Overview & Scrutiny Board notes the Council's Capital outturn position and makes any comments and/or recommendations to the Cabinet.

Recommendation for Cabinet/Council

- 2.3 That Cabinet recommends to Council:
 - 2.3.1 That Council notes the revenue outturn position and approves the transfer of the £0.678m end of year surplus as follows:
 - £400k transferred to an earmarked capital reserve to assist with delivery of the Capital Investment Programme.
 - The balance transferred to the Comprehensive Spending Review (CSR) reserve and used to fund one off activities to accelerate the delivery of Operation Brighter Bay
 - 2.3.2 That Council approve the addition of the Paignton and Preston coastal defence project, into the Capital Investment Plan at a value of £17.515m, subject to:
 - a) securing the required funding from the Environmental Agency (£9.441m), and
 - b) production of a compliant Full Business Case being discussed and supported at Capital Growth Board and approval from Cabinet (Outline Business Case attached as Appendix 4).
 - 2.3.3 That delegated authority be given to the Divisional Director of Economy, Environment and Infrastructure in consultation with the Section 151 officer and Portfolio Holder for Finance and Housing to award the contract of works for the delivery of the Paignton and Preston coastal defence project.
 - 2.3.4 Following receipt of £20m grant funding from the round 3 of Levelling Up Funds (LUF3) approval is given for feasibility funding to progress the following projects to the next stage:
 - 2.3.4.1 Brixham port infrastructure project. Initial allocation of £75k to be drawn down for feasibility works.
 - 2.3.4.2 Paignton tec park project - Initial allocation of £85k to be drawn down for feasibility works.

3. 2023/24 Revenue Budget Summary Position

- 3.1 The Council has had to manage national "cost of living" issues throughout 2023/24, arising from inflationary pressures, including utility and fuel increases and escalating housing rent costs.

- 3.2 The financial pressures on services and providers have been the highest they've been for many years. Between September 2022 and March 2023, when the 2023/24 budget was set, CPI inflation rates were over 10%. Prices have remained high throughout 2023/24, but inflation rates have steadily reduced with the annual CPI rate at March 2024 being only 3.2%. These reduced figures have been reflected within the Council's Medium Term Resource Plan.
- 3.3 The approved budget set by the Council for 2023/24 effectively reallocated resources to meet the demands from these additional cost pressures, and through robust challenge and monitoring, Officers have managed to deliver a balanced budget with a relatively small overall underspend.
- 3.4 The table below provides a summary of the Outturn position across Council Services, along with the movement from the figures reported in Quarter 3.

Service	Budget £m	Final Outturn £m	Variance £m	Forecast at Q3 £m	Movement since Q3 £m
Adult Services	51.559	52.129	0.570	1.030	-0.460
Children's Services	50.338	51.210	0.872	0.991	-0.119
Corporate and Executive Services	12.676	12.853	0.177	0.363	-0.186
Finance Services	-12.859	-16.228	-3.369	-2.100	-1.204
Investment Portfolio	-4.134	-4.134	0.000	0.000	0.000
Pride in Place Services	22.940	24.054	1.114	0.513	0.601
Public Health Services	10.430	10.420	-0.010	0.000	-0.010
Revenue sub-total	130.950	130.304	-0.646	0.797	-1.378
Sources of Finance	-130.950	-130.982	-0.032	0.000	-0.032
Revenue Over/Under spend	0.000	-0.678	-0.678	0.797	-1.410

- 3.5 The underspend against Finance Services, mainly from Treasury Management and higher interest rates, has offset several overspends during the year. Many of these pressures have been addressed through 2024/25 budget setting and will continue to be managed and monitored to reduce the risk of these overspends arising again.
- 3.6 The outturn for the council in 2023/24 has improved compared with the last forecast made at Quarter 3. Variances across services will be reviewed with the aim of identifying lessons to learn for the future and which budgets require further review and more robust monitoring throughout 2024/25. The improved position is primarily down to income received on cash

balances being greater than the levels forecast and income from the Devon-wide business rates retention pool being higher than budgeted.

- 3.7 Funds carried forward in previous years and held in specific reserves have been deployed effectively to support the reduction of long-term costs, as well as providing a pathway to deliver on the approved 2023/24 budget.
- 3.8 Appendix 1 provides a summary of the agreed budget savings for 2023/24, showing whether these saving proposals have been achieved. Further details of the savings can be found within the published budget papers - [proposals-for-efficiencies-income-generation-and-service-change.pdf \(torbay.gov.uk\)](https://www.torbay.gov.uk/sites/default/files/2023-09/proposals-for-efficiencies-income-generation-and-service-change.pdf). Almost 70% of the total savings have been delivered.

4. Collection Fund

- 4.1. The Collection Fund reserve is set to meet the impact of shortfalls within collection rates for both Council Tax and Business Rates. No drawdown against this reserve was required in 2023/24.
- 4.2 In-year income collected from Council Tax in 2023/24 was slightly ahead of forecasts at 96.13%, a return to pre Covid-19 levels. However, collection levels for business rates income were slightly below forecast, at 94.77%. It is thought that the impact of rising inflation and general costs increases is the main reason for this reduction. We will continue to explore opportunities to increase our overall collection rates moving forwards.
- 4.3 Local authorities received additional funding in 2023/24 relating to compensation for their share of income loss following implementation of the green plant and machinery exemption in 2022 to 2023. Torbay Council received £0.051m, which was not budgeted for. This contributes to the underspend of £0.032m against 'Sources of Funding', shown in para 3.4 above.

5. Wholly Owned Companies

- 5.1 SWISCo. continued to experience financial pressure in terms of operational delivery throughout 2023/24 - mainly due to higher material and fuel costs and a decrease in the value and therefore income from recyclable materials. These pressures were in addition to a £0.250m budget reduction relating to efficiency savings. The pay award again had a disproportionate percentage impact on SWISCo given the higher proportion of staff on below average salary rates. The Council has an agreement with SWISCo to fund any additional costs arising from pay awards and as a result provided an additional £0.391m of funding specifically to meet the shortfall. Despite the additional pressures and savings targets included in the 23/24 budget, the company met its target to break even during the year.
- 5.2 Torbay Economic Development Company, (TEDC), Limited is forecasting a profit of £0.407m for 2023/24, which included a reported loss in the subsidiary company, TorVista Homes, of

(£0.303m). TEDC returned into Council management in April 2024 and we are continuing to work through the company closedown and transfer of assets and contracts.

- 5.3 Torbay Education Limited, which is run with an objective to breakeven, returned a small surplus of £22,000 for the year which is retained in the company's books.
- 5.4 More detailed financial reporting about the Council's wholly owned Companies will form part of the final statement of accounts, when presented to Audit Committee.

6. Statement of Accounts – 2021/22, 2022/23 and 2023/24

- 6.1 The Council's 2021/22 Statement of Accounts are anticipated to be signed off at Audit Committee in July 2024. The accounts have not been signed in line with the Government's Statutory deadline, which is an issue that is common across many Councils. The audit of the 2021/22 accounts has taken a significant amount of time due to a number of challenges, particularly continuing issues in the local external audit market.
- 6.2 The government recently consulted on options to resolve the nationwide issue of the high volume of accounts that have not had an audit opinion issued. The consultation proposed a 'backstop' option which enable auditors to 'sign off' outstanding accounts by 30 September 2024 with minimal, if any, audit work being completed. Therefore, it is expected that the 2022/23 accounts for Torbay Council will not receive a full audit.
- 6.3 The ongoing audit of accounts has had an impact on preparation of the 2023/24 accounts and many Councils, including Torbay, were unable to publish their unaudited accounts for public inspection by 31 May 2024. We did however publish the 2023/24 Statement of Accounts in mid-June and these will receive a full audit from Grant Thornton later this year.

7. Service Budgets

Adults and Community Services

Service	Budget £m	Final Outturn £m	Variance £m	Forecast at Q3 £m	Movement since Q3 £m
Housing Options, incl. Temporary Accommodation	1.329	1.768	0.443	0.740	-0.297
Homelessness prevention	0.145	0.344	0.199	0.255	-0.056
Cemetery and Crematoriums	-0.897	-1.014	-0.117	0.000	-0.117
Other minor variances			0.045	0.035	0.010
Outturn position	51.559	52.129	0.570	1.030	-0.460

- 7.1 Overall Adults and Community Services overspent by £0.570m. The table above highlights the areas that contributed to the Outturn variance. This was mainly due to overspends against budgets relating to the provision of temporary accommodation to individuals/families and the prevention of homelessness.

- 7.2 Temporary Accommodation and homelessness remains a national issue, fuelled by the 'cost of living' crisis. There remains considerable demand pressure in the local housing market, with a lack of affordable 'move-on' accommodation and limited availability of temporary options for individuals and family groups in need of temporary accommodation (TA).
- 7.3 Activity on the prevention of homelessness has been effective and although spend in this area has exceeded budget it has limited the number requiring temporary accommodation and associated spend. The number of households in TA peaked at 165 in October 2023 but reduced to 121 in March 2024.
- 7.4 A decision was made in 2022/23 to spend £10m on procuring properties to improve the stability and cost of accommodation options available to the Housing Options team. All 32 homes have now been acquired, providing a more traditional 'home' setting for individuals currently in Temporary Accommodation and reducing the use of more expensive spot purchased accommodation.
- 7.5 Within Adult Social Care the majority of spend is against a fixed price financial arrangement (contract) for the delivery of services provided through the Integrated Care Organisation (ICO). Due to these financial arrangements with the ICO there is no financial impact on the Council budget, despite the increasing pressures within the sector. The 2023/24 spend is in line with the revenue budget set.
- 7.6 The Council signed a new, five year, extended contract with the ICO in March 2024 which will run from the 2025/26 financial year. This contract will enable the Council to plan with a degree of financial certainty over the coming years which will feed into our Medium-Term Resource Plan (MTRP). Collaborative work is underway between Council & NHS colleagues on the Adult Social Care Improvement Plan (ASCIP) to manage overall spend within the system as there remain significant cost pressures over and above the set budget.
- 7.7 There was an end of year underspend of £116,000 on the Cemetery and Crematorium budget, due to rental income received exceeding the budget.

Children's Services

Service	Budget £m	Final Outturn £m	Variance £m	Forecast at Q3 £m	Movement since Q3 £m
Care Placements including Unaccompanied Asylum-Seeking	21.431	22.968	1.537	1.548	-0.011
Home to School Transport	3.818	4.252	0.434	0.312	0.122
Section 17 - intervention & support.	0.480	0.592	0.112	0.070	0.042
Net staffing underspend across various CS teams/services.	19.573	18.681	-0.892	-0.829	-0.063
Recruitment and Retention	0.582	0.383	-0.199	-0.140	-0.059
Disabilities Service - Refund of unused Direct Payments	-0.090	-0.231	-0.141	0.000	-0.141

Other minor variances			0.021		0.030	0.009
Outturn Position	50.338	51.210	0.872		0.991	0.119

- 7.8 Overall Children's Services overspent by £0.872m. The table above highlights the areas that contributed to the Outturn variance.
- 7.9 The cost of placing children in care, including Unaccompanied Asylum-Seeking Children (UASC), continues to be the main reason for the overspend and totals £1.537m of the variance. Despite the overall numbers of cared for children being lower than previous years, significant shortages of suitable available placements are driving up costs within the market. Price increases since 2021/22 are in excess of 30% in residential and unregulated/unregistered placements. The legislation on unregulated placements changed in September 2022 and continues to result in further pressure on this budget into 2023/24.
- 7.10 The Home to School Transport budget overspent by £0.434m as a result of increasing costs relating to existing routes. A thorough review of provision is current being undertaken, including a review of single occupancy taxis and the promotion of independent travel.
- 7.11 Expenditure relating to support for children in need under Section 17 of the Children Act 1989, was over budget by £0.112m. This spend also covered areas such as housing support and ensured the Council met its duty to safeguard the children and promote their welfare.
- 7.12 Underspends in staffing budgets totalling (£0.892m) and in recruitment and retention budgets (£0.199m) have helped to offset these pressures across the Directorate.
- 7.13 Agency costs have been a significant financial pressure in recent years, but following successful recruitment and retention within the service, the total agency costs for 2023/24 totalled £2.3m compared with spend in 2021/22 of £4.9m. We are now seeing significantly increased salary expectations within the agency market and stiff competition from other Councils that are offering increased hourly rates to stabilise their own workforces and it is therefore an area that needs continued focus moving forward.
- 7.14 There was an underspend on the Disabilities Service of (£0.141m), resulting from a refund of unused direct payments, which was greater than had been budgeted.
- 7.15 Outside of Local Authority funded activities, the schools' higher needs block in the Dedicated Schools Grant, (DSG), remains under financial pressure from high levels of referrals for assessment for higher needs support for children.
- 7.16 The Council is part of the Education and Skills Funding Agency (ESFA) and Department for Education (DfE) Safety Valve programme, which supports councils in achieving future financial sustainability in this area. If the council can deliver on its recovery plan and achieve a balanced higher needs budget, all the historic DSG deficit will be written off, through additional funding by ESFA.
- 7.17 Torbay Council has already received £7.270m from the ESFA in response to its recovery plan, without which the DSG cumulative deficit was forecast to be £12.756m by the end of

the financial year. For 2023/24 the DSG overspend was £1.024m, in line with the forecast deficit within the agreed safety valve plan. It is critical that the Council continues to deliver on its recovery plan.

Corporate and Executive Services

Service	Budget £'000	Final Outturn £'000	Variance £'000	Forecast at Q3 £m	Movement since Q3
Legal Services	1.336	1.698	0.362	0.416	-0.054
HR Services	0.974	0.853	-0.121	-0.034	-0.087
Policy, Performance and Comms	0.733	0.634	-0.099	-0.044	-0.055
Other Minor Variances			0.041	0.025	0.01
Outturn Position	12.677	12.853	0.177	0.363	-0.186

7.18 There is a total overspend for Corporate and Executive Services totalling £0.177m. The table above highlights the areas that contributed to the total Outturn variance.

7.19 The overspend is mainly due to spending pressures within Legal Services (£0.362m overspend), which is a national issue affecting Councils. This is a result of the difficulties the service continues to face in recruiting permanent staff to meet levels of demand. This has meant the service have had to use more expensive agency staff to continue delivering legal support to services across the Council.

7.20 The Council has struggled to compete with the salaries paid by other organisations – both within the private and public sector. The service is now applying additional market factors in the hope this will make a difference to their ability to recruit and reduce their requirements of agency workers. The Director for Corporate Services is working closely with the Head of Legal Services to mitigate the ongoing impact of these pressures in future years.

7.21 Within Corporate and Executive Services, there are some underspends forecast across other teams and service areas, which are partially offsetting the overspend within Legal Services, particularly within HR Services (£-0.121m) and Policy and Performance and Communications (£-0.099m).

Finance Services

Service	Budget £m	Final Outturn £m	Outturn Variance £m	Forecast at Q3 £m	Movement since Q3 £m
Treasury Management	19.275	16.307	-2.968	-2.000	-0.968
Business rates retention from Devon pool.	-0.900	-1.208	-0.308	0.000	-0.308

Other Minor Variances			-0.093	-0.100	0.007
Outturn position	-12.859	-16.163	-3.369	-2.100	-1.269

7.22 There is a total underspend for the Council's Finance Corporate Cost Centres, (including central Government grants), totalling (£3.304m). The table above highlights the areas that contributed to the Outturn variance.

7.23 The underspend is mainly a result of increased interest rates, being applied on investments. This means the Council has earned higher levels of interest on its current cash balances than was budgeted for 2023/24. Given the current low levels of spend on Capital projects, there has also been a saving on interest payable by the Council as lower levels of spend activity means lower amounts borrowed, therefore reduced interest paid by the Council.

7.24 Torbay Council also received (£0.308m) more income from the Devon-wide business rates retention pool than was budgeted, resulting from business rate income across the pool membership exceeding expectations in totality.

Investment Portfolio

Service	Budget £m	Final Outturn £m	Outturn Variance £m	Forecast at Q3 £m	Movement since Q3 £m
Outturn position	(4.6)	(4.6)	0	0	0

7.25 The Council's Investment Portfolio reported a net revenue contribution, after the use of the investment property reserve to cover lost rent, holding costs of vacant premises and landlord' works.

7.26 This means the Council's investment portfolio has contributed £4.6m towards Council activity and has maintained its Investment Fund Reserve which will help offset future pressures as and when they arise.

Pride in Place Services

Service	Budget £'000	Final Outturn £'000	Variance £'000	Forecast at Q3 £	Movement since Q3
Place Operations:					
- Torre Abbey	0.314	0.429	0.115	0.100	0.015
- Parks and green infrastructure	1.938	2.055	0.117	0.014	0.103
- Management fee to TCCT	0.315	0.491	0.176	0.170	0.006
- Leisure and sport	0.145	0.245	0.098	0.000	0.098
- Highways	3.243	3.038	-0.204	-0.050	-0.154
- Car Parking	-6.115	-6.341	-0.226	0.000	-0.226
- Waste services	12.958	12.993	0.035	-0.070	0.105
Planning and Transport:					

- Development Control	0.492	0.845	0.353	0.150	0.203
- Land charges	-0.258	-0.193	0.065	0.070	-0.005
- Concessionary fees	3.546	3.412	-0.134	0.000	-0.134
- Building Control	0.125	0.202	0.077	0.100	-0.023
-					
Place Commissioning:					
- TDA contract fee overspend	1.018	1.348	0.330	0.000	0.330
- Various TDA client budgets	3.130	3.384	0.254	0.009	0.245
Other Minor Variances			0.058	0.020	0.038
Outturn position	22.940	24.054	1.114	0.513	0.601

7.27 Within the Pride in Place directorate there was a total overspend of £1.114m. This was higher than forecast due to some transfers from reserves not being actioned and overspends being funded from within the overall General Fund budget. The table above highlights the areas that contributed to the total Outturn variance, with further detail below.

7.28 Place Operations:

- a. Within Torre Abbey income, there was a £0.115m shortfall, mainly due to income from weddings and the café returning lower income than budgeted.
- b. The overspend within Parks and Green infrastructure mainly relates to additional expenditure required on recreation and park services (£0.071m) as well as on public toilets (£0.031m).
- c. An overspend of £0.170m related to the management fee paid to the Torbay Coast and Countryside Trust for management of land leased to the Trust by the Council. This provides protection and enhancement of Torbay's natural heritage for the benefit of the community and visitors. The additional fee is to provide short term support, whilst the Trust implements a number of measures to improve its financial sustainability.
- d. An overspend of £0.098m occurred within the Leisure and Sport service, mainly because of additional energy costs, plus income being below budget.
- e. There was an underspend of (£0.204m) across Highways budgets, mainly due to savings on energy costs relating to streetlighting and traffic signals.
- f. Across Car Parking budgets there was a total underspend of (£0.226m). On-street car parking budgets ended up breaking even, with income from off-street parking being slightly lower than budgeted. This shortfall is offset by underspends within Parking Enforcement – mainly income above budget and vacancy savings (-£0.452m).
- g. The Waste Collection service was overspent by £0.684m, mainly due to the Garden waste service being short of the budgeted income target by £0.550m. The number of subscribers in the first year of operation was lower than the levels anticipated. A contribution from the Waste reserve of £0.150m was planned but this has not been actioned due to underspends within the Waste Disposal budget, offsetting these overspends. Underspends of (£0.649m) arose due to waste disposal levels and

associated costs being lower than forecast, plus additional profit share income from the Waste Partnership.

7.29 Planning and Transport:

- a. Development Control budgets overspent by £0.353m, mainly due to additional expenditure on professional fees and agency staff, plus income levels being lower than budgeted.
- b. Other Planning budgets were overspent by £0.065m, due to income from land charges being lower than budgeted, although slightly better than previous projections.
- c. There was an underspend on the Concessionary fares budget at year end totalling (£0.134m) as usage and associated costs were lower than budgeted, especially in the final quarter of the year.
- d. Building control fee income was lower than budgeted and was the main reason for the £0.077m overspend.

7.30 Place Commissioned:

- a. The TDA commissioning fee budget overspent by £0.330m due to an increase in commissioned work from the Council and additional cost pressures. This has not been funded from reserves as planned and accounts for a large proportion of the movement between Q3 forecast and the Outturn position.
- b. There was a net overspend across the TDA client budgets of £0.254m, despite savings in utility and NNDR budgets. The main overspends relate to costs exceeding budget on Paignton Library Hub (£0.122m), Oldway Mansion (£0.074m) and programmed/reactive repairs (£0.058m), plus a shortfall of income against the asset disposal budgets (£0.067m).

Public Health Services

Service	Budget £'000	Final Outturn £'000	Outturn Variance £'000	Forecast at Q3 £	Movement since Q3
Public Health	10.430	10.420	-0.010	0	0

7.31 Overall Public Health presents a balanced position, with only a small overall underspend of £0.010m. There was an underspend of £0.061m within the ring-fenced grant, which has been carried forward to 2024/25 for funding Public Health priorities in future years.

7.32 A significant amount of spend relates to the provision of 0-19 services, which is expected to see increased spending pressures in future years, plus increases in the Sexual and Reproductive Health contract. A project group has been set up exploring future options for re-procuring these services in future years within the resource envelope available.

8. One-off allocations and ring-fenced reserves

- 8.1 At year end the Chief Finance Officer transferred unspent “one off” budget allocations to reserves to be spent in future years. In addition, funds unspent from other earmarked or ring-fenced funding streams were also carried forward such as funds held for Adult Social Care and Public Health.
- 8.2 The net 2023/24 underspend across the council enables the £0.678m outturn surplus to be transferred to reserves. It is proposed that £0.4m is moved into a specific earmarked reserve which will assist the Council in the re-prioritisation, and ultimate delivery, of the Capital Investment Programme. Revenue costs will be required to continue with design and feasibility work for specific schemes alongside bolstering capacity, and skills, in project delivery, which will assist delivery in the future. It is proposed that £0.278m is moved into the CSR reserve to fund one off expenditure to accelerate delivery of Operation Brighter Bay.
- 8.3 The Section 151 Officer provided a report on Reserves to Council, in February 2024, as part of the 2024/25 budget setting papers. These Reserves will be reviewed in more detail over the coming months and ultimately feed into the budget setting process for 2025/26.

9. Capital Outturn 2023/24

- 9.1 In 2023/24 the Council spent £46.8m on capital projects, compared with an initial budget of £90m and a revised budget of £58.5m. This spend is part of a wider 4-year capital programme approved as part of the 2024/25 budget setting process.
- 9.2 The spend for each project compared to budgets is shown in Appendix 2 to this report, which also highlights estimated scheme costs and spend in previous years.
- 9.3 The level of cost inflation on construction contracts remains high and along with supply chain issues have impacted on the “pace” of spend and capital expenditure for the year being less than forecast. The balance on unspent capital budgets will be transferred into future years.
- 9.4 There were over 30 separate projects that incurred spend over £100k. This demonstrates the breadth and scale of projects a unitary council like Torbay is involved with, over a wide range of services including highways, schools, housing and regeneration. Eleven projects incurred spend greater than £1m, with the largest spend of £10.4m relating to the Harbour View Hotel development.
- 9.5 Appendix 2 shows that the funding of the capital spend on 2023/24 was broadly in line with forecasts - primarily funded from capital grants (£15.9m) and from unsupported borrowing (£27.8m). These were supplemented by capital receipts, revenue and external contributions such as s106 payments and the use of reserves.
- 9.6 The Council, due to its cash flow did not borrow any additional funds during the year and remained within both its operational and authorised (borrowing) limits. Further detail will be included within a separate Treasury Management outturn report to Audit Committee.

- 9.7 The Council has received confirmation of a successful grant applications for the sum of £20m of capital funding from the Levelling Up Partnership (LUP). The grant funding is to be committed by March 2025 and the 2024/25 Q1 monitoring report will provide further details on the projects to be supported with this funding.
- 9.8 More urgent approval is required however on one of the projects to enable the procurement phase and further development of the business case. This relates to the Paignton and Preston coastal defence project which would receive £7m of this grant, to fund the estimated £17.515m costs. If costs were to increase and exceed estimates (including contingencies), then re-scoping of the public realm works would be required to scale the final works within budget. A recommendation is included above for approval to proceed with this project.
- 9.9 In addition to the LUP funds, Torbay Council have also been successful in our application for the third round of Levelling Up Funds (LUF3) to support the Brixham port infrastructure and Paignton technology park projects. Subsequently, Torbay was awarded £20m, which has been allocated between these projects for delivery by March 2026. The cost is estimated at £25.415m, with Torbay Council required to match fund a total of £5.4m through supported borrowing, subject to an approved business case.
- 9.10 Approval is required for feasibility funding to progress these projects to the stage where there is further transparency and understanding of full project costs, risks and revenue funding streams to fund the borrowing costs.

10. Risks & Sensitivity

10.1. There are a number of financial risks facing the Council as shown below:

Risk	Impact	Mitigation
Financial sustainability and write off of the DSG Deficit	High	The Council has a recovery plan approved with the Department for Education's Safety Valve programme.
Adult Social Care funding is not sufficient to meet forecast costs	High	A new five-year contract has been agreed from April 2025 and the Director of Adult Social Care is developing a range of intervention activity and savings plans, in collaboration with Health Trust colleagues.
Price increases from high inflation rates continue to have an impact on both revenue and capital costs.	Medium	The 23/24 budget included a higher than usual allowance for inflationary pressures and contingencies are held for revenue and capital.

The “cost of living” economic impact on the Council’s residents from higher fuel and utility costs is likely to impact on both demand for council services and may result in reduced income from council tax.	Medium	The Council will continue to mitigate where possible the impact on council services and support/signpost residents to support. The council will continue to administer payments under both the Household Support Fund and Council Tax Rebates.
Unable to recruit staff and need to use agency staff.	High	Work continues to identify solutions to these challenges which seem to be on a national scale. Recruitment & retention of Social Work staff and Legal services staff continues to be challenging.
Delivery of financial sustainability plans	High	Plans will be monitored at Directors meetings to assess progress and estimates of future saving levels.
Investment Property Income changes	High	The Investment Board will continue to review future leases and manage any potential break clause implications – maintaining appropriate balances within the Investment Reserve
Temporary Accommodation – increasing demand and cost pressures within the local housing market.	High	Robust monitoring will continue, including assessing the impact from directly procuring and properties to increase the stability of accommodation options available to the Housing Options team

11. Appendices.

- 11.1. Appendix 1 – Monitoring of agreed 23/24 Savings
- 11.2 Appendix 2 - Capital Plan Summary – Outturn position for 2023/24
- 11.3 Appendix 3 – Write offs over £5,000 – EXEMPT
- 11.4 Appendix 4 – Outline Business case for Preston and Paignton sea defence scheme - EXEMPT

Monitoring of savings appearing on 23/24 published budget papers				
Description of saving/efficiency	Directorate	£m	Achieved?	Comments
Harbour Health and Safety post to be funded by Harbours	Adults & Community	-0.050	Partial	Part achieved for £40k salary cost
CCTV - contribution from Fleet Walk	Adults & Community	-0.050	Yes	Achieved - budget adjusted
Home to School Transport	Childrens	-0.067	No	Pressures remain in H2S Transport
Reduction in agency costs	Childrens	-0.030	Yes	Savings achieved
Removal of Transformation post	Corporate	-0.060	Yes	Achieved - budget adjusted
Digitalisation within electoral services	Corporate	-0.010	No	Not yet achieved
Use of MS365 - security	Corporate	-0.020	Yes	Savings from New E365 licences - from Jan 24
Town Hall - savings from reduced usage	Place/Corporate Services	-0.100	Partial	Behind target on achieving savings
Transport post funded from capital	Place	-0.050	No	Issues flagged and listed as budget pressure
SWISCO efficiencies	Place	-0.250	Yes	Achieved - budget adjusted
Climate change savings offsetting borrowing costs	Place	-0.060	No	Issues flagged and listed as budget pressure
Increased recycling reducing costs of waste disposal	Place	-0.055	Yes	Achieved - budget adjusted
Increased income from Section 38 highways works	Place	-0.010	Yes	Savings achieved
Marketing costs to picked up externally	Place	-0.006	Yes	Budget adjusted and no issues
Increased income from events	Place	-0.033	No	Pressures emerging at Q1
Reduce net costs of Torbay Airshow - sponsorship	Place	-0.027	N/A	Additional budget found to reverse saving
TDA to fund borrowing costs of regeneration schemes	Finance	-0.200	N/A	Additional budget found to reverse saving
Total published savings		-1.078		
Savings achieved		-0.481	45%	
Savings n/a		-0.227	21%	
Savings partially achieved		-0.150	14%	
Savings not achieved		-0.220	20%	
		-1.078	100%	

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CAPITAL PLAN - OUTTURN 2023/24 - EXPENDITURE

Appendix 2

Project Details				23/24 Spend vs budget		
Capital Programme Project	Estimated Scheme Cost £000	Spend in Prev Years £000	2023/24 Budget £000	2023/24 Total Revised Budget	2023/24 Outturn £000	Variance £000
Schools Capital Programme						
Capital Repairs and Maintenance	on-going	on-going	300	1,010	650	359
Education Review Projects	on-going	on-going	1,461	111	54	55
High Needs Capital Provision	on-going	on-going	2,650	890	299	591
Devolved Formula Capital	315			314	113	202
Paignton Academy STEPS Relocation	1,250	0	0	150	80	70
Foster Homes Adaptations	300	51	100	1	3	(2)
Acorn Centre (Youth Investment Fund)	528	0	264	80	6	74

Schools Closed Projects						
Mayfield Expansion	1,575	1,534	0	62	62	0
Paignton CS Academy Expansion	1,737	1,735	0	2	2	0
Roselands Primary - additional classroom	599	553	0	26	4	22
St Cuthbert Mayne Expansion	5,681	4,949		731	64	668
St Cuthbert Mayne Phase 2	1,000	34	750	966	791	175

Projects under Feasibility and Development						
Crossways, Paignton - Regeneration	36,983	2,264	5,000	1,968	2,218	(250)
Extra Care Housing (Torre Marine)	22,281	1,415	2,153	660	0	660
Edginswell Railway Station	24,400	613	5,000	2,297	2,035	262
Union Square Acquisition & Development (Town Deal)	70,000	3,957	7,043	846	791	55
Strand Land Assembly & (Debenhams) Demolition	13,600	161	2,500	50	69	(20)
Debenhams Redevelopment				253	253	0
Torquay Town Deal - Pavilion	13,000	57	1,300	423	7	416
Torquay Town Deal - Core Area Public Realm	850	60	598	60	35	25
Torbay Road Paignton (High Streets Funding)	1,500	77	426	100	(2)	102
Station Square (High Streets Funding)	2,540	202	2,027	211	48	163
Victoria Centre (Paignton) Phase 1 (FHSF)	652	25	602	351	456	(106)
Victoria Centre (Paignton) Phase 2 (FHSF)	3,862	55	3,312	1,360	13	1,347
Diversification (High Streets Funding)	0	0	1,300	0	0	0
Paignton Coastal Defence Scheme	17,515	238	150	211	201	11
Paignton Flood Defence (High Streets Funding)	571	0	485	37	44	(7)
Oldway Mansion - phase 1 of Master-Plan	0	0	0	0	72	(72)

Economic Development / Regeneration						
Edginswell Business Park Unit 1	6,927	2,200	5,724	4,384	4,079	305
Edginswell Enabling Works (LEP GBF)	5,281	2489	2,250	2,060	2,060	(0)
Harbour View Hotel Development	21,249	10,445	8,600	11,174	10,432	742
Torquay Strand Public Realm (Town Deal Funding)	4,485	587	1,814	800	1,202	(402)
Paignton Picture House (Future High Streets Funding)	1,285	918	367	367	367	0
Paignton Picture House (Community Dev Fund)	2,323	0	1,800	1,950	0	1,950

Lymington Rd Business Centre (LEP GBF/EGF)	5,925	1070	3,986	4,623	4,148	475
Small Projects - UK Shared Prosperity Fund	361	8	139	131	97	34

Housing Development / Investment

Temporary Accommodation	9,621	4,121	5,000	5,500	4,928	572
Disabled Facilities Grants	2,332	0	1,295	1,287	1,265	22
Enhancement of Development sites	329	137	65	132	4	128
Housing Rental Company - Loan	3,267	2,767	0	456	456	0
Community Led - Affordable Housing Loans	0	0	3,000	0	0	0
St Kilda's, Brixham - Affordable Housing Stage 1	434	0	338	434	232	203
St Kilda's, Brixham - Affordable Housing Stage 2	5,249	0	0	0	7	(7)

Environment / Climate Capital Investment

SWISCO Loan - Vehicle & Equipment Replacement	2,800	1,230	2,338	0	1,305	(1,305)
SWISCO Loan - Buildings	1,200	0	1,000	0	80	(80)
Car Park Investment	850	54	500	796	495	301
Climate Change Initiatives	1,000	0	250	392	166	226
Green Waste Bins	929	201	619	200	55	145
Local Electric Vehicle Infrastructure	958	0		0	0	0
Changing Places Toilets	180	0	180	40	69	(29)
Solar Farm, Brokenbury (EGF)	2,275	192	1,620	288	17	271
Solar Farm, Nightingale Park (EGF)	4,150	385	2,914	484	450	35

Transport Capital Investment

Transport Highways Structural Maintenance	4,361		2,038	2,877	2,600	277
Transport Integrated Transport Schemes	2,241		1,147	1,186	424	762
Transport - Torquay Gateway Road Improvements	3,485	3,450	20	21	(307)	326
Transport - Western Corridor	12,294	11,682	250	199	(2)	202
Shiphay Lane (Active Travel Fund)	227			0	4	(4)
Babbacombe Beach Road	469	439	31	15	11	4

Coastal Defence / Flood alleviation

Flood Alleviation - Cockington	328	301		27	23	4
Flood Alleviation - Monksbridge	412	86	295	326	36	290
Flood Alleviation - Monksbridge	50	4	20	46	5	42
Paignton Flood Alleviation	60	10	40	50	14	36
Brixham Flood Alleviation	45	10	25	35	29	6
Collaton St Mary Flood Alleviation				497	135	362

Sports, Leisure and Culture						
Clennon Valley Sport Improvements	70	32		22	18	4
Haldon & Princess Pier	95	7	50	88	9	79
Princess Pier - Structural repair	1,665	818	60	0	0	0
Torquay Town Dock - Infrastructure Improvements	1,200	741	211	460	360	99
Harbour Patrol Boat	72	0		75	75	(0)
Torre Valley North Sports Facilities	422			44	45	(0)
Park Tennis Renovation	504			504	504	0
Armada Park Refurbishment	91			30	30	(0)
Torre Abbey Gatehouse/SW Wing	1,290	54	707	813	632	182
Torre Abbey SE Wing/Courtyard/Tower	539	20	297	344	215	129
Torre Abbey Renovation - Phase 3	0	0	208	32	0	32
RICC Improvements - Backlog Repairs	1,250	935	0	280	283	(3)

Closed Projects						
Preston (North) - Development of former WCs		47	717	(47)	(47)	0
The Pines (TCCT)	75			75	0	75
Maidencombe Beach CP (TCCT)	45			45	0	45
EPIC Equipment (funded from LEP)	230			230	230	0
Claylands Redevelopment	11,150	10,748		20	9	11

Funding (to be moved to Projects Pending)						
Adult Social Care Grant	2,777	0	895	80	80	(0)
Affordable Housing	1,598	243	529	0	0	0
Torquay Towns Fund (General)	158	0	52	113	114	0
General Capital Contingency	342	0	632	336	16	320
Capital Contingency	0	0	600	0	0	0

Other						
Corporate IT Developments				430	430	0
Capital Expenditure from Revenue				47	47	(0)
Schools Capital Spend from Revenue				559	559	0
Contingency - Major repairs				83	83	(0)
South Devon Highway - Council contribution				76	76	(0)
Old Toll House, Tqy Seafront (Econ Growth Fund)				(191)	(191)	0

Full Capital Investment Plan Totals	351,695	74,411	90,044	58,495	46,829	11,666
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Meeting: Council **Date:** 19 July 2024

Wards affected: All Wards

Report Title: Constitution Amendment – Officer Scheme of Delegation

When does the decision need to be implemented? July 2024

Cabinet Member Contact Details: Jacqueline Thomas – jackie.thomas@torbay.gov.uk / Alan Tyerman – alan.tyerman@torbay.gov.uk

Director Contact Details: Matthew Fairclough-Kay – matthew.fairclough-kay@torbay.gov.uk / Malcolm Coe – malcolm.coe@torbay.gov.uk

1. Purpose of Report

- 1.1 This report sets out proposed amendments to the Officer Scheme of Delegation to align delegation levels with the revised Contract Procedures (approved in February 2024) and the Procurement Act 2023 which comes into force on 28 October 2024. Together with the introduction of a specific Procurement Approval Report for tender processes requiring Cabinet or Council approval.
- 1.2 The proposed changes will enable external contracts to be procured in a more timely and efficient manner.

2. Reason for Proposal and its benefits

- 2.1 The proposals in this report help us to deliver our vision of a healthy, happy and prosperous Torbay by
- reducing barriers to participation in procurement processes for local suppliers and increasing their opportunities to bid for council contracts
 - ensuring best value is achieved from every £ spent by improving the efficiency and effectiveness of our procurement processes
 - supporting the achievement of social value and additional community benefits within our contracts
- 2.2 The reasons for the proposal and need for the decision are to:
- remove one of the main barriers to efficient and effective procurement, as identified by colleagues during a recent review of procurement processes and procedures
 - ensure procurement is fit for purpose, as simple as possible, able to deliver corporate priorities of the organisation and facilitate the business of the council
 - enable increased innovation and flexibility in commercial activity to empower our services and subsidiary companies to better understand and respond to the needs of residents and what the local marketplace has to offer
 - ensure when Cabinet or Council approval is sought to undertake a procurement the information provided relates to the direct and indirect benefits that will be achieved through the contract, including preliminary market engagement to understand the local supply base and increase opportunities for local businesses to bid.
- 2.3 The benefits of the proposal are:
- creation of a simpler and more flexible commercial system that better meets the council's needs while remaining compliant with national and international obligations;
 - opening up public procurement to new entrants such as small businesses and social enterprises so that they can compete for and win more public contracts;
 - transform and improve our commercial practices to deliver the best value and outcomes

3. Recommendation(s) / Proposed Decision

1. That the amended delegation levels for officers to award contracts (as set out at Appendix 1) be approved, alongside the introduction a specific Procurement Approval Report for Cabinet and Council decisions.

Appendices

Appendix 1: Officer Scheme of Delegation

Appendix 2: Procurement Approval Report Template

Background Documents

None

Supporting Information

1. Introduction

- 1.1 The Procurement Act 2023 is due to come into force on 28 October 2024, to ensure the Council has the necessary commercial systems, policies and process in place to support implementation of the new legislation Contract Procedures have been revised. The upcoming legislation and new Contract Procedures will enable the Council to take a more flexible, agile and proactive approach to procurement and contract management, with the aim of increasing spend with local suppliers and improving the value and community benefits achieved through external contracts.
- 1.2 At present the Chief Executive, all Directors, Divisional Directors and Heads of Service can award a contract as long as the total contract does not exceed £50,000 or the aggregate contract total does not exceed £50,000, with the exception being contracts pursuant to the Council's approved Capital Programme. Therefore, contracts outside the Capital Programme, over £50,000, have to be approved by Cabinet and are subject to call-in.
- 1.3 Cabinet have been receiving a regular number of contracts over the last couple of years that have been predominantly linked to the day-to-day operational business of the Council. Furthermore, the budget for the contracts has been allocated and approved by the Council, as part of the budget setting process, thereby Council has already committed its support for such spend.
- 1.4 The current Cabinet requirement to approve these contracts, is hindering effective operations, due to consequential delays in the commencement of tender processes and the award of contracts as a 'stand still' period is having to be incorporated into the procurement process to accommodate call-in. This impact on the effective procurement of contracts will increase when the Procurement Act 2023 comes into force
- 1.5 This will be further exacerbated when the Procurement Act 2023 comes into force, as we will need to meet a number of new obligations at the outset of any procurement, which will inevitably result in longer procurement planning phases. We will be obliged to consider:
 - Preliminary market engagement
 - Procurement objectives
 - Transparency requirements
 - Contract scope drafting
 - Award criteria and Key Performance Indicator drafting
 - Consideration of the priorities set out in the National Procurement Policy Statement
 - Joining forces with other contracting authorities to deliver requirements
 - Delivering value for money objectives
- 1.6 Procurement planning time will be further increased by the introduction of the new competitive flexible procedure, which is tailored individually to the contract being put in place and is expected to be the primary procurement process for most tenders.
- 1.7 There has never been an occasion when a contract that has been approved by Cabinet has been called-in, however a provision in the process, is required nor has there been an occasion when Cabinet has chosen not to award a contract and gone against an officer recommendation. If Cabinet decided not to award the contract to the Preferred Bidder, the Council would be unable to run a similar procurement again and would need robust justification for not awarding the contract to the Preferred Bidder. Additionally, the significant time and effort invested in the process by officers and bidders would be wasted, causing damage to the Council's reputation with bidders and discouraging them from participating in future procurements. Failure to comply in full with the requirements of the Public Contracts Regulations 2015, Procurement Act 2023 or the Health Services (Provider Selection

Regime) Regulations 2023 can result in the Council becoming subject to Court action and / or enforcement action.

- 1.8 The process for awarding contracts will change when the Procurement Act comes into force. Currently all bidders are notified of the outcome of a tender and a 10 day standstill period is observed before the contract can be entered into and a contract notice published. Under the Procurement Act a Contract Award Notice must be published setting out our intention to award the contract and signals the initiation of the stand-still period. At the end of the standstill period a Contract Details Notice is published to confirm the award of the contract. The current requirement to seek approval to award the contract will add additional time to the award stage.
- 1.9 The changes being introduced through the Procurement Act 2023 will extend the length of time necessary to run a tender process, the current Officer Scheme of Delegation and approval process will further increase the duration of the majority of our procurement processes, hampering our ability to tender in the most agile, efficient and effective manner possible.
- 1.10 The Procurement Act 2023 introduces the principle of transparency of by default, with increased reporting and information publishing requirements at all stages of the procurement and contract management lifecycle. This will improve the quality and accessibility of our commercial data, enabling our residents and suppliers to be better able to hold us to account.

2. Options under consideration

- 2.1 To adopt or not to adopt the proposed amendments to the Officer Scheme of Delegation.

3. Financial Opportunities and Implications

- 3.1 The changes will support the new more flexible routes to market agreed through the changes to Contract Procedures, enabling use of procurement routes which consider best value as part of the contract award.

4. Legal Implications

- 4.1 None

5. Engagement and Consultation

- 5.1 Consultation was undertaken with colleagues from across the Council and its wholly companies in relation to the current officer scheme of delegation as part of the procurement transformation work that is currently underway.
- 5.2 The feedback from the consultation identified the current approval limits as being one of the most significant barriers to effective procurement and is preventing officers from being able to put contracts in place in the most efficient and timely manner.

- 5.3 The proposed threshold changes were developed in consultation with the Cabinet Member for Tourism, Culture & Events and Corporate Services and the Cabinet Member for Housing and Finance.

6. Procurement Implications

- 6.1 The proposals will support a more efficient and effective approach to the procurement of goods, services and works, facilitating improved social value and community benefits and an increase in opportunity for local businesses to bid for council contracts.
- 6.2 Implications in relation to individual procurements will be addressed within the Procurement Approval Reports.

7. Protecting our naturally inspiring Bay and tackling Climate Change

- 7.1 This will be addressed within the Procurement Approval Report for individual contracts.

8. Associated Risks

- 8.1 Not adopting the proposals.
- 8.2

9. Equality Impact Assessment

Protected characteristics under the Equality Act and groups with increased vulnerability	Data and insight	Equality considerations (including any adverse impacts)	Mitigation activities	Responsible department and timeframe for implementing mitigation activities
Age	<p>18 per cent of Torbay residents are under 18 years old.</p> <p>55 per cent of Torbay residents are aged between 18 to 64 years old.</p> <p>27 per cent of Torbay residents are aged 65 and older.</p>	There is no differential impact.		
Carers	At the time of the 2021 census there were 14,900 unpaid carers in Torbay. 5,185 of these provided 50 hours or more of care.	There is no differential impact.		
Disability	In the 2021 Census, 23.8% of Torbay residents answered that their day-to-day activities were limited a little or a lot by a physical or mental health condition or illness.	There is no differential impact.		
Gender reassignment	In the 2021 Census, 0.4% of Torbay's community	There is no differential impact.		

	<p>answered that their gender identity was not the same as their sex registered at birth. This proportion is similar to the Southwest and is lower than England.</p>			
Marriage and civil partnership	<p>Of those Torbay residents aged 16 and over at the time of 2021 Census, 44.2% of people were married or in a registered civil partnership.</p>	<p>There is no differential impact.</p>		
Pregnancy and maternity	<p>Over the period 2010 to 2021, the rate of live births (as a proportion of females aged 15 to 44) has been slightly but significantly higher in Torbay (average of 63.7 per 1,000) than England (60.2) and the South West (58.4). There has been a notable fall in the numbers of live births since the middle of the last decade across all geographical areas.</p>	<p>There is no differential impact.</p>		
Race	<p>In the 2021 Census, 96.1% of Torbay residents described their ethnicity as white. This is a higher proportion than the South West and England. Black, Asian and minority ethnic individuals are more likely to live in areas of Torbay classified as being amongst the 20% most deprived areas in England.</p>	<p>There is no differential impact.</p>		

Religion and belief	64.8% of Torbay residents who stated that they have a religion in the 2021 census.	There is no differential impact.		
Sex	51.3% of Torbay's population are female and 48.7% are male	There is no differential impact.		
Sexual orientation	In the 2021 Census, 3.4% of those in Torbay aged over 16 identified their sexuality as either Lesbian, Gay, Bisexual or, used another term to describe their sexual orientation.	There is no differential impact.		
Veterans	In 2021, 3.8% of residents in England reported that they had previously served in the UK armed forces. In Torbay, 5.9 per cent of the population have previously serviced in the UK armed forces.	There is no differential impact.		
Additional considerations				
Socio-economic impacts (Including impacts on child poverty and deprivation)		There is no differential impact.		
Public Health impacts (Including impacts on the general health of		There is no differential impact.		

the population of Torbay)				
Human Rights impacts		There is no differential impact.		
Child Friendly	Torbay Council is a Child Friendly Council and all staff and Councillors are Corporate Parents and have a responsibility towards cared for and care experienced children and young people.	There is no differential impact.		

10. Cumulative Council Impact

10.1 None

11. Cumulative Community Impacts

11.1 None

Proposed amendments to Officer Scheme of Delegation - delegation levels for officers to awards contracts:

1. New Paragraph within Section 1, General Scheme of Delegation of the Officer Scheme of Delegation (at 1.3 with remainder of section renumbered):

'To commission and award contracts in order to fulfil the powers, functions and duties of the service for which the Chief Executive, Director, Divisional Director or budget holder is responsible, where expenditure to do so is included in the approved revenue budget and where the contract value is up to £100,000 per annum and the total value for the contract does not exceed £300,000; the tendering of contracts above £100,000 per annum or with a total value for the duration of the contract between £301,000 and £500,000 is subject to approval in consultation with the relevant member (or in their absence the Leader of the Council or in his/her absence the Deputy Leader of the Council). Contracts with a total value above £500,000 are to be submitted to Cabinet or Council (where budget is not already approved) for approval to go out to tender. Where approval in consultation with the relevant member, or by Cabinet or Council is given to undertake the tendering, the Chief Executive, Director, Divisional Director or budget holder has the authority to award the resultant contract. But this paragraph shall not prevent the Chief Executive, Directors, Divisional Directors and Heads of Service authorising the acceptance of any tenders for goods or services where they are pursuant to the Council's approved Capital Programme.'

The following paragraph 2.11, Limitations on delegations to the Chief Executive, Directors and Divisional Directors, Heads of Service and all other officers to be deleted:

- | | | |
|------|--|---------|
| 2.11 | The Chief Executive, all Directors, Divisional Directors and Heads of Service may not authorise the acceptance of any tender for goods or services where the estimated or actual (whichever the higher) total contract value exceeds £50,000 or (if a contract is linked to another contract) where the aggregate estimated or actual (whichever the higher) value exceeds that amount unless otherwise specified within the Financial Regulations. But this paragraph shall not prevent the Chief Executive, Directors, Divisional Directors and Heads of Service | Cabinet |
|------|--|---------|

authorising the acceptance of any tenders for goods or services where they are pursuant to the Council's approved Capital Programme.

(Note: This limitation shall not apply to decisions connected to the Council's emergency response and/or recovery in relation to any matters which deal with civil protection. The emergency response shall be triggered by the Local Resilience Forum declaring a major incident. Decisions connected to emergency response and/or recovery shall follow the limitations on financial delegation arrangements outlined in 2.13 below.)

Template Guidance

Please delete any highlighted red sections before submitting report

Please ensure your report is clear, concise and written in plain English. Avoid jargon and acronyms.

Ensure you complete the Supporting Information and if necessary the Impact Assessment, for guidance on when this is required contact:

Lisa Antrobus: ext 7064

June Gurry: ext 7012

Kate Spencer: ext 7014

Jacqui Warren: 07423 782520

Meeting: Click here and enter text **Date:** Click here and enter date

Wards affected: Click here to enter text

Report Title: Click here to enter text

When does the decision need to be implemented? Click here and enter date

(For Cabinet decisions only: how soon does your decision need to be implemented? These decisions are subject to call-in and cannot be implemented until five clear working days after the decision is published to allow for potential scrutiny of the decision. If called in it may be delayed for up to four weeks. If you cannot wait that long please contact Governance Support to discuss waiving call-in requirements ASAP)

Cabinet Member Contact Details: Name of Councillor, Cabinet Member title and email address

Director/Divisional Director Contact Details: Name of officer, job title, and email address

1. Purpose of Report

In a few sentences summarise the current position to set the scene.

Keep this section to no more than 3 short paragraphs - you will have opportunity to give further information in the 'Supporting Information' section.

Briefly explain the contract, is there already a contract in place that is ending or is this a new requirement?:

Please number your paragraphs for each section; ie 1.1, 1.2, 1.3 etc.

1.1 To seek approval for the procurement and subsequent award of a contract for Insert brief details of the contract being put in place

1.2

2. Reason for the Contract and its benefits

Summarise why the contract needs to put in place and its benefits for Torbay. What will be achieved for our residents, visitors or businesses?

Think about whether your proposal will help to deliver one or more of the following ambitions:

- We want Torbay and its residents to thrive.
- We want Torbay to be a place where we have turned the tide on poverty and tackled inequalities; where our children and older people will have high aspirations and where there are quality jobs, good pay and affordable housing for our residents.
- We want Torbay to be the premier resort in the UK, with a vibrant arts and cultural offer for our residents and visitors to enjoy; where our built and natural environment is celebrated and where we play our part in addressing the climate change emergency.

Think about whether it will support the delivery of some or all of the following themes:

- thriving people; thriving economy; tackling climate change; Council fit for the future;
- the Council's responsibilities as corporate parents;
- tackling poverty, deprivation and vulnerability;
- people with learning disabilities.

We have to give regard to the following national priorities within our procurement processes, think about whether your contract will support some or all of these priorities:

- creating new businesses, new jobs and new skills
- tackling climate change and reducing waste
- improving supplier diversity, innovation and resilience

2.1

2.2

3. Recommendation(s) / Proposed Decision

What action/decision needs to be taken = Recommendations.

Please number each recommendation.

1. To approve the commencement of the procurement process and the resultant award of the contract, to be undertaken in accordance with advice and guidance provided by Commercial Services.

2.

Appendices

Appendix 1:

Background Documents

List any up to date web pages which are relevant to the report or refer to additional background information.

Please ensure that source data documents/webpages are referenced under each relevant section or listed here as appropriate.

For executive (Cabinet) decisions, any documents not available on the web will need to be sent electronically to Governance Support to allow for the team to upload them to the website with your report.

[Click here to add your list of documents.](#)

Report Clearance

When you have submitted your draft report by the deadline provided by Governance Support, it will be sent to SLT for clearance. Please ensure your Director/Assistant Director has seen/is

happy with the report before you submit it to Governance Support. Reports not submitted by the deadline will be delayed until the next meeting.

Supporting Information

1. Introduction

Is this an existing contract which needs to be re-procured or a new requirement?

What is currently provided if this is the retender of an existing contract or what will be put in place if it's a new contract?

Why is the contract needed, e.g. is it a statutory requirement?

Please number your paragraphs for each section; ie 1.1, 1.2, 1.3 etc.

1.1

1.2

2. Options under consideration

Set out the options which have been considered as part of this proposal e.g. make, buy or do nothing.

Outline the advantages and disadvantages of the alternative options with supporting information as evidence.

Explain why the alternatives are not part of the proposal / decision.

2.1

2.2

3. Contract term and budget

When will the contract start, how long will it be in place for and whether this includes options for extension.

Confirm that you have the budget in place and the contract can be delivered within the budget.

Set out the estimated cost of the contract, it is helpful to include the anticipated total spend and the anticipated annual spend.

3.1

3.2

4. Procurement routes to market

Set out any options identified in relation to the procurement procedure / route to market you will use or are considering.

Outline the reasons for considering these options.

If you have decided on the route to market please set this out with the reasons why this is the preferred route.

Under the Procurement Act 2023 we have a legal duty to consider lotting contracts to enable bids from SMEs and our Contract Procedures require us to increase opportunities for local suppliers and voluntary organisations to bid for Council contracts. For below regulated threshold procurements this may include inviting local suppliers / voluntary organisations to bid or lotting the contract into smaller elements; for above threshold procurements you must consider lotting the contract. If you are not intending to promote the opportunity for local suppliers or lot the contract you will need to explain why this is not possible.

4.1

4.2

5. Best value duty

Explain how you will ensure best value is achieved through the procurement and during the life of the contract, e.g.:

- Consider your approach to evaluating bids, such as the split between price, quality and social value.
- Competitive tendering.
- Social Value - The Public Services Value (Social Value) Act 2012 places a responsibility on public sector organisations to consider social value in service contracts, or where there is a service element in goods or works contracts, under our Social Value policy consideration must be given to whether social value can be achieved within goods, services and works contracts. It gives us the opportunity to consider, and give weighting to in procurements, any additional community benefits that could be achieved (outside the scope of the procurement). These benefits should link wherever possible to the Community & Corporate Plan and be reviewed as part of contract performance reviews – the Council has a set of social value outcomes which align to the Community and Corporate Plan, you will need to identify which of these can be achieved through the contract. Please outline any particular themes you will be focussing on relation to the supplier's social value offer or provide any reasons why you do not intend to include Social Value in this contract.

- Tackling Climate Change - The Council is aiming to become a carbon neutral council and work with others to create a carbon neutral community. In addition, the Council aims to make decisions which improve its organisational and community resilience to the effects of climate change. Describe how the contract you are intending to put in place can support this aim. To help you answer this question please visit our carbon neutral council intranet page here and use the Carbon Neutral Impact Assessment Tool. This Tool asks you a series of questions to help you identify potential impacts. If you need further advice please contact Jacqui Warren, Climate Emergency Officer (jacqui.warren@torbay.gov.uk). If you have completed a Carbon Neutral Impact Assessment please add it as an appendix to this report.
- Provide information on any opportunities for innovation or improvements that will be built into the contract.

5.1

5.2

6. Engagement and consultation

Explain what you have done / will be doing to consult with the market or potential users of the contract in relation to developing your requirements and/or procurement procedure.

6.1

6.2

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

It is not enough to state that the contract will affect everyone equally. There should be more in-depth consideration of available evidence to see if particular groups are more likely to be affected than others – use the table below. You should also consider workforce issues. If you consider there to be no positive or negative impacts use the ‘neutral’ column and explain ‘there is no differential impact’

	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people			
People with caring Responsibilities			
People with a disability			

Women or men			
People who are black or from a minority ethnic background (BME) (Please note Gypsies / Roma are within this community)			
Religion or belief (including lack of belief)			
People who are lesbian, gay or bisexual			
People who are transgendered			
People who are in a marriage or civil partnership			
Women who are pregnant / on maternity leave			
Socio-economic impacts (Including impact on child poverty issues and deprivation)			
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			

8. Impact and risks

Explain whether there will be a detrimental impact or any significant risks if the contract is not put in place.

Explain whether there are any risks associated with putting the contract in place.

8.1

8.2

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

Paragraph 1.20 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 18 July 2024

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:

Matter for decision	Decision taken by	Decision and Alternative Options Considered	Reasons for urgency	Date of decision
Page 17 Interim Establishment of Licensing Sub-Committee	Chief Executive	<p>Decision:</p> <p>That</p> <ol style="list-style-type: none"> 1) the Statutory Licensing Sub-Committee be established with the following Terms of Reference and held on 30 May 2024 at 9.30 am: To consider and determine all matters in connection with licensing applications (including those set out in the Statement of Licensing Policy and Gambling Act Policy/Statement of Principles); and 2) the Head of Governance Support be authorised to empanel to Statutory Licensing Sub-Committee three elected and 	A hearing was needed to comply with our statutory responsibilities, which would be exceeded if there was a delay in the Statutory Licensing Sub-Committee being convened. This would potentially affect the interests of those businesses.	22 May 2024

		<p>trained Councillors and therefore not politically balanced.</p> <p>Alternative Options Considered:</p> <p>None</p>		
<p>Appointment of Interim Overview and Scrutiny Board to consider the Call-in of the Cabinet's Decision on Next Steps Properties at Ryan Place</p> <p>Page 176</p>	Chief Executive	<p>Decision:</p> <p>That an Interim Overview and Scrutiny Board, comprising the following Councillors, be appointed to consider the Call-in of the Cabinet's Decision on Next Steps Properties at Ryan Place:</p> <p>Conservative Group (4): Councillors Brook, Fellows, Strang and Twelves;</p> <p>Liberal Democrat Group (4): Councillors Carter, Fox, Long and Virdee; and</p> <p>Independent Group (1): Councillor Cowell.</p> <p>Alternative Options Considered:</p> <p>None</p>	The Overview and Scrutiny Board must consider the call-in of the Cabinet's decision within ten clear working days (excluding receipt of the call-in notice and the day of the meeting). The appointment of an interim Overview and Scrutiny Board was therefore required in order to facilitate this and adhere to the requirements of the Council's Constitution.	29 May 2024
Interim Establishment of Planning Committee	Chief Executive	<p>Decision:</p> <p>That Planning Committee to be held on 24 June 2024 at 5.30 pm be delegated the powers in the scheme of delegation for Council functions as set out in Part 3 of the Constitution</p> <p>Alternative Options Considered:</p> <p>None</p>	As a result of the scheme of delegation for Council functions as set out in Part 3 of the Constitution not being approved, planning applications would have been undetermined. In consideration of the items on the agenda, it was deemed necessary to take an urgent Council decision	21 June 2024

			to empower Planning Committee to allow the determination of those Planning applications.	
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Anne-Marie Bond
Chief Executive

10 July 2024

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