

Wednesday, 4 September 2024

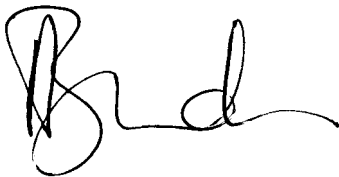
Meeting of the Council

Dear Member

I am pleased to invite you to attend a meeting of Torbay Council which will be held in **The Burdette Room, Riviera International Conference Centre, Chestnut Avenue, Torquay, TQ2 5LZ** on **Thursday, 12 September 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 - 14)
To confirm as a correct record the minutes of the meeting of the Council held on 18 July 2024.
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 including the presentation of certificate of appreciation to the Torbay Airshow volunteers, the Leader of the Council, the Overview and Scrutiny Co-ordinator, or the Chief Executive.
6. **Petitions**
To receive petitions and any oral representations from the public in accordance with Standing Order A23 as set out below:
 - (a) Petition on Breakwater Car Park (Pages 15 - 16)
 - (b) Give Cyclists a Provision as part of the Delivery of the Current Harbour Public Realm Project (Pages 17 - 18)

7. **Public question time** (Pages 19 - 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.
8. **Members' questions** (Pages 23 - 24)
To respond to the submitted questions asked under Standing Order A12.
9. **Implementation of the Accommodation Re-purposing Project ("Hotels to Homes") and Acquisition of Scheme 1** (Pages 25 - 104)
To consider the recommendations of the Cabinet and the submitted report on the above.
10. **Levelling Up Fund Round 3 - Torbay Technology Park** (Pages 105 - 118)
To consider the recommendations of the Cabinet and the submitted report which seeks authority to acquire the employment land needed to develop and accelerate the Torbay Tech Park project.
11. **Treasury Management Outturn 2023/24 Report** (Pages 119 - 142)
To consider the recommendations of the Audit Committee and the submitted annual report on the treasury management activities undertaken during the year 2023/24.
12. **Establishment of Cabinet Working Parties and Council Local Plan Working Party** (Pages 143 - 156)
To consider the recommendation of the Cabinet and the submitted report which seeks to establish a Local Plan Working Party.
13. **Constitution Amendments - Local Protocol on Relations between Overview and Scrutiny and the Cabinet** (Pages 157 - 172)
To consider a report that sets out changes to the Council's Constitution in respect of a new Local Protocol on relations between Overview and Scrutiny and the Cabinet.
14. **Urgent Council Decision taken by the Chief Executive** (Pages 173 - 174)
To note the submitted report on urgent Council decisions taken by the Chief Executive.

Live Streaming

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

18 July 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, Mandy Darling, Douglas-Dunbar, Fellows, Foster, Fox, Harvey, Hutchings, Johns, Law, Barbara Lewis, Chris Lewis, Long, Nicolaou, Penny, Strang, David Thomas, Jacqueline Thomas, Tolchard, Tranter, Twelves and Tyerman

28 Opening of meeting

The meeting was opened with a prayer.

29 Apologies for absence

Apologies for absence were received from Councillors Steve Darling, Fox, Maddison, Pentney and Virdee.

30 Minutes

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

that 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, be confirmed as a correct record and signed by The Worshipful The Mayor of Torbay.

31 Declarations of interests

No interests were declared.

32 Communications

The Leader of the Council:

- a) congratulated Steve Darling and Carol Voaden on their recent election as MPs for Torbay and South Devon respectively. He advised members that he

had written to both MPs inviting them to visit Levelling Up projects across Torbay and requested them to continue lobbying Government for their progression for the benefit of Torbay; and

- b) informed members of his communications with the Deputy Prime Minister, Angela Rayner, to continue devolution discussions with Torbay and Devon County Council and advised he would provide further updates as information became available to share.

33 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 agenda Item 8 (Notice of Motion - Appointment of Overview and Scrutiny Co-ordinator) to be considered after Item 10 (Election of Deputy Civic Mayor).

34 Public question time

In accordance with Standing Order A24, the Council heard from Mr Fraser who had submitted a statement and question in relation to the Pavilion, Torquay. The Cabinet Member for Place Development and Economic Growth responded to the statement and question that had been put forward, plus a supplementary question asked by Mr Fraser.

35 Members' questions

Members received a paper detailing questions, notice of which had been given in accordance with Standing Order A12. The paper also contained the answers to the questions which had been prepared by Councillors Billings, Chris Lewis, David Thomas, Jackie Thomas and Tranter, and was circulated prior to the meeting.

The Worshipful the Mayor of Torbay advised that prior to the meeting, Question 7 had been withdrawn by Councillor George Darling.

Supplementary questions were put and answered by Councillors Billings, Chris Lewis, Tranter, David Thomas and Jackie Thomas, arising from their responses to the questions in respect of questions 1, 4, 6, 8, 9 and 11.

In the absence of Councillor Steve Darling, question 2 was withdrawn.

36 Election of The Worshipful The Mayor of Torbay

Councillor Strang proposed and Councillor Bryant seconded a motion, which was agreed by the Council as follows:

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

(The Worshipful the Mayor of Torbay, Councillor Stevens, in the Chair)

The Worshipful the Mayor of Torbay took the Declaration of Acceptance of Office and Oath of Allegiance and thanked the Council for the honour bestowed upon her.

The Worshipful the Mayor of Torbay announced that Mr Ian Stevens would be her Consort during her term of office and her charities would be Play Torbay and the Fisherman's Mission. The Worshipful the Mayor of Torbay advised that she had appointed Reverend Angela Sumner to be her Chaplain.

37 Retiring Civic Mayor

Councillor Bye proposed and Councillor Tyerman seconded a motion, which was agreed by the Council as set out below:

that the Council express its sincere thanks and appreciation to Councillor Spacagna and Mr Christopher Ashfield for the manner in which they have carried out their duties during their term of office.

38 Election of Deputy Civic Mayor

Councillor Tolchard proposed and Councillor Jackie Thomas seconded a motion, which was agreed by the Council as follows:

that Councillor Barbara Lewis be elected The Deputy Civic Mayor for the remainder of the Municipal Year 2024/2025.

The Deputy Civic Mayor of the Council took the Declaration of Acceptance of Office and thanked the Council for the honour bestowed upon her.

The Deputy Civic Mayor also announced that Councillor Chris Lewis would be her Escort during her term of office.

39 Notice of Motion - Appointment of Overview and Scrutiny Co-ordinator

Members considered a motion in relation to the appointment of Overview and Scrutiny Co-ordinator, notice of which was given in accordance with Standing Order A13.

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

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.

40 Brokenbury Solar Farm

The Council considered the Cabinet's recommendations and the submitted report on proposals for prudential borrowing to progress the Brokenbury Farm Solar Farm project since the Cabinet's original decision in May 2020.

Councillor Chris Lewis proposed and Councillor Tyerman seconded a motion as set out below:

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.

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

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.

4. 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 Brokenbury Solar Farm, and any decisions on the application of the community funds to be made in consultation with the Ward Councillors.

The amendment was put to the vote and declared lost.

Councillor Chris Lewis' and Councillor Tyerman's original motion was then considered by the Council which was agreed (unanimously), as set out below:

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.**

41 **Nightingale Solar Farm**

The Council considered the Cabinet's recommendations and the submitted report on proposals for additional funding to progress the Nightingale Solar Farm project.

Councillor Chris Lewis proposed and Councillor Tyerman seconded the motion, as set out below:

that Cabinet recommends that Council approves:

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;
2. that 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, be approved;

3. that the Chief Executive, in consultation with the Leader of the Council, Director of Finance and Cabinet Member for Housing and Finance, be given delegated authority to review and agree that the final business case meets the conditions in 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;
4. that, subject to the Council entering into contract as per 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;
5. that, in the event that the Chief Executive should determine that the final business case does not meet the criteria in 2. above, a paper should be brought back to Cabinet and Council to determine the future of the project; and
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.

An amendment by Councillor Long and seconded by Councillor Cowell was circulated prior to the meeting. During the debate, Councillor Chris Lewis and Councillor Tyerman accepted the amendment, which was then incorporated in the original motion and was agreed by the Council (unanimously) as set out below:

that Cabinet recommends that Council approves:

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;**
2. **that 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, be approved;**
3. **that the Chief Executive, in consultation with the Leader of the Council, Director of Finance and Cabinet Member for Housing and Finance, be given delegated authority to review and agree that the final business case meets the conditions in 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;

4. that, subject to the Council entering into contract as per 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;
5. that, in the event that the Chief Executive should determine that the final business case does not meet the criteria in 2. above, a paper should be brought back to Cabinet and Council to determine the future of the project; and
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 , and any decisions on the application of the community funds to be made in consultation with the Ward Councillors.

42 Budget Monitoring - Outturn 2023/24

The Council received the submitted report setting out a high-level budget summary of the Council's revenue and capital position for the financial year 2023/24 and final outturn position for the year ending 31 March 2024. The report also set out recommendations for the inclusion of the Paignton and Preston coastal defence project into the Capital Investment Plan and allocation of funding for the Brixham Port Infrastructure project and Paignton tec park project. The Council considered the recommendations of the Cabinet.

Councillor Tyerman proposed and Councillor David Thomas seconded a motion as set out below:

that Cabinet recommends to Council:

1. that Council notes the revenue outturn position and approves the transfer of the £0.678m end of year surplus as follows:
 - £400,000 transferred to an earmarked capital reserve to assist with delivery of the Capital Investment Programme; and
 - 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. 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 to the submitted report);
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; and
 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:
 - 4.1 Brixham port infrastructure project. Initial allocation of £75k to be drawn down for feasibility works; and
 - 4.2 Paignton tec park project - Initial allocation of £85k to be drawn down for feasibility works.

During the debate Councillor Long proposed and Councillor Penney seconded an amendment to the motion as follows:

that Cabinet recommends to Council:

1. that Council notes the revenue outturn position and approves the transfer of the £0.678m end of year surplus as follows:
 - £400,000 transferred to an earmarked capital reserve to assist with delivery of the Capital Investment Programme; and
 - 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. 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 to the submitted report);

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; and
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:
 - 4.1 Brixham port infrastructure project. Initial allocation of £75k to be drawn down for feasibility works; and
 - 4.2 Paignton tec park project - Initial allocation of £85k to be drawn down for feasibility works; and
5. That future reports on Capital projects are presented to the Council as separate and standalone reports from budget monitoring reports, in order to provide more detail.

The amendment was put to the vote and declared lost.

Councillor Tyerman's and Councillor David Thomas' original motion was then considered by the Council which was agreed, as set out below:

1. **that Council notes the revenue outturn position and approves the transfer of the £0.678m end of year surplus as follows:**
 - **£400,000 transferred to an earmarked capital reserve to assist with delivery of the Capital Investment Programme; and**
 - **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. **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 to the submitted report);**
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; and

- 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:**

4.1 Brixham port infrastructure project. Initial allocation of £75k to be drawn down for feasibility works;

4.2 Paignton tec park project - Initial allocation of £85k to be drawn down for feasibility works.

43 Constitution Amendment - Officer Scheme of Delegation

The Council considered the submitted report on changes to the Council's Constitution in respect of the Officer Scheme of Delegation to align delegation levels with the revised Contract Procedures (as approved by Council in February 2024) and the Procurement Act 2023 which was due to come into force on 28 October 2024. The report also proposed the adoption of a specific Procurement Approval Report for tender processes requiring Cabinet or Council approval. It was noted the proposed changes would enable external contracts to be procured in a more timely and efficient manner.

The Worshipful the Mayor of Torbay reported that a revised Appendix 1 to the submitted report had been circulated ahead of the meeting.

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

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

44 Urgent Council Decisions taken by the Chief Executive

Members noted the submitted report which provided details of urgent decisions taken by the Chief Executive in appointment of interim Statutory Licensing Sub-Committee, Overview & Scrutiny Board and Planning Committee to enable them to meet to deal with urgent business prior to their appointment by the adjourned Annual Council meeting on 20 June 2024.

The Worshipful The Mayor of Torbay

Petition – Breakwater Car Park

539 e-petition signatures

We the undersigned petition the Council to confirm that in the light of the designation of Breakwater Car Park as an Asset of Community Value and an acknowledgement of its importance to the local community, local economy and health and well being of those who use it and love it, the Council is urged to take a formal decision not to sell the car park (in part or whole) for development purposes.

The Council approved the designation of Breakwater Car Park as an Asset of Community Value at its 14th May committee meeting. The role the car park plays in the life of Brixhams community was acknowledged by members who recognised the part it plays in tourism, accessibility for all, facilitating events and improving health and well being of residents and visitors alike.

The council is urged to take the next step to protect such a widely used and much loved local asset and to protect the car park from unwanted development by resolving not to sell any of the car park for redevelopment.

There is now support from 5,000 local residents who are all agreed that the beach and car park should remain as they are. That can be achieved quite properly by the council simply confirming Breakwater car park is not for sale. Breakwater car park is a local asset of community value that is much loved and used so please preserve it for future generations and for goodness sake listen to local people and deal the accordingly.

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Petition - Give Cyclists a Provision as part of the Delivery of the Current Harbour Public Realm Project

54 paper signatures and 76 e-petition signatures

We the undersigned petition the council to fulfil their obligation to cyclists as road users by creating a designated space within the paved area as part of The Strand: Harbour Public Realm regeneration and improvement project. Since the decision was taken to remove the segregated cycleway from the road with no alternative they are forced into direct conflict with motorists. This is not suitable or safe in this busy area. What needs to be created is a segregated, designated 'lane' within the paved area. Or as a last option the entire paved area should be designated as a mixed use paved area with clear signage for all to 'share with care'. Although not the ideal solution, it is safer to mix cyclists with pedestrians, rather than vehicles. If this project fails to deliver an improvement in cycling infrastructure, as is the current plan, it goes against both Torbay Council and the Department for Transport policy.

Since the segregated cycleway was scrapped the new plans give no safe provision for cyclists and bring them into direct conflict with motorists.

Previously, when the road was a dual carriageway, vehicles had ample space to be able to overtake. The current plans for the harbourside have worsened the provision for cyclists and are not acceptable.

None of this supports Torbay Council's own stated desires to encourage active tourism and increase active travel uptake.

Cyclists now have two options - to cycle very defensively - taking the lane and holding up traffic in this busy area or to dismount and wheel their bike through this section. For some cyclists, their bike is their mobility aid so this second option is discriminatory against them. For many, the road will feel unsafe and so they will choose to cycle on the pavement anyway.

We call on Torbay Council to act as a progressive, supportive organisation and encourage cycling of all ages through Torquay. This will also benefit motorists as it gives cyclists the choice to come off the road when it is not appropriate.

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Meeting of the Council, Thursday, 12 September 2024 Public Question Under Standing Order A24

Public Question 1

Margaret Forbes-Hamilton to the Cabinet Member for Tourism, Events & Culture and Corporate Services (Councillor Jackie Thomas)

The Cabinet Response to the recommendations of the Overview and Scrutiny Board on the Review of Events, Culture and Tourism, 7th February 2024, stated in Recommendation 5:

“A strategic business case is being developed to go to the Capital and Growth Board in April and this will consider the landscaping project for the whole of the 17.8 acres of the Torre Abbey scheduled monument site. The business plan will include potential removal of the pitch and putt site (a public consultation may be required regarding the pitch and putt), conservation, repairs and upgrade the Spanish Barn.”

A decision was made in April, as the notice to invoke the break clause in the lease was pinned to the door of the pitch and putt hut on 29 April. Why was a public consultation with residents, tourism providers and other interested parties not undertaken before the decision was made to invoke the break clause the lease on the pitch and putt and public bowls facilities in Abbey Park and who made the decision to not undertake a public consultation? Where can the business case/plan underlying the decision to revoke the lease on the Pitch and Putt and public bowling green in Abbey Park be seen?

Public Question 2

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

The Council has numerous policies in place saying that it supports active travel and has made repeated claims to that effect. For example: *“We want to ultimately deliver improvements in Torbay that don’t just simply encourage people to travel actively. We want to make it genuinely easier and more attractive so that people feel enabled and increasingly desire to make those journeys on foot, cycle, etc.”* (<https://www.torbay.gov.uk/roads/travel/active-travel/>).

But the Council’s track record suggests otherwise. The Council has provided almost no traffic free or off-road cycle paths in Torquay (see <https://www.torbay.gov.uk/media/2402/torbay-cycle-map-new.pdf>). The paths that do exist have issues and are not joined up. Cyclists in Torbay risk injury every day when forced to share busy carriageways with cars, buses and lorries.

For example, the “Hospital Trail” behind Torre station has made it to number 4 in the list of worst UK bike paths (<https://www.welovecycling.com/wide/2021/11/08/top-10-worst-cycle-lanes-in-the-uk/>). It is difficult to enter the path from the south, and it gives no access at all to Torre station. It is difficult for cyclists to cross Shiphay Lane, to access the northern section of the trail, owing to the absence of the planned crossing. Moreover, the cycle path was built with a large set of steps in the middle, which render it unpassable for most cyclists!

Recently, the Council has decided to remove the planned cycle path from its flagship harbour regeneration (<https://www.bbc.co.uk/news/articles/cp9vxy1r3yno>). The Council has chosen instead to prioritise trees over cyclists, forcing cyclists onto a single carriageway that will be twice as busy as before. This is not just a practical barrier for cyclists. It is also symbolic, since the presence of the planned cycle path on the Strand, at the heart of Torquay, would have demonstrated Torbay Council’s commitment to active and sustainable travel in a very visible way.

How genuinely does the Council support active travel, given its recent decision to remove the cycling lane from the harbour development?

Public Question 3

Mr Nick Huntley to the Cabinet Member for Place Development and Economic Growth (Councillor Chris Lewis)

Large public and private organisations start with a Vision. This vision, supported by Strategy is underpinned by detailed Plans that determine the application of limited resources.

Every decision a Council makes, every penny of public money must therefore follow a golden thread from plans, through strategy if it is to deliver this Vision.

Your Vision is a Happy, Healthy and Prosperous Torbay for all.

The various Strategies that support this vision quite rightly place the health of residents at the forefront, a point made very well in the Joint Health and Well-being Strategy which specifically aims to improve environmental sustainability and physical activity.

Of equal importance, the council have formally recognised and committed to the need to accelerate action and make significant progress in addressing climate change, especially pertinent as we are a coastal community.

Could the Council therefore explain to me why, when faced with a decision of cycling infrastructure vs trees, or put another way, the safety of children, families and tourists vs trees, they threw out this crucial section of the carefully considered Local Cycling and Walking Infrastructure Plan - a plan which underpins the Council’s Strategies and Vision.

Before I ask for the response, I have heard the reason, or excuse, of previous consultation driving the decision. I do not know of any public organisation that would solely use a 6-year old consultation to support current decision-making of such significance, one which is so counter to the stated vision and strategy, and especially when so much has happened in the intervening period. Public opinion has changed dramatically in the intervening years, with even greater focus on public health and our planet.

Reconsidering the decision to remove a cycle path on the Torbay Harbour front by creating some provision in the public realm, in the context of delivering against a long-term promise, is surely the right and proper thing to do. This is not a single issue topic, the project should be the catalyst for a greener and more sustainable Torbay, one which contributes to a happy, healthy and prosperous Torbay for all, attractive to residents and tourists alike.

This £4.7 million pound story could be so much more positive. I would like to know if the Council are going to deliver safe cycling infrastructure as a part of this project, thereby demonstrating that they are actually committed to delivering the LCWIP which they adopted in 2021 with actions and not just words?

Public Question 4

Mr David Pressley to the Cabinet Member for Place Development and Economic Growth (Councillor Chris Lewis)

How does the Council intend to continue to implement its Joint Health and Wellbeing Strategy 2022-26 when considering future planning applications from developers and also in making its Statement of Case at any future appeals, when it does not comply with the strategy in its own developments?

Public Question 5

Dr Ann Ashworth to the Cabinet Member for Place Development and Economic Growth (Councillor Chris Lewis)

Has Torbay Council consulted with local Cycling groups, such as Mid Devon Cycling Club (which has 400 members), the Cyclists Touring Club and the Torbay VeloPark Veterans Group (the VeloVets) about the revised roadside plans which do not include a cycle path? If not, why not?

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Meeting of the Council, Thursday, 12 September 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)

What impact has the 'Right Care, Right Person' model had on services provided by Torbay Council (e.g. Social Services, Mental Health Services or any other services), and what lessons have been learnt or changes made to the model since its introduction?

Question 2

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

During a failure at the Ilsham Valley Sewage Pumping Station in April, there was a continuous discharge recorded for almost 70 hours.

In a letter from South West Water they state '...failures occurred during times of heavy rainfall, and as Ilsham Valley SPS has a storm overflow there is a permit provision for the overflow to be used during rainfall, subject to specific conditions. The discharges recorded by our Event Duration Monitors ("EDMs") that occurred during the period of failures at the SPS enclosed with this letter do not distinguish between spills that occurred under 'storm overflow' provisions and those during the failures.'

Whilst South West Water state that this failure happened at a time of heavy rainfall, weather records suggest that there was only 2 hours of rain in the days preceding the failure.

What action is the council taking to hold South West Water to account to reduce the frequency of discharges like this, monitor, and improve water quality for residents using our beaches and sea.

Second Round

Question 3

Councillor Long to the Cabinet Member for Housing and Finance (Councillor Tyerman)

A number of Councillors have received casework from residents regarding the review of the Single Person Discount for Council Tax. Issues raised include the inability to contact the Council on the phone provided; the short timetable to respond over the holiday season when many residents might be away; and the threatening tone of the correspondence received from the Council. What lessons have the Council learnt via this process?

Third Round

Question 4

Councillor Long to the Cabinet Member for Children's Services (Councillor Bye)

The Council has received an offer of Grant funding from the Government's Youth Investment Fund. This grant is designed to improve the offer to young people in Torquay (which the Council acknowledges there is a shortfall in provision). The grant funding was due be spent at one of the Community Centres in one of the most deprived Wards in the South West of England. However, it appears that this grant funding may have to be handed back to the Government which would be a tragedy. What actions have the Cabinet Member for Children and the Leader of the Council taken to ensure taken to ensure the grant funding is not returned, and the projects it was due to fund actually go ahead?

Meeting: Extraordinary Cabinet & Council

Date: 11 & 12 September 2024

Wards affected: All; and specifically Tormohun

Report Title: Implementation of the Accommodation Re-purposing Project (“Hotels to Homes”) and acquisition of Scheme 1.

When does the decision need to be implemented? 13 September 2024

Cabinet Member Contact Details: Cllr. Alan Tyerman – Cabinet Member for Housing and Finance, alan.tyerman@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 approve an uplift to the Capital Programme of £3.000m, funded by external grant provided by MHCLG, to enable delivery of the first scheme.
- 1.2. To endorse the principle of Scheme 1, being the turnkey acquisition of 14 homes from a regional developer as outlined in Exempt Appendix 1.
- 1.3. To provide the necessary officer delegations to secure delivery of the first project, and to agree the principle of bringing a further report in due course to outline the mechanism for growing the pilot project into a long-term, sustainable delivery programme.
- 1.4. To provide a framework for the creation of the associated governance procedures necessary for the delivery of this programme.

2. Reason for Proposal and its benefits

- 2.1. In the early 2000s, the Torbay area regularly delivered an average of 100-180 new affordable homes per annum, reaching a peak in 2013/14 of 273 new affordable homes. Since then, delivery has dropped significantly; average annual delivery over the last 4 years has been just 36 homes (data extracted from [MHCLG Live Table 1008C](#)). This is against a backdrop of high (and growing) need for homes by local households registered with Devon Home Choice.
- 2.2. In light of this, the Council is focussed on increasing the affordable housing supply. A Housing Delivery Plan has been created to bring forward opportunities over the next five years, both for direct council delivery and delivery through partners. One of the direct interventions identified is the innovative Accommodation Re-purposing Project (ARP), also

now known as 'Hotels to Homes'. This is designed to respond to Torbay's characteristics of having large numbers of small urban brownfield sites in the form of unviable leisure and holiday accommodation such as former hotels, bed & breakfasts, and guest houses. Through this initiative, such properties will be purchased by the Council and converted into new homes.

- 2.3. The Council is not the only organisation exploring the re-use of such sites for housing. However, when brought forward by private sector developers, they typically provide few – if any – affordable homes. This is because such sites are normally capable of delivering fewer than 15 dwellings, which is below the Local Plan's threshold for requiring affordable housing. The schemes can also be expensive to build and, due to specific scheme risks, often mean that they are typically not viable to deliver affordable housing.
- 2.4. Conversely, the Council's intervention is specifically designed to use these same sites to deliver 100% affordable housing, to provide homes for local households. The project will utilise grant funding already provided, to directly acquire and convert old hotels etc. into new, high-quality housing for social rent. An increase in supply is a highly beneficial outcome, but the additional benefit is that it can help prevent such sites entering a state of dereliction, as well as helping to prevent anti-social behaviour, and avoiding the plethora of public health issues associated with such sites. The Council's ambition is to prove that the delivery model can be a viable vehicle to increase the level of affordable housing and stimulate neighbourhood renewal and regeneration. Long-term, there is also an aspiration to stimulate the private and Registered Provider sectors to move into this space by demonstrating the positive outcomes that can be achieved. With Torbay's average delivery currently so low, every hotel converted has potential to be disproportionately valuable: Scheme 1 would represent a 40% increase in affordable housing supply on its own.
- 2.5. The Council has bid for, and secured, £3m of capital grant to use for this purpose, alongside a revenue allocation of £0.250m. In accordance with the Council's constitution and governance procedures, it is necessary to:
 - a) Increase the size of the Capital Programme by £3.000m, funded by the grant received;
 - b) Formally commence delivery of the project, and secure the necessary delegations to acquire the scheme described in Exempt Appendix 1; and,
- 2.6. The aspiration is that through delivery of the scheme described in Exempt Appendix 1, that we will demonstrate success and bring forward a model which sees the creation of a cyclical, self-sustaining programme that enhances delivery, but minimises Council-borrowing. The mechanics of the longer-term model are still being worked through and it is not currently possible to present a long-term business case as there are still variables that need to be clarified. However, progress is both positive and rapid, and officers expect to be in a position to bring a proposal back to Cabinet and Council towards the end of the year. .
- 2.7. The reason for bringing the first scheme forward now, ahead of the wider, long-term programme is that the first opportunity identified, is predicated upon an exchange of

contracts by November 2024, which is before it will be possible to present the full programme.

3. Recommendation(s) / Proposed Decision

3.1. That Cabinet recommend to Council:

3.1.1. That the Capital Programme be uplifted by £3m, wholly funded by capital grant received from MHCLG, to commence delivery of the Accommodation Repurposing Project (also known as 'Hotels to Homes');

3.2. That subject to 3.1.1 above, Cabinet:

3.2.1. Approve the turnkey acquisition of Scheme 1 for use as social housing, in accordance with business case provided at Exempt Appendix 1 (and funded by the MHCLG grant award);

3.3. That subject to 3.1.1 and 3.2.1 above:

3.3.1. Delegation be provided to the Director of Pride in Place, in consultation with the Cabinet Member for Housing and Finance and Director of Finance, to agree final terms to purchase Scheme 1, and following satisfactory completion of all necessary due diligence, proceed to acquire the scheme as set out at Exempt Appendix 1.

3.3.2. The Head of Strategic Housing & Delivery present a report to Cabinet at the appropriate time, to outline and recommend the financial and delivery arrangements necessary to move from a single scheme to a long-term, (largely) self-sustaining programme utilising all grants and external funding available.

Appendices

- (Exempt) Appendix 1 – Housing Business Case
- (Exempt) Appendix 2 – Valuation
- (Exempt) Appendix 3 – Site risk register

Background Documents

- Torbay Housing Delivery Plan

4. Introduction

4.1. Torbay currently has very low levels of new housing supply. With the majority of affordable homes provided through s106 by private sector developers, issues that affect private sector development have a direct implication on the proportion of new affordable homes provided.

4.2. Many Registered Providers are scaling back their delivery programmes, with financial capacity further affected by the significant regulatory issues faced by the sector at present. The cumulative impact of these factors being house price increases; a decline in the quality of private rental stock (as there is little financial incentive to strive for best quality);

diminished supply; and ultimately, a reduced ability for the Council to provide housing options for those in need.

- 4.3. The Council is focussed on increasing the amount of affordable housing delivered in Torbay. This has started with the creation of a new Strategic Housing Service, recruitment of specialist resources to support delivery and the production of a Plan that outlines routes to enhanced performance. One of the delivery streams planned is the Hotels to Homes programme. This seeks to increase new social housing through the acquisition and conversion of former hotel-type buildings into new, high-quality homes. The Council has been awarded a capital grant of £3.000m to commence delivery of the first project ("Scheme 1"), with conditions to demonstrate substantial delivery progress by March 2025. Whilst the new homes created by this scheme will be let through Devon Home Choice to eligible households with a local connection to Torbay, there is an intention to make these sites attractive to households where at least one adult works in a key industry (what has historically been called "keyworkers"). This is to seek to specially address the chronic recruitment issues faced by parts of the public sector such as the NHS, where a lack of good quality housing that is affordable is having a direct impact on recruitment and retention, creating a major implication for the health service and ultimately the health outcomes of Torbay residents. Providing homes for local workers is essential to ensure the long-term sustainability and health of our population.
- 4.4. The anticipated long-term proposal is to develop a self-sustaining, cyclical investment fund that is capable of using the initial grant funding to purchase and redevelop sites, occupy as affordable housing in the medium-term, and then facilitate an onward disposal to a partner Registered Provider (once a portfolio of homes has been completed), generating a capital receipt for reinvestment into the next project ad infinitum.
- 4.5. The long-term proposal may require an allocation of Council capital; but there are also additional grants that officers expect to be able to secure to provide further financial headroom and limit the need for council-borrowing. However, the longer-term model is still being worked up and cannot be confirmed until we have greater clarity about the extent of further grant allocations; as such the proposal in this paper is to accept the £3m grant into the capital programme and to seek authority to proceed with Scheme 1, with the longer-term programme to be considered at a later date.
- 4.6. The deadline set by MHCLG for implementation and use of the initial grant award is very tight. The grant was not confirmed until the start of May 2024; but we are obligated to achieve substantial progress by March 2025. It has not been possible to identify a development opportunity in the traditional way; instead, the proposal has been worked up to partner with a private sector developer for the first project via a turnkey acquisition. Such acquisitions are the commercial purchase of an entire, complete scheme from the developer, based upon a purchase at market value (less discount to reflect the developer's reduced risk).
- 4.7. The limitation of this approach is that the Council is only able to purchase what is commercially available. This means we cannot specify the detailed fit out of the homes as it must remain an 'off the shelf' acquisition (i.e. similar to a private purchaser buying a home on the market). However, the considerable benefit is that this is an efficient way to deliver new homes quickly and such purchases are a well-trodden path for both Registered

Providers and Local Authorities. Furthermore, they open-up an opportunity to work with a wider part of the market and offer a low risk profile as the Council will not take ownership the property until completion, with 'stakeholder' deposit payments held until completion is achieved and certified.

- 4.8. In this instance, officers have identified an opportunity to purchase homes from a respected local developer that has a positive track record in respect of their delivery performance, and who has already agreed terms to purchase a former hotel for residential conversion in Torquay. The commercial details of the acquisition, along with the financial performance of the project is outlined in Exempt Appendix 1. The subject property is at an advanced stage of acquisition and has an existing consent. The developer will need to obtain a variation to the planning consent to allow full, unfettered residential use (and ownership); but as a turnkey acquisition, the Council's completion of purchase will be conditional upon the developer resolving this at their risk and cost.
- 4.9. The scheme will provide 14 homes with a range of 1-bedroom flats (with larger and smaller properties suitable for couples and single people respectively), along with 2-bedroom flats that are suited to small families. All homes will be built to modern standards, meeting at least EPC C, with low carbon heating. Some will also include sea views, making the scheme an attractive social housing scheme for working-age people.
- 4.10. The developer expects to exchange contracts for their purchase in September, taking full ownership once vacant possession has been achieved. They will commence construction once full ownership has been achieved and address the necessary planning variation. Officers are currently targeting exchange of contracts in early November, assuming satisfactory completion of all due diligence, by which time main works should be underway. Based on the developer's anticipated completion programme, it is expected that the Council would complete its purchase at the end of August 2025. Occupation will take place immediately thereafter. As outlined above, officers hope to encourage local "keyworkers" to bid for such properties when they come available; but it should be noted that we cannot specifically restrict allocations to this cohort, as this would be a conflict with current Homes England grant funding criteria (which is an essential consideration, in respect of being able to convert the pilot project into a long-term programme). However, we will work with local key employment industries to encourage applications from eligible local workers on the housing register, where we can.
- 4.11. As a turnkey project, the developer will be wholly responsible for the design and build of the scheme, with the Council only taking ownership (and paying the agreed full price) at completion. We will, however, be legally bound to proceed with the acquisition once we have exchanged – in the same way as any normal house-purchaser would be as long as the homes are completed to the agreed standard and signed off by building control etc. This arrangement ensures both parties have the necessary protections and surety of delivery and payment.
- 4.12. As a turnkey acquisition, the Council is only able to purchase what is commercially available. In this instance, it is within the proposals to include an additional sum for the installation of a fire suppression system (to BS9251:2021), to improve the long-term safety of our tenants in the event of a fire in one of the flats, or any of the communal spaces. This is becoming a more common approach in private blocks by social landlords.

5. Options under consideration

- 5.1. The Council is now at the stage where it must add the £3m grant into its capital plan.
- 5.2. In respect of the first scheme's delivery, **Option 1** is to acquire the scheme as set out in Exempt Appendix 1 on a turnkey basis with stakeholder deposit and completion payment in the normal way. This is a relatively low risk way to deliver new homes and will ensure that the Council's investment is protected throughout the build as completion funds will only be released once assurance has been provided that the scheme has been completed appropriately and the contract terms met. Turnkey purchases are a common route for social housing providers to deliver homes; success relies upon the strength and transparency of the relationship created. In this instance, we have identified an amenable developer, and we are developing a co-operative working relationship to maximise chances of a successful outcome. A further grant bid will be made to Homes England in due course; however, in the event that a bid is not supported (for any reason), the acquisition will proceed but will just be funded solely by the allocation of MHCLG funding.
- 5.3. The proposed acquisition received unanimous support from the Council's Capital & Growth Board in August 2024. Furthermore, the acquisition is supported by a Red Book Valuation provided by a local RICS registered agency, attached at Exempt Appendix 2. The Council has secured the principle of a discount against open market value, in line with industry norms for this type of project.
- 5.4. **Option 2** would be to withdraw from the current opportunity and attempt to identify a hotel ourselves that already has a suitable planning consent, and to directly commission construction by March 2025. However, this would require us to take a considerable degree of commercial risk in respect of both commissioning construction of an inherited design and planning consent. The expectation is that this would also cost more than an equivalent turnkey option and would significantly delay delivery; whilst it is hoped that a degree of flexibility could be negotiated with MHCLG, this would put us in direct conflict with our grant award terms. This is a potential option but is not considered as advantageous as a turnkey acquisition for the first project.
- 5.5. **Option 3** would be to hand back the grant and decline to proceed any further. This would be detrimental to our relationship with MHCLG (and the new government). This may also cause wider implications for other Council delivery programmes and funding streams, too. Ultimately and very importantly, this would also mean that the additional affordable housing supply we urgently need, would not materialise.
- 5.6. For the reasons outlined above, combined with the simplicity of the deal structure proposed, the recommendation is to proceed with **Option 1**, to purchase the first site on a turnkey basis, as outlined in Exempt Appendix 1. In the long-term, subject to appropriate decision making, this would be followed by further sites upon which a decision would be made as to whether we commission ourselves.

6. Financial Opportunities and Implications

- 6.1. This proposal seeks to increase Torbay Council's capital programme by £3m. In this instance however, this is 100% funded by external grant that has already been received. There are not considered to be any financial implications associated with increasing the capital programme in this way.
- 6.2. In respect of the scheme, a detailed business case has been presented to Capital & Growth Board, who provided unanimous endorsement for the project. A comprehensive financial appraisal was also presented, which was scrutinised by the S151 Officer, Director of Pride in Place, and other senior officers within the Council. This is attached at Exempt Appendix 1. Feedback was positive and the financial position of the scheme was endorsed.
- 6.3. The financial benefits and disbenefits of the acquisition are considered below:
- 6.4. Advantages:
- 6.4.1. As funded by the MHCLG grant, the acquisition will not require council borrowing. As such, there will be no net impact to tax payers, or our overall borrowing headroom position.
- 6.4.2. The acquisition makes good use of the grant funding, for its intended purpose and in accordance with our obligations.
- 6.4.3. MHCLG representatives have endorsed the proposal as set out.
- 6.4.4. The project generates rental income as described in Exempt Appendix 1, which can be used to fund other affordable housing projects, or future borrowing.
- 6.4.5. An allocation is made from the gross rental income to pay for costs associated with management, maintenance, long-term refurbishment and to cover void risk etc. Service charges will also be levied on top of the gross rent to cover aspects such as communal maintenance/management and fire suppression servicing etc.
- 6.4.6. The scheme has potential to secure additional Homes England grant (subject to assessment and approval) once the government have confirmed the nature of the next Affordable Homes Programme. This will be essential for the conversion of the pilot scheme into a long-term self-funding model. However, the acquisition will proceed regardless of whether the additional grant can be secured.
- 6.4.7. Conversion of this hotel to additional homes generates additional Council Tax income for the Authority.
- 6.4.8. In the event of any major structural defect arising within the first 10 years of completion, the Council's investment will be protected by a Build Zone Warranty.
- 6.5. Disadvantages:
- 6.5.1. The Council will be taking the commercial risk of an acquisition. This will include committing to the purchase of the asset, and operation of the homes upon completion (including committing to mandatory compliance standards to ensure homes are safe in perpetuity). In this instance however, the purchase is not

predicated upon borrowing; we have an in-house management team with capacity to operate the stock, and the business case includes allocations from the rental income to fund the repairs and maintenance of the properties in the long-term.

- 6.5.2. The Council will be required to provide a comprehensive management service to its tenants, in line with the standards set by the Regulator for Social Housing, and ensure it provides homes that are safe and compliant at all times.
- 6.5.3. The Council has an aspiration to enable a medium-term sale of any housing stock it purchases to a partner Registered Provider. It is possible that the Council may not be able to find a partner that is able to commercially acquire stock from us, in the future. In this circumstance, the Council will need to retain (and manage) its housing stock indefinitely.
- 6.5.4. If officers are unable to secure additional funding (including grant) to convert the pilot into a long-term self-financed model, the Council will be in ownership of a single scheme of this type, which would be inefficient in terms of management.
- 6.5.5. It is theoretically possible that the Council cannot identify suitable households to live in the new homes. However, this is unlikely, considering the extend of housing need on Devon HomeChoice with a local connection.

7. Legal Implications

- 7.1. The Council will be entering into a legal contract to purchase an asset from a developer. External lawyers have been appointed to undertake the conveyance and the transaction will not proceed unless and until the relevant due diligence has been undertaken to a satisfactory conclusion. However, once we have exchanged contracts, the Council will not be able to withdraw from the purchase without considerable penalty.
- 7.2. It is important that the Council (as buyer) and the developer (as seller) are clear on their respective obligations, and that a good, positive, and co-operative relationship is developed to ensure successful delivery. As a turnkey acquisition, the purchase terms have been agreed in the form of a traditional conveyance with a deposit and completion payment, and arrangements for a retention period to ensure defects are rectified within the first 12 months.

8. Engagement and Consultation

- 8.1. In this instance, the principle of conversion has already been set through the planning consent already granted. As part of the normal planning process, nearby residents and neighbours will have been given chance to comment on proposals; similarly, affected local people will have the normal right to comment on the revision to the planning consent to allow unrestricted residential use, which will be submitted by the developer in due course.
- 8.2. The Senior Responsible Officer (SRO) has engaged extensively with the Portfolio Holder for Housing and Finance, who is supportive of the proposal. Cabinet are also aware of the

scheme through information sharing sessions, and through the development of the Housing Delivery Plan.

- 8.3. The SRO will provide a briefing to the elected members that represent the ward, prior to the cabinet meeting.
- 8.4. The SRO has engaged with senior council officers through the Capital & Growth Board process and has received unanimous support.
- 8.5. The SRO has liaised with the Council's in-house housing management team, who have confirmed support for the scheme. These officers will be a fundamental part of the project team for the site, going forward.
- 8.6. The SRO will liaise with the Housing Options service ahead of Cabinet.
- 8.7. The SRO has engaged with both Homes England in developing this proposal. Homes England are broadly supportive but cannot confirm a scheme is grant eligible until a bid has been submitted. It should also be noted that new bids have been suspended nationally at present, pending consideration and definition of the next capital Affordable Homes Programme by the new Secretary of State and Chancellor. It is possible that the emphasis and eligibility for such bids to the next programme may be different to the newly suspended programme; as such, it should be explicitly noted that the acquisition will proceed regardless of whether Homes England grant can be secured.
- 8.8. MHCLG have provided written endorsement of the proposal.
- 8.9. The SRO has liaised with Planning colleagues to ensure no fundamental conflict between the scheme proposed and established planning policy.
- 8.10. The SRO is in the process of liaising with the accommodation lead for the NHS; to establish opportunities for local healthcare workers in need of homes to secure one of the new properties, should they meet the relevant eligibility terms for social housing.

9. Procurement Implications

- 9.1. The acquisition of built homes falls outside of the Contract Procedures Rules; such transactions do not constitute a procurement.
- 9.2. The Council is commissioning the installation of a fire suppression system. In the circumstances, the only reasonable way to secure this is to work with the developer to ensure that the structural warranty is preserved, and to prevent having to separately commission an installer to make major alternations to the building, post-completion (delaying occupation, and impacting upon the quality of accommodation provided).
- 9.3. The Council has appointed an external commercial advisor to support this project, and the scheme has been sourced through this route. The Council's Head of Commercial Services has supported this procurement exercise.
- 9.4. The Council has appointed external legal representation for the conveyance, through the Council's Legal Service. In this instance, expert social housing specialists have

been procured to provide the conveyance support, to ensure no future issues in the event that the Council is able to sell batches of stock to a partner RP at some point in the future.

9.5. A clerk of works will need to be appointed in due course.

10. Protecting our naturally inspiring Bay and tackling Climate Change

10.1. The acquisition of a turnkey product, on brownfield land helps prevent greenfield sites being required to deliver housing growth. It also helps make better use of land, and in this instance (as the main structure is being retained) prevents the demolition of an architecturally impressive building, and therefore prevents the disposal to landfill of many tonnes of perfectly usable construction materials.

10.2. The new homes will be heated by electricity only, meaning that fossil fuels will not be required to provide space or water heating.

11. Associated Risks

11.1. There are risks associated with any commercial activity. The risk profile for Scheme 1 is attached at Exempt Appendix 3.

12. 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
<p>Age</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 35</p>	<p>18% of Torbay residents are under 18 years old.</p> <p>55% of Torbay residents are aged between 18 to 64 years old.</p> <p>27% of Torbay residents are aged 65 and older.</p>	<p>Due to the client group to be targeted, this project is likely to provide a benefit to younger households.</p> <p>The flats would be let to occupants who are suitable to sustain a tenancy in the property. Considerations would be paid to accessibility requirements, support needs and suitability of location.</p>	<p>The project is aimed at local people working in key industries and it is therefore reasonable to anticipate that older people are less likely to secure a home in these schemes.</p> <p>Older households will not be excluded, however, through the lettings process if they are otherwise the most suitable candidates to secure one of the homes provided.</p>	<p>Lettings and Housing Management</p>
<p>Carers</p>	<p>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.</p>	<p>Lettings would not discriminate against the caring responsibilities of future tenants</p>		<p>Housing Management and Lettings</p>
<p>Disability</p>	<p>In the 2021 Census, 23.8% of Torbay residents answered</p>	<p>Due to the nature of converting existing buildings, it will not</p>	<p>Consider accessibility and mental health needs in designs of conversions</p>	<p>Strategic Housing</p>

	that their day-to-day activities were limited a little or a lot by a physical or mental health condition or illness.	always be possible to create flats that are suitable for occupants with a physical disability. Any support needs would be assessed at the time of letting the flats		
Gender reassignment	In the 2021 Census, 0.4% of Torbay's community 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.	We would not discriminate against gender on general needs rented properties unless there was a specific requirement to have same sex accommodation, for example in the case of a women's refuge.	N/A	ALL
Marriage and civil partnership	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.	The marital status of occupants should not influence the suitability of the flats. No adverse impact expected.	NA	ALL
Pregnancy and maternity	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	Only flats with 2 or more bedrooms would be considered suitable for families.	NA	Lettings and Housing Management

	live births since the middle of the last decade across all geographical areas.			
Race	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.	No adverse impact expected as we would not discriminate on the lettings of flats based on ethnicity	NA	Lettings and Housing Management
Religion and belief	64.8% of Torbay residents stated that they have a religion in the 2021 census.	No adverse impact expected as religion would not be a consideration in the lettings process	NA	Lettings and Housing Management
Sex	51.3% of Torbay's population are female and 48.7% are male	No adverse impact expected as general needs lettings does not discriminate on gender	NA	Lettings and Housing Management
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.	No adverse impact expected as sexual orientation is not discriminated against	NA	Lettings and Housing Management

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 served in the UK armed forces.	Theoretically, affordable housing is more likely to be available to former service personnel and their families, as there is a degree of preference awarded to such households when they join the housing register.	Consider needs during the lettings process	Lettings and Housing Management
Additional considerations				
Socio-economic impacts (Including impacts on child poverty and deprivation)		No negative impact expected. Affordable housing supports those in need of a safe and warm home, facilitating the improvement of socio-economic prosperity	NA	NA
Public Health impacts (Including impacts on the general health of the population of Torbay)		By providing suitable, safe, and warm affordable housing we can lower public health impacts and improve the health of occupants. Removing dilapidated hotels from the market, and preventing them being converted into poor quality HMO-style housing has a positive public health benefit in terms of living conditions, and the impact on local services and infrastructure etc.	NA	NA

Human Rights impacts		No negative impact expected	NA	NA
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.	No negative impact expected as the flats will not discriminate against children. Only flats that have more than one bedroom will be suitable for children	NA	Lettings and Housing Management

13. Cumulative Council Impact

- 13.1. An increase to the Council's portfolio of social housing, which requires ongoing management etc. However, this is fully accounted for in the financial case for the project and programme, with suitable allowances made to ensure the long-term, appropriate management and maintenance of our housing stock.

14. Cumulative Community Impacts

- 14.1. An increase in the provision of affordable housing, accessible to local people, providing a considerable benefit.
- 14.2. Improvement in recruitment and retention opportunities for key public services, through the prioritisation of relevant key worker households for occupation of new homes.

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Meeting: Extraordinary Cabinet/Council

Date: 11 and 12 September 2024

Wards affected: Churston with Galmpton

Report Title: Levelling Up Fund Round 3 – Torbay Technology Park

When does the decision need to be implemented? Immediately

Cabinet Member Contact Details: Cllr Chris Lewis, Cabinet Member for Place Development and Economic Growth; 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 In November 2023, the government announced Levelling Up Fund round 3 (LUF3). Unlike previous rounds, this is an allocation-based process with funding being offered to places with high quality bids from Levelling Up Fund round 2 (LUF2). Torbay is one of 55 places chosen.
- 1.2 Torbay's submission was to develop the Torbay Technology Park (Torbay Tech Park), on Torbay Business Park, and a Port Infrastructure Project on Oxen Cove. Torbay has been granted up to £20M of LUF3 to deliver the Tech Park and Brixham Port Infrastructure Project.
- 1.3 A key element of delivering the Torbay Tech Park is the purchase of the site, which this report is seeking authorisation to do. Authorisation of the same will mean that we comply with the spend profile for the grant that has been agreed with government (See Exempt appendix 1) and will avoid any risk of triggering a review.
- 1.4 The acquisition of employment land needed to develop and accelerate the Torbay Tech Park project is a specific milestone under Action E4.1 in Torbay Council's Business Plan 2024/27. The location of the Torbay Tech Park is important. The chosen site's proximity to EPIC and South Devon's College's HI Tech Digital Centre will create something akin to an Innovation Zone, improving collaboration between both the businesses and the College, driving investment and funding leading to growth and more jobs.
- 1.5 The project reported to the Council's Capital and Growth Board on the milestones required for delivery and it is recognised that there has been some slippage, however with the

project board reviewing the programme and with the acquisition proceeding, this will reduce the risk of slippage as much as possible.

- 1.6 Officers have been in discussions with the landowner to acquire the site. While the parties have not yet agreed a price an instruction is now needed to complete the negotiations.

2. Reason for Proposal and its benefits

- 2.1 The proposal in this report helps us to deliver our vision of a healthy, happy and prosperous Torbay by supporting economic growth, specifically through supporting the growth of a key sector that can transform Torbay's economy. The proposal is also a specific milestone under action E4.1 in Torbay Council's Business Plan 2024/27 with a delivery deadline of June 2024.
- 2.2 Torbay's Economic Growth Strategy has a focus on creating high value jobs through the growth of key sectors. Through the Torbay Tech Park project, we will attract, retain and grow our economic specialisms creating 100 FTE Jobs and 22,000 sq ft of new employment space; furthermore, the remainder of the site will enable the future development of circa 40,000 sq ft of additional business space creating a further 182 high value jobs. These projects support delivery of not only the Economic Growth Strategy but the Community and Corporate Plan and the Business Plan.
- 2.3 Torbay has secured up to £20M of LUF3 funding that will contribute towards the cost of developing the Torbay Tech Park, including the acquisition of the site.
- 2.4 EPIC is full and the hi-tech businesses within continue to grow. A number of these businesses are planning to move from EPIC into the Torbay Tech Park, continuing their growth in Torbay, creating more high value, high paid jobs. This is in addition to enquiries being managed through promotional activity such as attending key national and international events, that are driving inward investment enquiries.

3. Recommendation(s) / Proposed Decision

- 3.1 That Cabinet recommend to Council;
 - 3.1.1. That the Director of Finance, in consultation with the Director of Pride in Place and Cabinet Member for Place Development and Economic Growth, be given delegated authority to vary the Capital Plan upon confirmation of the final acquisition price of Torbay Tech Park, which is to be funded from Levelling Up Fund grant, be approved.
- 3.2 That Cabinet be recommended:
 - 3.2.1 That, subject to 3.1.1 above delegated authority be given to the Director of Pride in Place, in consultation with the Cabinet Member for Place Development and Economic Growth and Director of Finance, to agree and finalise the detailed acquisition terms as set out in option 2 to purchase circa 6 acres of employment land on Torbay Business Park, to progress the development of the Torbay Tech Park, subject to the final purchase price being evidenced

against an independent valuation for the site and not exceeding the grant funding allocation for acquisition.

Appendices

Exempt Appendix 1: LUF3 spend profile agreed with government

Supporting Information

1. Introduction

- 1.1 In November 2023, the government announced LUF 3. Unlike other rounds of LUF, this was awarded on an allocation basis, from unsuccessful applications from its previous rounds. Torbay was allocated £20M to deliver the Tech Park and Brixham Port Infrastructure Project. This money is to be spent by March 2026.
- 1.2 The Tech Park project will include the acquisition of circa 6 acres of employment land at Torbay Business Park, enabling the creation of 22,000 sq ft of new business accommodation initially. This will support the growth of local hi tech companies based in EPIC, creating a further 100 high value jobs. This site allows for future expansion, enabling an additional 40,000 sq ft of business accommodation to be built in the future creating an additional 182 new high value jobs, to further support local growth or inward investment.
- 1.3 Acquiring the site for the Tech Park is critical. The cost of acquisition has been budgeted for and is now a key next step in developing the Tech Park. Once the employment site is acquired, work packages can be accelerated bringing the project milestones more in line with what was set out and agreed with government.
- 1.4 The Hi Tech sector is strategically important to Torbay. Centred around EPIC, it is a fast-growing sector that has the potential to transform Torbay's economy. The sector creates high value jobs; some of our businesses are tackling global challenges; and their values align to those of our young people. Not only can this sector create well paid jobs and careers, it can help encourage our young people to continue to work and live in the Bay. Growth of this sector also helps to diversify Torbay's economic base, which is reliant on relatively low paid sectors such as tourism and health and social care, building Torbay's resilience.
- 1.5 EPIC is full and has achieved this ahead of schedule. Three tenants have already registered an interest in the Tech Park, as their growth plan extends beyond that which can be offered in EPIC. This would also free up space in EPIC for new and growing tech based businesses. Separately, and at an early stage, Torbay & South Devon NHS Trust is in discussions with NHS England to develop a Digital Centre of Excellence and would consider locating on this site, as they recognise the benefits of being part of this cluster.
- 1.6 Torbay Hi Tech Cluster, a group of over 30 hi tech businesses, often cite the Tech Park as the number one priority for the sector as this will support future growth and raise the profile of the cluster. The sustained growth of this sector requires acquisition of site to build the Tech Park.
- 1.7 Torbay has supported this sector for many years – Torbay has secured investment into the development of EPIC; funding has been secured to develop co-designed qualifications from level 3 to 6; and has prioritised the Tech Park as a project for LUF. With the Council's

support, the sector is flourishing, increasing the number of highly productive businesses and the number of high value jobs. As a result of this growth, these businesses need space to grow into now and in the future.

2. Options under consideration

2.1 Option 1: Do Nothing

This option will result in further delays and could jeopardise the project. In exchange for the LUF3 funding, a spending profile has been agreed. Delays will not only result in failure to spend against profile, it will put the project further back, which would likely result in a future deep dive from government. It also means that the Council will not be able to deliver a key milestone set out in the Business Plan 2024/27, as well as all the possible outcomes set out in section 8.

2.2 Option 2: Deliver the scheme as submitted to Government in March 2024. This option is affordable based on the LUF3 grant offered. It provides grow on space for the sector, supports the attraction of inward investment and reassurance to locally based businesses as to Torbay's commitment to the sector.

2.3 Option 3: Deliver the site in full

This option would be optimal for demonstrating to the sector locally, nationally and internationally that there is a pipeline of space available. However, it is cost prohibitive as further funding is required to deliver the additional 40,000 sq. ft of business space.

3. Financial Opportunities and Implications

3.1 All of the cost for site acquisition will be reclaimed from LUF3. The acquisition will be supported with an independent valuation for the site with any subsequent deviation from such valuation being clearly evidenced and documented.

3.2 The initial 22,000 sq ft of business space will yield approximately £13,000 per annum of business rates. Once the site is developed in full, this will equate to approximately £35,500 per annum of business rates.

3.3 From a financial perspective, if the Tech Park isn't developed, given the limited supply of suitable employment land in Torbay, coupled with the current demand for employment space, selling on the land should not be difficult.

4. Legal Implications

- 4.1 Legal support will be required to complete the acquisition. A recent independent evaluation into the cost of the site valued the site less than the value the landowner is currently seeking. More detail is available in the further information section contained in Exempt appendix 2.

5. Engagement and Consultation

- 5.1 Engagement on both these projects have taken place during LUF1, LUF2 and again for LUF3.
- 5.2 EPIC tenants have been consulted as part of the validation process, and this has and will inform the scope of the design. Lessons learned from EPIC have also been considered.
- 5.3 Torbay Council Officers have already had conversations with the landowner, who is willing to sell the site although the final price has yet to be agreed.

6. Procurement Implications

- 6.1 In relation to the site acquisition, this is not applicable

7. Protecting our naturally inspiring Bay and tackling Climate Change

- 7.1 Acquiring the site enables Torbay Council to control the development.
- 7.2 The project has the potential to negatively impact on our environment and increase Torbay's carbon emissions, making it harder for the Council and wider Torbay to protect our naturally inspiring Bay and meet our commitments in the Council's Community and Corporate Plan and the Council's Environment and Carbon Neutral Policy.
- 7.3 The project will increase carbon emissions throughout the construction and operation stages unless actions can be taken to reduce these impacts.
- 7.4 The Climate Change Impact Assessment Tool will be completed to ensure consideration is given to reducing impact. Through the early design phases of both projects, we will thoroughly investigate and develop a sustainability strategy considering reducing carbon in the construction and operational phases.

8. Associated Risks

- 8.1 Not agreeing to purchase the land on Torbay Business Park may make the Tech Park project undeliverable. An alternative site could be identified however this would likely need to be costed, the business case reworked adding further delay to the project and would likely require a Project Change Request from government given the change in postcode.

8.2 EPIC is full. There is no growth accommodation suitable for EPIC tenants looking to expand out of the Centre until the Tech Park is built which means investment enquiries cannot be accommodated.

8.3 Further slippage to the project may result in a 'deep dive' from government.

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>	The nature of this project mean that the target audience will be the working age population of 18-67.	n/a	
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.	The nature of this project mean that the target audience will be the working age population of 18-67.	n/a	
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.	No differential impact	n/a	
Gender reassignment	In the 2021 Census, 0.4% of Torbay's community	No differential impact	n/a	

	<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>	No differential impact	n/a	
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>	No differential impact	n/a	
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>	No differential impact	n/a	

Religion and belief	64.8% of Torbay residents who stated that they have a religion in the 2021 census.	No differential impact	n/a	
Sex	51.3% of Torbay's population are female and 48.7% are male	No differential impact	n/a	
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.	No differential impact	n/a	
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.	No differential impact	n/a	
Additional considerations				
Socio-economic impacts (Including impacts on child poverty and deprivation)		This project aims to create high value jobs in Torbay which could have a positive impact on child poverty and deprivation.	n/a	
Public Health impacts (Including impacts on the general health of		There is a correlation between economy and health. Through creating better	n/a	

the population of Torbay)		economic conditions, this will lead to improved health outcomes.		
Human Rights impacts		No differential impact	n/a	
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.	No differential impact	n/a	

10. Cumulative Council Impact

10.1 None.

11. Cumulative Community Impacts

11.1 None.

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Audit Committee held on 24 July 2024 Extracted Minute

Minute 9 Treasury Management Outturn 2023/24 Report

Members considered an annual report on the treasury management activities undertaken during the year 2023/24, which was compared to the 2023/24 Treasury Management Strategy. The Council's Treasury Management Strategy for 2023/24 was approved by Council at its meeting on 7 March 2023. The Council had borrowed and invested substantial sums of money and was therefore exposed to financial risks including the loss of invested funds and the revenue effect of changing interest rates. The successful identification, monitoring and control of risk remains central to the Council's treasury management strategy.

Members were advised that there had been considerable effort made to reduce the Council's level of borrowing with a reduction of £26 million having been made to the Council overall loan position.

Resolved, that the Audit Committee recommends to Council:

- i) That the Treasury Management decisions made during 2023/24, as detailed in the submitted report be noted.
- ii) That the increases to limits within the Treasury Management Strategy 2024/25 as outlined in paragraph 10.4 of the submitted report be approved, subject to the proposed change in minimum acceptable credit rating level remaining at A.

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Meeting: Audit Committee/Council

Date: 24th July 2024/12 September 2024

Wards affected: All Wards in Torbay

Report Title: Treasury Management Outturn 2023/24 Report

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

Director/Assistant Director Contact Details: Malcolm Coe, Director of Finance Malcolm.coe@torbay.gov.uk and Pete Truman, Principal Accountant, pete.truman@torbay.gov.uk

1. Purpose of Report

- 1.1 This report is to provide members with an annual report on the treasury management activities undertaken during the year 2023/24, which is compared to the 2023/24 Treasury Management Strategy.

2. Reason for Proposal and its benefits

- 2.1 Treasury risk management at the Council is conducted within the framework of the Chartered Institute of Public Finance and Accountancy's Treasury Management in the Public Services: Code of Practice (the CIPFA Code) which requires the Authority to approve a treasury management strategy before the start of each financial year and, as a minimum, a semi-annual and annual treasury outturn report

3. Recommendation(s) / Proposed Decision

That the Audit Committee recommends to Council :

- i) That the Treasury Management decisions made during 2023/24, as detailed in the submitted report be noted.**
- ii) That the increases to limits within the Treasury Management Strategy 2024/25 as outlined in paragraph 10.4 of this report be approved.**

Appendices

Appendix 1: Economic Commentary

Appendix 2: Borrowing and Investment Portfolio

Background Documents

Treasury Management Strategy 2023/24

Supporting Information

1. Introduction

- 1.1 In March 2023 the Council adopted the Chartered Institute of Public Finance and Accountancy's Treasury Management in the Public Services: Code of Practice (the CIPFA Code) which requires the Council to approve treasury management semi-annual and annual reports.
- 1.2 The Council's treasury management strategy for 2023/24 was approved by Council at a meeting on 7th March 2023. The Council has borrowed and invested substantial sums of money and is therefore exposed to financial risks including the loss of invested funds and the revenue effect of changing interest rates. The successful identification, monitoring and control of risk remains central to the Council's treasury management strategy.

2. External Context

- 2.1 An economic commentary for the year provided by the Council's treasury management advisors, Arlingclose, is provided at Appendix 1 to this report.
- Inflation continued to fall from 8.7% at the start of 2023/24 to 3.4% at February 2024.
 - Bank Rate began at 4.25% and increased to 5.25% at August 2023 where it has stayed for the rest of the year.
 - Financial market sentiment remained uncertain on the back of inflation forecasts. Bond yields rose during the first half of the year before falling sharply then recovering again ending the year 50 basis points higher than the start.
 - The 10-year benchmark gilt, a measurement for cost of borrowing, rose from 3.44% to 4.75% before dropping back to 3.92% at year end.

3. Local Context

- 3.1 On 31st March 2024, the Council had net borrowing of £309m arising from its revenue and capital income and expenditure. The underlying need to borrow for capital purposes is measured by the Capital Financing Requirement (CFR), while usable reserves and working capital are the underlying resources available for investment. These factors are summarised in Table 1 below.

Table 1: Balance Sheet Summary (subject to finalisation and audit)

	31.3.24 Actual £m
Total CFR	449
Less: *Other debt liabilities	(14)
Borrowing CFR	435
External borrowing	359
Internal borrowing	76
Less: Balance Sheet resources (usable reserves, working capital and other cash backed items)	(126)
Net treasury position	309

* PFI liabilities that form part of the Council's total debt

- 3.2 The Council pursued its strategy of keeping borrowing and investments below their underlying levels (i.e. using internal cash resources in place of borrowing), sometimes known as internal borrowing, to reduce risk and interest costs.
- 3.3 The treasury management position on 31st March 2024 and the change during the year is shown in Table 2 below. A further breakdown of long-term investments is added at Table 2.1 and a list of loans and investments is detailed at Appendix 2.

Table 2: Treasury Management Summary

	31.3.23 Balance £m	Movement £m	31.3.24 Balance £m	31.3.24 Rate %
Long-term borrowing	385	(26)	359	2.90
Short-term borrowing	0	0	0	0
Total borrowing	385	(26)	359	2.90
Long-term investments*	(15)	0	(15)	3.35
Short-term investments	(75)	41	(34)	5.09
Cash and cash equivalents	(1)	0	(1)	3.20
Total investments	(91)	41	(50)	4.56
Net position	294	15	309	3.10

*Long term investments include the CCLA Property Fund, Supranational and Corporate Bonds investments at market valuation and fixed deposits with over 1 year to maturity

Table 2:1 Breakdown of Long-Term Investments

	31.3.23 Balance £m	Movement £m	31.3.24 Balance £m
Fixed Deposits	(10)	5	(5)
CCLA LA Property Fund	(5)	0	(5)
Supranational and Corporate Bonds	0	(5)	(5)
Total Long-Term Investments	(15)	0	(15)

4. Borrowing Update

- 4.1 CIPFA's 2021 Prudential Code is clear that local authorities must not borrow to invest primarily for financial return and that it is not prudent for local authorities to make any investment or spending decision that will increase the capital financing requirement, and so may lead to new borrowing, unless directly and primarily related to the functions of the Authority. PWLB loans are no longer available to local authorities planning to buy investment assets primarily for yield.
- 4.2 The Council has reviewed its capital programme in light of changes to the CIPFA Prudential Code and PWLB lending arrangements to ensure that borrowing to invest primarily for commercial return is no longer undertaken.
- 4.3 At 31st March 2024 the Council held £359m of loans, (a decrease of £26m to the 31st March 2023 position) as part of its strategy for funding previous and current years' capital programmes. Outstanding loans on 31st March are summarised in Table 3 below.

Table 3: Borrowing Position

	31.3.23 Balance £m	Net Movement £m	31.3.24 Balance £m	31.3.24 Weighted Average Rate %	31.3.24 Weighted Average Maturity (years)
Public Works Loan Board	375.3	(26.3)	349.0	2.850	25.3
Banks (LOBO)	5.0	-	5.0	4.700	56.6
Banks (fixed-term)	5.0	-	5.0	4.395	52.5
Total borrowing	385.3	(26.3)	359.0	2.897	26.1

- 4.4 The Council's chief objective when borrowing has been to strike an appropriately low risk balance between securing low interest costs and achieving cost certainty over the period for which funds are required, with flexibility to renegotiate loans should the Council's long-term plans change being a secondary objective.
- 4.5 In keeping with these objectives, no new borrowing was undertaken, while £7.6m of existing loans matured without replacement
- 4.6 Early repayment of £18.7m of PWLB loans for the purpose of realigning the borrowing portfolio with revised capital plans over the medium term was undertaken in November 2023 (as previously reported in the Treasury Management Mid-Year Review 2023/24)
- 4.7 These measures enabled the Council to reduce net borrowing costs (despite foregone investment income) and reduce overall treasury risk.
- 4.8 LOBO loans: The Council continues to hold a £5m LOBO (Lender's Option Borrower's Option) loan where the lender has the option to propose an increase in the interest rate at set dates, following which the Council has the option to either accept the new rate or to repay the loan at no additional cost. The lenders option does not become due until 2028.

5. Other Debt Activity

- 5.1 After £0.97m repayment of prior years' Private Finance Initiative liabilities, total debt other than borrowing stood at £14.1m on 31st March 2024, taking total debt to £373.1m

6. Treasury Investment Activity

- 6.1 The CIPFA Treasury Management Code now defines treasury management investments as investments that arise from the Authority's cash flows or treasury risk management activity that ultimately represents balances that need to be invested until the cash is required for use in the course of business.
- 6.2 The Council holds significant invested funds, representing income received in advance of expenditure plus balances and reserves held. During the year, the Council's investment balances ranged between £49 million and £102 million due to timing differences between income and expenditure. The investment position is shown in table 4 below.

Table 4: Treasury Investment Position

	31.3.23 Balance £m	Net Movement £m	31.3.24 Balance £m	2023/24 Income Return %	2023/24 Weighted Average Maturity days
Banks & building societies (unsecured)	5.8	(5.5)	0.3	3.2	1
Local Authorities	48.0	(13.0)	35.0	4.95	194
DMO (Govt) Deposits	20.0	(20.0)	0.0		
Government Bonds	0.0	2.0	2.0	4.44	5493
Corporate bonds	0.0	3.3	3.3	4.28	1871
Money Market Funds	8.4	(3.9)	4.5	5.2	1
Other Pooled Funds:					
- <i>Cash plus fund</i>	4.0	(4.0)	0.0		
- <i>Property fund</i>	4.6	(0.2)	4.4	5.02	
Total investments	90.8	(41.3)	49.5	4.91	

- 6.3 Both the CIPFA Code and government guidance require the Council to invest its funds prudently, and to have regard to the security and liquidity of its treasury investments before seeking the optimum rate of return, or yield. The Council's objective when investing money is to strike an appropriate balance between risk and return, minimising the risk of incurring losses from defaults and the risk of receiving unsuitably low investment income.
- 6.4 Bank Rate increased by 1% over the period, from 4.25% at the beginning of April 2023 to 5.25% by the end March 2024. Short term rates peaked at 5.7% for 3-month rates and 6.7% for 12-month rates during the period, although these rates subsequently began to decline towards the end of the period. Rates on the Council's Money Market Funds also rose and were between 4.0% and 5.37%.
- 6.5 The progression of risk and return metrics are shown in the extracts from Arlingclose's quarterly investment benchmarking in Table 5 below.

Table 5: Investment Benchmarking – Treasury investments managed in-house

At 31st March 2024	Credit Score	Credit Rating	Bail-in Exposure	Weighted Average Maturity (days)	Rate of Return %
Torbay Council	4.86	A+	11%	556	4.91
Similar LAs	4.95	A+	64%	58	5.13
All LAs	4.82	A+	61%	9	5.07

- 6.6 At the commencement of the year £48million of the investment portfolio was locked into fixed deposits with local authorities on varying maturities and at rates ranging from 3.80% to 4.70%. £33m of these matured during the year and included within new deals were £15m of 1-year deals at 5.85% and 5.95%. At year-end LA deposits stood at £35m.
- 6.7 As part of a strategy to diversify the portfolio the Director of Finance approved investment of £5million into two market bonds with published yields of 4.439% and 4.284%. These investments give security of return over the longer term.
- 6.8 Throughout the year remaining funds were placed in short term deals with the UK governments' DMADF facility and in liquid Money Market Funds to enable the Council's policy of internal borrowing for capital funding and for proposed strategic investments.
- 6.9 **Externally Managed Pooled Funds:** £5m of the Council's investments are invested in an externally managed strategic pooled property fund where short-term security and liquidity are lesser considerations, and the objectives instead are regular revenue income and long-term price stability. These funds generated an income return of £0.3m (5.20%) and an unrealised capital loss of £0.2m (-4.34%).

7. Non-Treasury Investments

- 7.1 The definition of investments in CIPFA's Treasury Management Code covers all the financial assets of the Council as well as other non-financial assets which the Council holds primarily for financial return. Investments that do not meet the definition of treasury management investments (i.e. management of surplus cash) are categorised as either for service purposes (made explicitly to further service objectives) or for commercial purposes (made primarily for financial return).
- 7.2 The outturn position of the Council's non-treasury investments will form part of the Statement of Accounts 2023/24 and will be reported with the usual level of detail within the Treasury Management 2024/25 mid-year review.

8. Treasury Performance

8.1 The financial performance of the Council's direct treasury management activities in terms of its impact on the revenue budget is shown in table 6 below.

Table 6: Performance

As at 31 st March 2024	Budget 2023/24	Outturn 2023/24	Variation
	£M	£M	£M
Investment Income	(1.3)	(3.7)	(2.4)
Interest Paid on Borrowing	13.4	11.1	(2.3)
Net Position (Interest)	12.1	7.4	(4.7)
Minimum Revenue Provision (excl. PFI)	6.8	7.2	0.4
Gross premium on PWLB repayment	0.0	1.2	1.2
Amortised discount on PWLB repayments	0.0	(0.1)	(0.1)
Net Position (Other)	6.8	8.3	1.5
Net Position Overall	18.9	15.7	(3.2)

9. Compliance

9.1 The Chief Finance Officer reports that all treasury management activities undertaken during the year complied fully with the CIPFA Code of Practice and the Council's approved Treasury Management Strategy.

Compliance with specific limits is demonstrated in table 7 below.

Table 7: Investment Limits

	2023/24 Maximum	31.3.24 Actual	2023/24 Limit	Complied? Yes/No
Any single organisation, except the UK Government	£9m	£5m	£15m	Yes
Unsecured investments with banks and building societies	£5m	-	£6m	Yes
Money Market Funds	£9m	£4m	£15m	Yes
Strategic pooled funds	£5m	£5m	£10m	Yes

Compliance with the Authorised Limit and Operational Boundary for external debt is demonstrated in table 8 below.

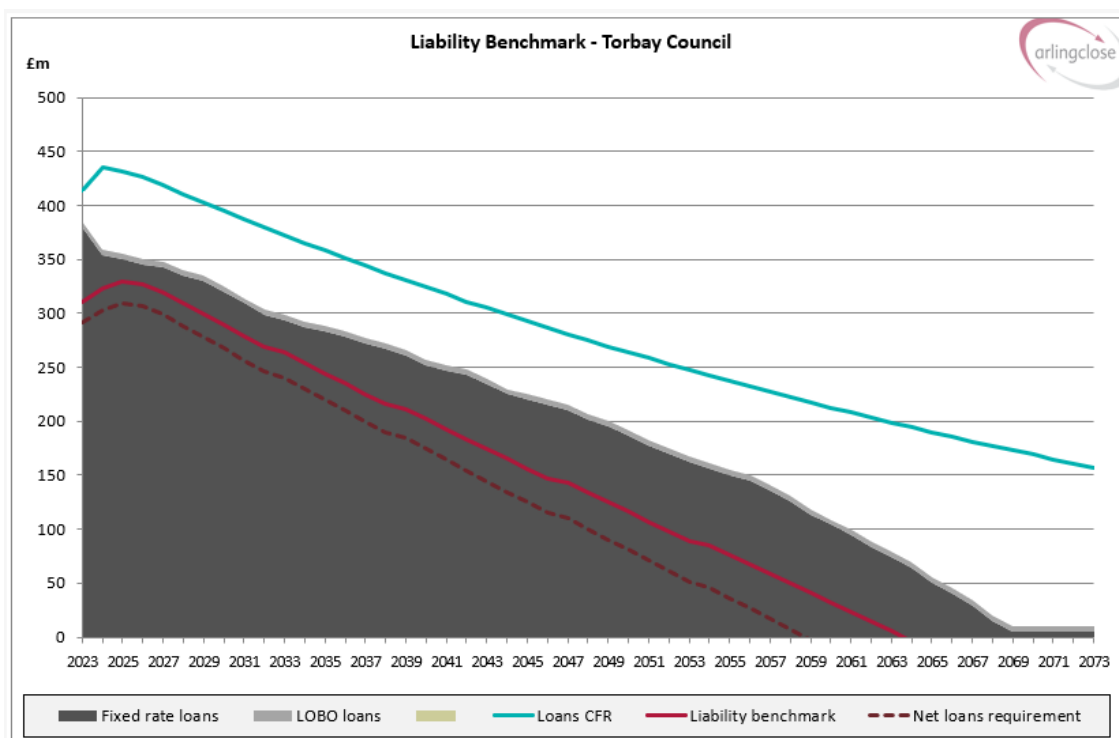
Table 8: Debt Limits

	2023/24 Maximum	31.3.24 Actual	2023/24 Operational Boundary	2023/24 Authorised Limit	Complied? Yes/No
Borrowing	£385m	£359m	£500m	£600m	Yes
PFI & Finance Leases	£15m	£14m	£20m	£20m	Yes
Total Debt	£400m	£373m	£520m	£620m	Yes

9.2 **Treasury Management Indicators:** The Council measures and manages its exposures to treasury management risks using the following indicators.

Liability Benchmark This new indicator compares the Council’s actual existing borrowing against a liability benchmark that has been calculated to show the lowest risk level of borrowing. The liability benchmark is an important tool to help establish whether the Council is likely to be a long-term borrower or long-term investor in the future, and so shape its strategic focus and decision making. It represents an estimate of the cumulative amount of external borrowing the Council must hold to fund its current capital and revenue plans while keeping treasury investments at the minimum level of £10m required to manage day-to-day cash flow.

The latest estimate of the Liability Benchmark is illustrated in the graph below demonstrating maturing borrowing levels remaining above the benchmark over the long term with scope for future treasury management decisions to reduce the margin.



Security: The Council has adopted a voluntary measure of its exposure to credit risk by monitoring the value-weighted average credit rating/credit score of its investment portfolio. The credit score is calculated by applying a value to each investment (AAA=1, AA+=2, A=6 etc.) and taking the arithmetic average, weighted by the size of each investment. Unrated investments are assigned a score based on their perceived risk.

	31.3.24 Actual	2023/24 Target	Complied?
Portfolio average credit rating (score)	A+ (5)	A (6)	Yes

Liquidity: The Council has adopted a voluntary measure of its exposure to liquidity risk by monitoring the amount of cash available to meet unexpected payments within a rolling one-month period, without additional borrowing.

	31.3.24 Actual	2023/24 Target	Complied?
Total cash available within one month	£10M	£10M	Yes

Maturity Structure of Borrowing: This indicator is set to control the Council's exposure to refinancing risk. The upper and lower limits on the maturity structure of all borrowing were:

	31.3.24 Actual	Upper Limit	Lower Limit	Complied?
Under 12 months	2%	40%	0%	Yes
12 months - within 24 months	2%	40%	0%	Yes
24 months and within 5 years	4%	30%	0%	Yes
5 years and within 10 years	12%	40%	0%	Yes
10 years and within 20 years	16%	50%	0%	Yes
20 years and within 30 years	8%	60%	0%	Yes
30 years and within 40 years	36%	50%	0%	Yes
40 years and over	20%	50%	0%	Yes

Principal Sums Invested for Periods Longer than a year: The purpose of this indicator is to control the Council's exposure to the risk of incurring losses by seeking early repayment of its investments. The limits on the long-term principal sum invested to final maturities beyond the period end were:

	2023/24	2024/25	2025/26
Actual principal invested beyond year end	£15m	£15m	£10m
Limit on principal invested beyond year end	£40m	£40m	£40m
Complied?	Yes	Yes	Yes

10. Other

10.1 **Statutory override:** In April 2023 the Department for Levelling Up, Housing and Communities (DLUHC) published the full outcome of the consultation on the extension of the statutory override on accounting for gains and losses on pooled investment funds. The override has been extended until 31st March 2025, but no other changes have been made; whether the override will be extended beyond this date is unknown but commentary to the consultation outcome suggests it will not. The Council will discuss with Arlingclose the implications for the investment strategy and what action may need to be taken.

10.2 **Consultations:** In December DLUHC published two consultations: a “final” consultation on proposed changes to regulations and statutory guidance on MRP closing on 16th February and a “call for views” on capital measures to improve sector stability and efficiency closing on 31st January.

Draft regulations and draft statutory guidance are included in the MRP consultation. The proposals remain broadly the same as those in June 2022 – to limit the scope for authorities to:

- (a) make no MRP on parts of the capital financing requirement (CFR)
- (b) to use capital receipts in lieu of a revenue charge for MRP.

In its call for views on capital measures, government wishes to engage with councils to identify and develop options for the use of capital resources and borrowing to support and encourage ‘invest-to-save’ activity and to manage budget pressures without seeking exceptional financial support. Whilst Government has identified various options including allowing authorities to capitalise general cost pressures and meet these with capital receipts, there is no commitment to take any of the options forward.

10.3 **Member training:** The CIPFA Code requires the Chief Finance Officer to ensure that members with responsibility for treasury management receive adequate training. In compliance with this, a comprehensive briefing and training event was held on 6th December 2023, delivered by Arlingclose and the Director of Finance.

10.4 Change to approved investment limits 2024/25:

In September 2023 Council approved a variation to the Treasury Management Strategy to enable greater diversification into longer term investments initially through the bond investments outlined in para 6.7 above. A revision to the time limits of the investment instruments associated with this strategy is proposed and recommended as part of this report.

Furthermore, the Director of Finance agreed a revolving credit facility with a Registered Housing Provider (RHP) in April 2024. In order to finalise this investment an amendment is required to the 2024/25 Treasury Management Strategy in respect of the credit rating of RHP's.

The key points of the arrangement are:

- **Facility start date:** Before end of June 2024
- **Term:** 3 years (plus 2 one-year extensions)
- **Interest rate when drawn:** 2.5% over Bank Rate
- **Non-utilisation fee:** 0.275%
- **Credit Facility Value:** £5m (Total revolving credit facility of £50m funded by Local Authorities)

This is an approved investment within the Treasury Management Strategy 2024/25 for counterparties rated as A or above. The RHP in question is rated A- and the Director of Finance has assessed this as acceptable in terms of overall risk when agreeing the deal under delegated powers.

Accordingly changes to the approved strategy limit in Table 9 of Appendix 3 of the Treasury Management Strategy 2024/25 are recommended as set out below:

Table 9: Approved investment counterparties and limits

Sector	Time limit	Counterparty limit	Sector limit
The UK Government	3 years	Unlimited	n/a
Local authorities & other government entities	25 years	£15m	Unlimited
Secured investments *	25 years	£15m	Unlimited
Banks (secured)*	25 years	£15m	Unlimited
Banks (unsecured) *	13 months	£6m	Unlimited
Building societies (unsecured) *	13 months	£6m	£18m
Registered providers (unsecured) *	3 years	£6m	£20m
Money market funds *	n/a	£15m	Unlimited
Strategic pooled funds	n/a	£10m	£30m
Real estate investment trusts	n/a	£10m	£20m
Other investments *	3 years	£6m	£15m

This table should be read in conjunction with the notes below

* **Minimum credit rating:** Treasury investments in the sectors marked with an asterisk will only be made with entities whose lowest published long-term credit rating is no lower than A-. Where available, the credit rating relevant to the specific investment or class of investment is used, otherwise the counterparty credit rating is used. However, investment decisions are never made solely based on credit ratings, and all other relevant factors including external advice will be considered.

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Appendix 1

Economic Commentary (provided by Arlingclose, April 2024)

Economic background: UK inflation continued to decline from the 8.7% rate seen at the start of 2023/24. By the last quarter of the financial year headline consumer price inflation (CPI) had fallen to 3.4% in February, but was still above the Bank of England's 2% target at the end of the period. The core measure of CPI, i.e. excluding food and energy, also slowed in February to 4.5% from 5.1% in January, a rate that had stubbornly persisted for three consecutive months.

The UK economy entered a technical recession in the second half of 2023, as growth rates of -0.1% and -0.3% respectively were recorded for Q3 and Q4. Over the 2023 calendar year GDP growth only expanded by 0.1% compared to 2022. Of the recent monthly data, the Office for National Statistics reported a rebound in activity with economy expanding 0.2% in January 2024. While the economy may somewhat recover in Q1 2024, the data suggests that prior increases in interest rates and higher price levels are depressing growth, which will continue to bear down on inflation throughout 2024.

Labour market data provided a mixed message for policymakers. Employment and vacancies declined, and unemployment rose to 4.3% (3mth/year) in July 2023. The same month saw the highest annual growth rate of 8.5% for total pay (i.e. including bonuses) and 7.8% for regular pay growth (i.e. excluding bonuses). Thereafter, unemployment began to decline, falling to 3.9% (3mth/year) in January and pay growth also edged lower to 5.6% for total pay and 6.1% for regular pay, but remained above the Bank of England's forecast.

Having begun the financial year at 4.25%, the Bank of England's Monetary Policy Committee (MPC) increased Bank Rate to 5.25% in August 2023 with a 3-way split in the Committee's voting as the UK economy appeared resilient in the face of the dual headwinds of higher inflation and interest rates. Bank Rate was maintained at 5.25% through to March 2024. The vote at the March was 8-1 in favour of maintaining rates at this level, with the single dissenter preferring to cut rates immediately by 0.25%. Although financial markets shifted their interest rate expectations downwards with expectations of a cut in June, the MPC's focus remained on assessing how long interest rates would need to be restrictive in order to control inflation over the medium term.

In the Bank's quarterly Monetary Policy Report (MPR) released in August 2023 the near-term projection for services price inflation was revised upwards, goods price inflation widespread across products, indicating stronger domestic inflationary pressure with second-round effects in domestic prices and wages likely taking longer to unwind than they did to emerge. In the February 2024 MPR the Bank's expectations for the UK economy were positive for the first half of 2024, with a recovery from the mild recession in calendar H2 2023 being gradual. Headline CPI was forecast to dip below the 2% target quicker than previously thought due to declining energy prices, these effects would hold inflation slightly above target for much of the forecast horizon.

Following this MPC meeting, Arlingclose, the authority's treasury adviser, maintained its central view that 5.25% remains the peak in Bank Rate and that interest rates will most likely start to be cut later in H2 2024. The risks in the short-term are deemed to be to the downside as a rate cut may come sooner than expected, but then more broadly balanced over the medium term.

The US Federal Reserve also pushed up rates over the period, reaching a peak range of between 5.25-5.50% in August 2023, where it has stayed since. US policymakers have maintained the

relatively dovish stance from the December FOMC meeting and at the meeting in March, economic projections pointed to interest rates being cut by a total of 0.75% in 2024.

Following a similarly sharp upward trajectory, the European Central Bank hiked rates to historically high levels over period, pushing its main refinancing rate to 4.5% in September 2023, where it has remained. Economic growth in the region remains weak, with a potential recession on the cards, but inflation remains sticky and above the ECB's target, putting pressure on policymakers on how to balance these factors.

Financial markets: Sentiment in financial markets remained uncertain and bond yields continued to be volatile over the year. During the first half of the year, yields rose as interest rates continued to be pushed up in response to rising inflation. From October they started declining again before falling sharply in December as falling inflation and dovish central bank attitudes caused financial markets to expect cuts in interest rates in 2024. When it emerged in January that inflation was stickier than expected and the BoE and the Federal Reserve were data dependent and not inclined to cut rates soon, yields rose once again, ending the period some 50+ bps higher than when it started.

Over the financial year, the 10-year UK benchmark gilt yield rose from 3.44% to peak at 4.75% in August, before then dropping to 3.44% in late December 2023 and rising again to 3.92% (28th March 2024). The Sterling Overnight Rate (SONIA) averaged 4.96% over the period to 31st March.

Credit review: In response to an improving outlook for credit markets, in January 2024 Arlingclose moved away from its previous temporary stance of a 35-day maximum duration and increased its advised recommended maximum unsecured duration limit on all banks on its counterparty list to 100 days.

Earlier in the period, S&P revised the UK sovereign outlook to stable and upgraded Barclays Bank to A+. Moody's also revised the UK outlook to stable, Handelsbanken's outlook to negative, downgraded five local authorities, and affirmed HSBC's outlook at stable while upgrading its Baseline Credit Assessment. Fitch revised UOB's and BMO's outlooks to stable.

In the final quarter of the financial year, Fitch revised the outlook on the UK sovereign rating to stable from negative based on their assessment that the risks to the UK's public finances had decreased since its previous review in October 2022, the time of the mini- budget.

Moody's, meanwhile, upgraded the long-term ratings of German lenders Helaba, Bayern LB and LBBW on better solvency and capital positions, despite challenges from a slowing German economy and exposure to the commercial real estate sector. Moody's also upgraded or placed on review for an upgrade, Australian banks including ANZ, CBA NAB and Westpac on the back of the introduction of a new bank resolution regime.

Credit default swap prices began the financial year at elevated levels following the fallout from Silicon Valley Bank and collapse/takeover of other lenders. From then the general trend was one of falling prices and UK lenders' CDS ended the period at similar levels to those seen in early 2023. Earlier in the year some Canadian lenders saw their CDS prices rise due to concerns over a slowing domestic economy and housing market, while some German lenders were impacted by similar economic concerns and exposure to commercial real estate towards the end of the period, with LBBW remaining the most elevated.

Heightened market volatility is expected to remain a feature, at least in the near term and, credit default swap levels will be monitored for signs of ongoing credit stress. As ever, the institutions and durations on the Council's counterparty list recommended by Arlingclose remain under constant review.

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Borrowing and Investment Portfolio at 31st March 2024

Long Term Borrowing

Name	Principal £	Interest Rate	Start Date	Maturity Date
Barclays Bank PLC (NRFB)	5,000,000	4.700%	25/09/2006	25/09/2076
Dexia Credit Local	5,000,000	4.395%	05/11/2007	07/11/2078
Public Works Loan Board	3,000,000	4.150%	13/12/2005	14/02/2046
Public Works Loan Board	2,000,000	4.050%	23/12/2005	14/02/2051
Public Works Loan Board	2,000,000	4.450%	14/07/2006	14/08/2036
Public Works Loan Board	4,000,000	4.350%	19/07/2006	15/11/2036
Public Works Loan Board	2,000,000	4.400%	19/07/2006	15/11/2034
Public Works Loan Board	2,337,000	4.400%	02/08/2006	15/05/2037
Public Works Loan Board	2,000,000	4.400%	11/08/2006	15/12/2037
Public Works Loan Board	2,000,000	4.100%	28/09/2006	15/12/2041
Public Works Loan Board	3,000,000	4.150%	03/11/2006	15/06/2038
Public Works Loan Board	2,000,000	4.100%	03/11/2006	15/12/2041
Public Works Loan Board	4,000,000	4.100%	07/12/2006	15/01/2052
Public Works Loan Board	4,000,000	4.350%	25/01/2007	15/10/2042
Public Works Loan Board	3,000,000	4.450%	31/01/2007	15/03/2048
Public Works Loan Board	4,000,000	4.350%	02/03/2007	15/07/2043
Public Works Loan Board	4,000,000	4.300%	08/03/2007	15/07/2049
Public Works Loan Board	2,000,000	4.300%	08/03/2007	15/07/2050
Public Works Loan Board	2,000,000	4.500%	20/08/2007	15/09/2052
Public Works Loan Board	2,000,000	4.500%	27/11/2007	15/01/2035
Public Works Loan Board	2,000,000	4.420%	07/01/2008	15/03/2041
Public Works Loan Board	2,000,000	4.420%	24/01/2008	15/03/2040
Public Works Loan Board	3,000,000	4.380%	10/09/2008	15/04/2058
Public Works Loan Board	3,000,000	4.200%	02/07/2009	15/09/2024
Public Works Loan Board	3,000,000	4.390%	10/08/2009	15/04/2027
Public Works Loan Board	3,000,000	4.480%	10/08/2009	15/04/2044
Public Works Loan Board	5,000,000	4.250%	24/08/2009	24/08/2032
Public Works Loan Board	5,000,000	4.010%	13/10/2009	15/06/2029
Public Works Loan Board	5,000,000	4.380%	10/05/2010	15/07/2025
Public Works Loan Board	61,587	4.500%	21/04/1999	21/03/2059
Public Works Loan Board	252,508	4.750%	21/04/1999	21/03/2059
Public Works Loan Board	615,872	4.750%	28/07/1999	28/03/2059
Public Works Loan Board	636,401	4.750%	28/07/1999	28/03/2059
Public Works Loan Board	1,437,035	4.750%	28/07/1999	28/03/2059
Public Works Loan Board	944,337	4.500%	09/08/1999	09/03/2058
Public Works Loan Board	392,105	4.750%	10/08/1999	10/03/2054
Public Works Loan Board	410,581	4.500%	12/08/1999	12/03/2057
Public Works Loan Board	266,591	4.875%	02/12/2002	30/09/2027
Public Works Loan Board	207,974	4.750%	11/03/2004	11/09/2033
Public Works Loan Board	410,581	4.750%	01/04/2004	01/03/2034
Public Works Loan Board	410,581	4.950%	08/07/2004	08/03/2034
Public Works Loan Board	410,581	4.250%	21/11/2005	21/09/2032
Public Works Loan Board	410,581	4.150%	13/12/2005	13/09/2055
Public Works Loan Board	410,581	4.100%	19/12/2005	19/03/2051

Name	Principal £	Interest Rate	Start Date	Maturity Date
Public Works Loan Board	410,581	3.900%	11/01/2006	11/03/2055
Public Works Loan Board	410,581	4.300%	13/04/2006	13/09/2041
Public Works Loan Board	410,581	4.400%	28/04/2006	30/09/2051
Public Works Loan Board	410,581	4.200%	23/05/2006	30/09/2047
Public Works Loan Board	1,231,744	4.400%	29/06/2006	29/09/2053
Public Works Loan Board	205,291	4.250%	19/07/2006	19/09/2055
Public Works Loan Board	615,872	4.250%	25/08/2006	25/09/2055
Public Works Loan Board	410,581	4.200%	31/08/2006	30/09/2051
Public Works Loan Board	615,872	4.200%	19/09/2006	19/09/2051
Public Works Loan Board	410,581	4.050%	29/09/2006	29/09/2051
Public Works Loan Board	1,231,744	4.250%	16/01/2007	16/03/2052
Public Works Loan Board	410,581	4.500%	11/04/2007	11/09/2054
Public Works Loan Board	410,582	4.430%	21/01/2008	21/09/2037
Public Works Loan Board	1,560,207	4.875%	08/08/2002	08/03/2027
Public Works Loan Board	5,000,000	2.540%	22/02/2017	15/05/2061
Public Works Loan Board	5,000,000	2.480%	28/02/2017	15/05/2062
Public Works Loan Board	5,000,000	2.350%	12/04/2017	15/05/2063
Public Works Loan Board	5,000,000	2.270%	19/04/2017	15/06/2064
Public Works Loan Board	5,000,000	2.280%	26/06/2017	15/08/2065
Public Works Loan Board	5,000,000	2.360%	21/07/2017	30/09/2030
Public Works Loan Board	5,000,000	2.400%	26/07/2017	30/09/2031
Public Works Loan Board	5,000,000	2.440%	26/07/2017	30/09/2066
Public Works Loan Board	5,000,000	2.370%	15/08/2017	31/03/2061
Public Works Loan Board	5,000,000	2.580%	25/09/2017	15/11/2059
Public Works Loan Board	2,000,000	2.540%	26/09/2017	15/11/2062
Public Works Loan Board	3,000,000	2.520%	27/09/2017	15/11/2064
Public Works Loan Board	2,000,000	2.520%	27/09/2017	15/11/2065
Public Works Loan Board	5,000,000	2.260%	06/10/2017	15/09/2028
Public Works Loan Board	5,000,000	2.500%	06/10/2017	15/09/2067
Public Works Loan Board	5,000,000	2.500%	19/10/2017	15/12/2059
Public Works Loan Board	5,000,000	2.500%	19/10/2017	15/12/2060
Public Works Loan Board	8,000,000	2.570%	16/11/2017	31/03/2057
Public Works Loan Board	6,000,000	2.490%	16/11/2017	31/03/2065
Public Works Loan Board	6,000,000	2.510%	16/11/2017	31/03/2062
Public Works Loan Board	4,000,000	2.550%	16/11/2017	31/03/2058
Public Works Loan Board	6,000,000	2.490%	16/11/2017	30/09/2066
Public Works Loan Board	4,000,000	2.160%	24/11/2017	31/03/2028
Public Works Loan Board	6,000,000	2.610%	24/11/2017	31/03/2049
Public Works Loan Board	5,000,000	2.530%	24/11/2017	31/03/2053
Public Works Loan Board	5,000,000	2.510%	24/11/2017	30/09/2033
Public Works Loan Board	5,000,000	2.520%	05/06/2018	15/01/2048
Public Works Loan Board	5,000,000	2.540%	10/07/2018	31/03/2047
Public Works Loan Board	3,000,000	2.370%	21/02/2019	31/03/2066
Public Works Loan Board	2,000,000	2.360%	26/02/2019	31/03/2063
Public Works Loan Board	3,000,000	2.380%	12/03/2019	31/03/2036
Public Works Loan Board	2,000,000	2.320%	25/03/2019	31/03/2036
Public Works Loan Board	2,000,000	2.410%	25/03/2019	31/03/2040
Public Works Loan Board	2,000,000	2.420%	25/03/2019	31/03/2041
Public Works Loan Board	2,000,000	2.350%	27/03/2019	31/03/2045

Name	Principal £	Interest Rate	Start Date	Maturity Date
Public Works Loan Board	2,000,000	2.350%	27/03/2019	31/03/2046
Public Works Loan Board	4,000,000	2.250%	28/05/2019	31/03/2068
Public Works Loan Board	3,000,000	2.280%	30/05/2019	31/03/2039
Public Works Loan Board	5,000,000	2.150%	06/06/2019	31/03/2068
Public Works Loan Board	5,000,000	2.140%	08/07/2019	31/03/2044
Public Works Loan Board	5,000,000	1.900%	13/08/2019	31/03/2064
Public Works Loan Board	5,000,000	1.730%	19/08/2019	31/03/2069
Public Works Loan Board	5,000,000	1.720%	05/09/2019	31/03/2050
Public Works Loan Board	5,000,000	1.850%	16/09/2019	31/03/2058
Public Works Loan Board	5,000,000	1.530%	17/09/2019	31/03/2030
Public Works Loan Board	5,000,000	1.950%	17/09/2019	31/03/2054
Public Works Loan Board	5,000,000	1.860%	23/09/2019	31/03/2040
Public Works Loan Board	5,000,000	1.810%	23/09/2019	31/03/2056
Public Works Loan Board	5,000,000	1.520%	23/09/2019	31/03/2031
Public Works Loan Board	5,000,000	1.740%	23/09/2019	31/03/2069
Public Works Loan Board	6,000,000	2.900%	06/12/2019	31/03/2059
Public Works Loan Board	5,000,000	2.430%	03/02/2020	30/09/2031
Public Works Loan Board	5,000,000	2.760%	03/02/2020	31/03/2055
Public Works Loan Board	5,000,000	2.240%	11/03/2020	31/03/2043
Public Works Loan Board	5,000,000	2.210%	11/03/2020	31/03/2051
Public Works Loan Board	1,666,667	1.420%	22/02/2017	15/05/2027
Public Works Loan Board	2,901,962	2.290%	26/07/2017	30/09/2042
	358,928,910			

Long Term Investments

Name	Principal £	Interest Rate	Start Date	Maturity Date
European Investment Bank	3,000,000	4.439%	20/03/2024	15/04/2039
BNG Bank INV	2,000,000	4.284%	20/03/2024	15/05/2024
Medway Council	5,000,000	4.200%	24/02/2023	04/04/2025
CCLA Property Fund	5,000,000	5.020%	n/a	n/a
	15,000,000			

Short Term Investments

Name	Principal £	Interest Rate	Start Date	Maturity Date
Borough of Kingston Upon Hull	5,000,000	5.500%	06/11/2023	06/08/2024
Watford Borough Council	5,000,000	5.850%	19/09/2023	19/09/2024
Highland Council	5,000,000	4.200%	10/03/2023	10/03/2025
Wakefield Metropolitan Borough Council	5,000,000	5.950%	11/09/2023	09/09/2024
Wokingham Borough Council	5,000,000	5.950%	02/10/2023	09/09/2024
London Borough of Newham	5,000,000	4.720%	19/06/2023	19/04/2024
Goldman Sachs Money Market Fund	850,000	5.131%	n/a	n/a
CCLA Public Sector Deposit Fund	50,000	5.218%	n/a	n/a
Aviva Investors Money Market Fund	50,000	5.268%	n/a	n/a
Legal & General Money Market fund	3,600,000	5.220%	n/a	n/a
	34,550,000			

Cash & Cash Equivalents

Name	Principal £	Interest Rate	Start Date	Maturity Date
National Westminster Bank	289,134	3.200%	n/a	n/a
	289,134			

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Record of Decisions

Establishment of Cabinet Working Parties and Council Local Plan Working Party

Decision Taker

Cabinet on 20 August 2024

Decision

1. That the following Cabinet Working Parties be established:

- **Cabinet Capital Projects Working Party**

Terms of Reference: To receive detailed briefings on capital projects, to ensure Members have up to date information on key capital projects and be aware of upcoming project milestones and future Council decisions related to the overall Programme and to allow officers to seek Members views (individual and collective) on certain project elements where options are available.

Membership: 3 Conservatives (to include the Cabinet Member for Finance (who will Chair the meetings)), 2 Liberal Democrats and 1 Independent.

- **Cabinet Oldway Working Party**

Terms of Reference: To review proposals for use of buildings and grounds and oversee delivery of works from allocated monies.

To ascertain community views in respect of these matters with relevant members from the local community and representatives from the business, public and voluntary sectors are to be invited to meetings when needed.

Membership: 3 Conservatives (to include the Cabinet Member for Place Development and Economic Growth, (who will Chair the meetings)), 2 Liberal Democrats and 1 Independent.

- **Cabinet Road Network and Travel Working Party**

Terms of Reference: To consider current and emerging road network and travel matters (encompassing all forms of transportation around the Bay and parking) and make recommendations to the appropriate decision maker.

Membership: 3 Conservative (to include the Cabinet Member for Pride in Place, Transport and Parking, (who will Chair the meetings)), 2 Liberal Democrats and 1 Independent.

2. That Cabinet recommends to Council:

That the Local Plan Working Party be established with the following Terms of Reference and Membership:

Terms of Reference: To assist Officers with the preparation of the revised draft Local Plan including the content, timing and scope of key consultation and submission documents in

accordance with the timetable as set by the Local Development Scheme (or similar document required by subsequent legislation); to make appropriate recommendations to Cabinet and Council; and to respond to issues that may arise during examination.

Membership: 3 Conservatives (to include the Cabinet Member for Place Development and Economic Growth (who will Chair the meetings)), 2 Liberal Democrats and 1 Independent.

This Working Party will be disbanded once it has completed its review of the revised Local Plan documents.

Reason for the Decision

The Working Parties will ensure that all political groups on the Council are represented and will also guide Officers in ensuring that there is good engagement with relevant interested parties and external representatives to ensure that the Council is:

- Putting our residents at the heart of everything we do;
- Making evidence based decisions;
- Making the most out of Council owned assets; and
- Working together.

Implementation

The decision in respect of 1. will come into force and may be implemented on 3 September 2024 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

The decision in respect of 2. will be considered at the Council meeting on 12 September 2024.

Information

The Council, its committees, the Leader of the Council, the Cabinet, Cabinet Committees and the Chief Executive may establish a working party or amend the terms of reference or membership of existing working parties. In establishing working parties, the appointing body or person will determine the precise terms of reference of the working party (having regard to the terms of reference of any other working parties), initial membership and (if appropriate) duration of the working party.

The Cabinet had identified the need to appoint three Cabinet Working Parties whose purpose will be to act as a consultee for the development of operational policies and working practices relating to their specific areas in accordance with their agreed Terms of Reference and make recommendations to the Cabinet/appropriate decision-maker. The Cabinet also made recommendations to establish a Council appointed Working Party to oversee the development of the draft Local Plan and made recommendations in that regard.

At the meeting, Councillor David Thomas proposed and Councillor Chris Lewis seconded a motion that was agreed unanimously by the Cabinet, as set out above.

Alternative Options considered and rejected at the time of the decision

The alternative option would be to not appoint the Working Parties, this option was not recommended as it would lose the opportunity for wider engagement with cross party Councillors.

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes to the decision in 1. above.

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

None

Published

23 August 2024

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

Date: 23 August 2024

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Meeting: Cabinet **Date:** 20 August 2024

Wards affected: All

Report Title: Establishment of Cabinet Working Parties and Council Local Plan Working Party

When does the decision need to be implemented? As soon as possible

Cabinet Member Contact Details: Councillor David Thomas, Leader of Torbay Council,
David.Thomas@torbay.gov.uk

Director Contact Details: Matthew Fairclough-Kay, Director of Corporate Services,
matthew.fairclough-kay@torbay.gov.uk

1. Purpose of Report

- 1.1 To establish Cabinet Working Parties and make a recommendation to the Council to establish a Local Plan Working Party.

2. Reason for Proposal and its benefits

- 2.1 The Working Parties will ensure that all political groups on the Council are represented and will also guide Officers in ensuring that there is good engagement with relevant interested parties and external representatives to ensure that the Council is:
- Putting our residents at the heart of everything we do;
 - Making evidence based decisions;
 - Making the most out of Council owned assets; and
 - Working together.

3. Recommendation(s) / Proposed Decision

1. That the following Cabinet Working Parties be established:
- **Cabinet Capital Projects Working Party**

Terms of Reference: To receive detailed briefings on capital projects, to ensure Members have up to date information on key capital projects and be aware of upcoming project milestones and future Council decisions related to the overall Programme and to allow officers to seek members views (individual and collective) on certain project elements where options are available.

Membership: 3 Conservatives (to include the Cabinet Member for Finance (who will Chair the meetings)), 2 Liberal Democrats and 1 Independent.

- **Cabinet Oldway Working Party**

Terms of Reference: To review proposals for use of buildings and grounds and oversee delivery of works from allocated monies.

To ascertain community views in respect of these matters with relevant members from the local community and representatives from the business, public and voluntary sectors are to be invited to meetings when needed.

Membership: 3 Conservatives (to include the Cabinet Member for Place Development and Economic Growth, (who will Chair the meetings)), 2 Liberal Democrats and 1 Independent.

- **Cabinet Road Network and Travel Working Party**

Terms of Reference: To consider current and emerging road network and travel matters (encompassing all forms of transportation around the Bay and parking) and make recommendations to the appropriate decision maker.

Membership: 3 Conservative (to include the Cabinet Member for Pride in Place, Transport and Parking, (who will Chair the meetings)), 2 Liberal Democrats and 1 Independent.

2. That Cabinet recommends to Council:

- That the Local Plan Working Party be established with the following Terms of Reference and Membership:

Terms of Reference : To assist Officers with the preparation of the revised draft Local Plan including the content, timing and scope of key consultation and submission documents in accordance with the timetable as set by the Local Development Scheme (or similar document required by subsequent legislation); to make appropriate recommendations to Cabinet and Council; and to respond to issues that may arise during examination.

Membership: 3 Conservatives (to include the Cabinet Member for Place Development and Economic Growth (who will chair the meetings)), 2 Liberal Democrats and 1 Independent.

This Working Party will be disbanded once it has completed its review of the revised Local Plan documents.

Appendices

None

Background Documents

Constitution: Local Protocol on Working Parties

1. Introduction

- 1.1 The Council, its committees, the Leader of the Council, the Cabinet, Cabinet Committees and the Chief Executive may establish a working party or amend the terms of reference or membership of existing working parties. In establishing working parties, the appointing body or person will determine the precise terms of reference of the working party (having regard to the terms of reference of any other working parties), initial membership and (if appropriate) duration of the working party.
- 1.2 The Cabinet has identified the need to appoint three Cabinet Working Parties whose purpose will be to act as a consultee for the development of operational policies and working practices relating to their specific areas in accordance with their agreed Terms of Reference. These are:
- Cabinet Oldway Working Party
 - Cabinet Road Network and Travel Working Party
 - Cabinet Capital Projects Working Party

The Cabinet is also recommending that the Council establish a Local Plan Working Party with terms of reference as set out in the recommendations above.

- 1.2 The Working Parties will follow the Local Protocol on Working Parties, the Working Parties and in particular will operate as follows:

They will consist of a small group of cross-party members with officers in attendance at meeting to provide support and advice, with a remit to consider policies and specific matters;

They will not have any decision-making powers and can only make recommendations to Cabinet, Council, or an Officer when required;

They will act in the manner of “consultative panels” receiving reports from officers on potentially sensitive or controversial matters or their views sought on operational policies on which they will be expected to provide guidance to the decision maker. In the case of the Local Plan Working Party, they will be tasked with investigating complex policy issues e.g. the Local Plan (Policy Framework document) and will be expected to formulate recommendations for the Cabinet to consider before submitting the Policy Framework document to Council for final approval;

It is at the discretion of the Chairman/woman of each working party whether the press and public shall be permitted to attend any meetings. Details of meetings that are open to the press and public will be published, along with the agendas for those meetings.

All non-working party members will be entitled to attend and receive documentation submitted to working parties.

The relevant Cabinet Member will Chair the Working Party.

These Working Parties are ongoing, except for the Local Plan Working Party (which will be established for the duration of the review of the Local Plan) and are acting as a consultee.

The role of Cabinet Working Parties is different from the role of the Overview and Scrutiny which carries out more detailed investigations into specific topics and holds decision-makers to account either via Task and Finish Groups over several meetings or via Spotlight Reviews which take place in a single meeting. Except for the Local Plan all other Policy Framework documents will be reviewed by the relevant Overview and Scrutiny body in accordance with the Standing Orders in Relation to Budget and Policy Framework,

2. Options under consideration

- 2.1 Not to appoint the Working Parties, this option is not recommended as it will lose the opportunity for wider public engagement with cross party Councillors.

3. Financial Opportunities and Implications

- 3.1 There are no financial implications associated with the operation of the Working Parties. They will be facilitated using existing Council resources.

4. Legal Implications

- 4.1 None

5. Engagement and Consultation

- 5.1 The Cabinet Members have been consulted on these proposals as well as the Group Leaders.

6. Procurement Implications

6.1 Not applicable

7. Protecting our naturally inspiring Bay and tackling Climate Change

7.1 Not applicable. Further climate considerations will be developed as part of any decisions arising from the recommendations of the Working Parties.

8. Associated Risks

8.1 None

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.	Not applicable	Not applicable
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.	Not applicable	Not applicable
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.	Not applicable	Not applicable
Gender reassignment	In the 2021 Census, 0.4% of Torbay's community	There is no differential impact.	Not applicable	Not applicable

	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.			
Marriage and civil partnership	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.	There is no differential impact.	Not applicable	Not applicable
Pregnancy and maternity	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.	There is no differential impact.	Not applicable	Not applicable
Race	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.	There is no differential impact.	Not applicable	Not applicable

Religion and belief	64.8% of Torbay residents who stated that they have a religion in the 2021 census.	There is no differential impact.	Not applicable	Not applicable
Sex	51.3% of Torbay's population are female and 48.7% are male	There is no differential impact.	Not applicable	Not applicable
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.	Not applicable	Not applicable
Armed Forces Community	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 served in the UK armed forces.	There is no differential impact.	Not applicable	Not applicable
Additional considerations				
Socio-economic impacts (Including impacts on child poverty and deprivation)		There is no differential impact.	Not applicable	Not applicable
Public Health impacts (Including impacts on the general health of		There is no differential impact.	Not applicable	Not applicable

the population of Torbay)				
Human Rights impacts		There is no differential impact.	Not applicable	Not applicable
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.	Not applicable	Not applicable

10. Cumulative Council Impact

10.1 None

11. Cumulative Community Impacts

11.1 None

Meeting: Council

Date: 12 September 2024

Wards affected: All Wards

Report Title: Constitution Amendments – Local Protocol on Relations between Overview and Scrutiny and the Cabinet

When does the decision need to be implemented? As soon as possible

Cabinet Member Contact Details: Councillor Jackie Thomas, Cabinet Member for Culture, Tourism & Events and Corporate Services, jackie.thomas@torbay.gov.uk

Lead Officer Contact Details: Amanda Barlow, Monitoring Officer, amanda.barlow@torbay.gov.uk

1. Purpose of Report

- 1.1 This report sets out changes to the Council's Constitution in respect of a new Local Protocol on relations between Overview and Scrutiny and the Cabinet.

2. Reason for Proposal and its benefits

- 2.1 The proposals in this report ensure that the following section of the Constitution is included as recommended in the review of operation of Overview and Scrutiny and the Local Government Association Peer Review:
 - a. Local Protocol on Relations between Overview and Scrutiny and the Cabinet.

3. Recommendation(s) / Proposed Decision

1. That Council approves the new Local Protocol on Relations between Overview and Scrutiny and the Cabinet, set out at Appendix 1 to the submitted report, for inclusion within the Council's Constitution.

Appendices

Appendix 1 - Local Protocol on Relations between Overview and Scrutiny and the Cabinet.

Background Documents

[Overview and scrutiny: statutory guidance for councils, combined authorities and combined county authorities - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/overview-and-scrutiny-statutory-guidance-for-councils-combined-authorities-and-combined-county-authorities)

Supporting Information

1. Introduction

- 1.1 Article 13 – Review and Revision of The Constitution sets out the arrangements for revisions to the Council’s Constitution. This enables the Monitoring Officer to keep the Constitution under review and to make changes that are required for technical or legal reasons. The Monitoring Officer to also make other changes to the Constitution that he/she believes are in the best interests of the Council and/or local people, in consultation with Group Leaders, with an escalation provision to report matters to full Council for a decision.
- 1.2 A new Local Protocol on Relations between Overview and Scrutiny and the Cabinet, which was requested following a review of Overview and Scrutiny in 2023 and Local Government Association (LGA) Peer Review in 2024, is set out in Appendix 1 to this report.

2. Options under consideration

- 2.1 Not to include a new Local Protocol on Relations between Overview and Scrutiny and the Cabinet, however, this was identified as part of the review of Overview and Scrutiny; and the LGA Peer Review it reflects best practice and Government and Centre for Governance and Scrutiny guidance.

3. Financial Opportunities and Implications

- 3.1 None

4. Legal Implications

- 4.1 None

5. Engagement and Consultation

- 5.1 The new Local Protocol has been circulated to all Councillors and discussed with Group Leaders and their suggestions have been incorporated into the final versions of the documents, in accordance with the current Article 13 of the Constitution.

6. Procurement Implications

- 6.1 Not applicable

7. Protecting our naturally inspiring Bay and tackling Climate Change

- 7.1 Not applicable.

8. Associated Risks

- 8.1 None

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>	<p>The changes to the Council's Constitution will help ensure good governance and decision making which will support Torbay's most vulnerable residents.</p> <p>It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.</p>	Not applicable	Not applicable
Carers	<p>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.</p>	<p>The changes to the Council's Constitution will help ensure good governance and decision making which will support Torbay's most vulnerable residents.</p> <p>It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.</p>	Not applicable	Not applicable
Disability	<p>In the 2021 Census, 23.8% of Torbay residents answered that their day-to-day activities were limited a little or a lot by</p>	<p>The changes to the Council's Constitution will help ensure good governance and decision making which</p>	Not applicable	Not applicable

	a physical or mental health condition or illness.	will support Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.		
Gender reassignment	In the 2021 Census, 0.4% of Torbay's community 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.	The changes to the Council's Constitution will help ensure good governance and decision making which will support Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	Not applicable	Not applicable
Marriage and civil partnership	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.	The changes to the Council's Constitution will help ensure good governance and decision making which will support Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	Not applicable	Not applicable
Pregnancy and maternity	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	The changes to the Council's Constitution will help ensure good governance and decision making which will support Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	Not applicable	Not applicable

	numbers of live births since the middle of the last decade across all geographical areas.			
Race	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.	The changes to the Council's Constitution will help ensure good governance and decision making which will support Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	Not applicable	Not applicable
Religion and belief	64.8% of Torbay residents who stated that they have a religion in the 2021 census.	The changes to the Council's Constitution will help ensure good governance and decision making which will support Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	Not applicable	Not applicable
Sex	51.3% of Torbay's population are female and 48.7% are male	The changes to the Council's Constitution will help ensure good governance and decision making which will support Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	Not applicable	Not applicable

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.	The changes to the Council's Constitution will help ensure good governance and decision making which will support Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	Not applicable	Not applicable
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.	The changes to the Council's Constitution will help ensure good governance and decision making which will support Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	Not applicable	Not applicable
Additional considerations				
Socio-economic impacts (Including impacts on child poverty and deprivation)		The changes to the Council's Constitution will help ensure good governance and decision making which will support Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	Not applicable	Not applicable
Public Health impacts (Including impacts on the general health of the population of Torbay)		The changes to the Council's Constitution will help ensure good governance and decision making which will support Torbay's most vulnerable residents.	Not applicable	Not applicable

		It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.		
Human Rights impacts		The changes to the Council's Constitution will help ensure good governance and decision making which will support Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	Not applicable	Not applicable
Child Friendly Page 164	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.	The changes to the Council's Constitution will help ensure good governance and decision making which will support Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	Not applicable	Not applicable

10. Cumulative Council Impact

10.1 None

11. Cumulative Community Impacts

11.1 None

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Local Protocol – Relations between Overview and Scrutiny and the Cabinet

Contents

1. Introduction
2. Guiding Principles
3. Expectations of the Cabinet
4. Working together on the Development of Overview and Scrutiny Work Programme
5. Expectations of Overview and Scrutiny Members
6. Call-in
7. The Role of the Statutory Scrutiny Officer

1. Introduction

- 1.1 The function overview and scrutiny has in holding an authority's decision-makers to account, remains fundamentally important to local democracy. Effective, efficient and lawful decision-making by a local authority is crucial, and this Protocol has been developed having regard to the '[Overview and Scrutiny: statutory guidance for councils, combined authorities and combined county authorities](#)' published on 22 April 2024 and reinforces the role that overview and scrutiny has in making such decisions.
- 1.2 This Protocol sets out relationships between Torbay Council's Cabinet and Overview and Scrutiny Board, its Sub-Boards and Review Panels. This includes the processes that these bodies will follow, where they will interact with each other, and how they expect the other to conduct themselves. The Protocol is in addition to requirements set out in the Council's Code of Conduct and the Member and Officer Local Protocol.
- 1.3 This Protocol promotes an effective role for Overview and Scrutiny and fosters a good working relationship between the Overview and Scrutiny bodies and the Cabinet which in turn provides a valuable contribution to the effective running of the Council.
- 1.4 There are different roles and responsibilities of Overview and Scrutiny and Cabinet Members, and an effective relationship includes (but is not limited to):
 - a. frequent and honest dialogue between Cabinet Members and Overview and Scrutiny Members, either individually or collectively; and
 - b. regular discussions regarding Cabinet and Overview and Scrutiny Work programmes/activities, including establishing joint activities/projects where possible (via the Council Leadership Group and Overview and Scrutiny Leadership quarterly meetings with the Leader of the Council, Group Leaders, Overview and Scrutiny Co-ordinator, Vice Chair of Overview and Scrutiny Board, Chair of Audit Committee, Director of Corporate Services and Democratic Services Team Leader).

2. Guiding Principles

- 2.1 The general role of the Overview and Scrutiny Bodies is set out in Article 5 – Overview and Scrutiny. However, the following principles set out how the working relationship between the Cabinet and the Overview and Scrutiny bodies will operate:
 - a. the Cabinet and Members of Overview and Scrutiny bodies recognise that they each have different functions and responsibilities that contribute to securing the best outcomes for the people who live and work in Torbay;
 - b. whilst the membership of Overview and Scrutiny bodies reflect the Council's political proportionality, their meetings should reflect the statutory guidance that scrutiny work be conducted in a non-party political manner;
 - c. all participants in the working relationship between Cabinet and Overview and Scrutiny will do so in a spirit of mutual respect, trust and courtesy, with constructive challenge; and

- d. Cabinet recognises that the Overview and Scrutiny bodies have several rights, for example requiring Portfolio Holders to attend its meetings or calling-in Cabinet decisions which have not yet been implemented, should they consider a decision needs to be reviewed. The Overview and Scrutiny bodies will exercise those rights responsibly.

2.2 To facilitate this challenge the Overview and Scrutiny bodies will:

- a. hold the Cabinet to account - this enables non-Cabinet Members to fully scrutinise important decisions made by the Cabinet whilst also allowing routine decision making to take place in a responsive manner. An important method to ensure accountability is through examining performance and decisions taken by the authority;
- b. challenge the Cabinet about any decisions (key or non-key) which have been taken by Cabinet;
- c. require and consider Key Performance Indicators and Budget Monitoring information; and
- d. query or ask for information about any item on the Forward Plan, notice of forthcoming Key Decisions.

2.3 In addition to their rights as Councillors, Members of Overview and Scrutiny Boards/Sub-Boards and their working groups have additional rights of access to documents, as included in the Access to Information rules in the Constitution.

3. Expectations of the Cabinet

3.1 It is expected that Cabinet Portfolio Holders will attend meetings of Overview and Scrutiny Board and Sub-Boards, when requested via the Clerk, on behalf of the Chairman/woman, to present reports relevant to their Portfolio and answer any relevant questions with support from their Director.

3.2 All Members will promote an atmosphere of openness at Overview and Scrutiny meetings and strive to ensure that questioning and debate takes place within a climate of mutual respect and trust between Overview and Scrutiny Members, Cabinet Members and other participants.

3.3 Where the Overview and Scrutiny Board and Sub-Board has made recommendations to a decision-making body or person, that body or person will provide a written response to those recommendations setting out whether the recommendations are accepted or not, and the reasons for that decision. Note: for external organisations, they have to have regard to the recommendations and can be requested to provide a response but cannot be directed to provide a response.

4. Working together on the Development of the Scrutiny Work Programme

4.1 Individual Portfolio Holders and Overview and Scrutiny Chairs will consider meeting regularly to identify and plan for Policy development work in which all Members can participate.

- 4.2 The intention should be to programme such work at an early stage in the development of a Policy.
- 4.3 A monthly informal briefing will be held with all Members of the Overview and Scrutiny Board and Sub-Boards (open to all non-Cabinet Members) to give an opportunity for them to consider forthcoming key decisions. The relevant Board and Sub-Board shall identify any forthcoming key decisions which are relevant to the functions of that Board and Sub-Board that it may wish to scrutinise. New items added to the Overview and Scrutiny Work Programmes will be shared with the relevant Portfolio Holder and Director to assist them with their Work Planning.
- 4.4 When considering new topics for Overview and Scrutiny, Members will consider the following questions:
- a. do we understand the benefits scrutiny would bring to this issue?
 - b. how can we best carry out the work on this subject?
 - c. what would be the best outcome for this work?
 - d. how would this work engage with the activity of the Cabinet and other decision-makers, including partners?
 - e. how does this contribute to delivery of the Council's Community and Corporate Plan.
- 4.5 The Chief Executive/Directors will discuss the parameters for scoping matters and any appropriate timescales for the matter to be reported to the Board and Sub-Board, taking into account any key milestones for decision making, including time needed to obtain any advice which is required.

5. Expectations of the Overview and Scrutiny Members

- 5.1 Overview and Scrutiny Board and Sub-Boards will provide constructive 'critical friend' challenge to the Cabinet's proposals and decisions.
- 5.2 Members of Overview and Scrutiny will remain non-political and be effectively led by non-Cabinet Members who take responsibility in their role to drive improvements for the benefit of the residents and visitors of Torbay.
- 5.3 The Cabinet's response to Overview Scrutiny's recommendations will be monitored to review their implementation and the effectiveness of Overview and Scrutiny.

6. Call-in

- 6.1 The Standing Orders – Overview and Scrutiny set out the process for Members to call in decisions of the Cabinet.
- 6.2 The following procedure shall take place at call-in meetings:
- a. the Call-in Promoter who called in the decision should speak first to present their reasons for call-in, as set out in the submitted paper;
 - b. the Cabinet Member will provide a verbal response to the issues raised;

- c. the Overview and Scrutiny Board will then discuss the issues raised and can then ask questions of the Portfolio Holder, Call-in Promoter or Call-in Supporter who may ask a relevant officer to supply further information if necessary; and
- d. the Overview and Scrutiny Board will debate the issue and vote on the outcome.

7. The Role of the Statutory Scrutiny Officer

- 7.1 The Statutory Scrutiny Officer's role includes the promotion of the Council's Overview and Scrutiny function, providing support and guidance to Members and officers relating to the functions of Overview and Scrutiny and providing a link between the Cabinet and the Overview and Scrutiny Board, its Sub-Boards and Review Panels.

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**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 12 September 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
Constitution Amendment - Officer Scheme of Delegation (Urgent Council Decision by Chief Executive)	Chief Executive	<p>Decision:</p> <p>That the Officer Scheme of Delegation be amended as follows</p> <p>Limitations on delegations to the Chief Executive, Directors and Divisional Directors, Heads of Service and all other officers</p> <p>2.3 All decisions shall be in accordance with the Council Constitution, the Policy Framework of the Council and any other Policy of the Council which has been approved by Members. Whether or not any decision or action falls within the Policy Framework may, if necessary, be determined by the Council. However, no decision or action shall be taken by any employee if the Monitoring Officer reasonably considers it to be contrary to the Policy Framework or contrary to a Policy approved by Members.</p> <p>(Note: This limitation shall not apply to decisions</p>	In order to safeguard the Council and to ensure the primacy of member decision-making in respect of member approved policies is secured.	16 August 2024

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 2.12 below.)

Alternative Options Considered:

None

Anne-Marie Bond
Chief Executive

27 August 2024