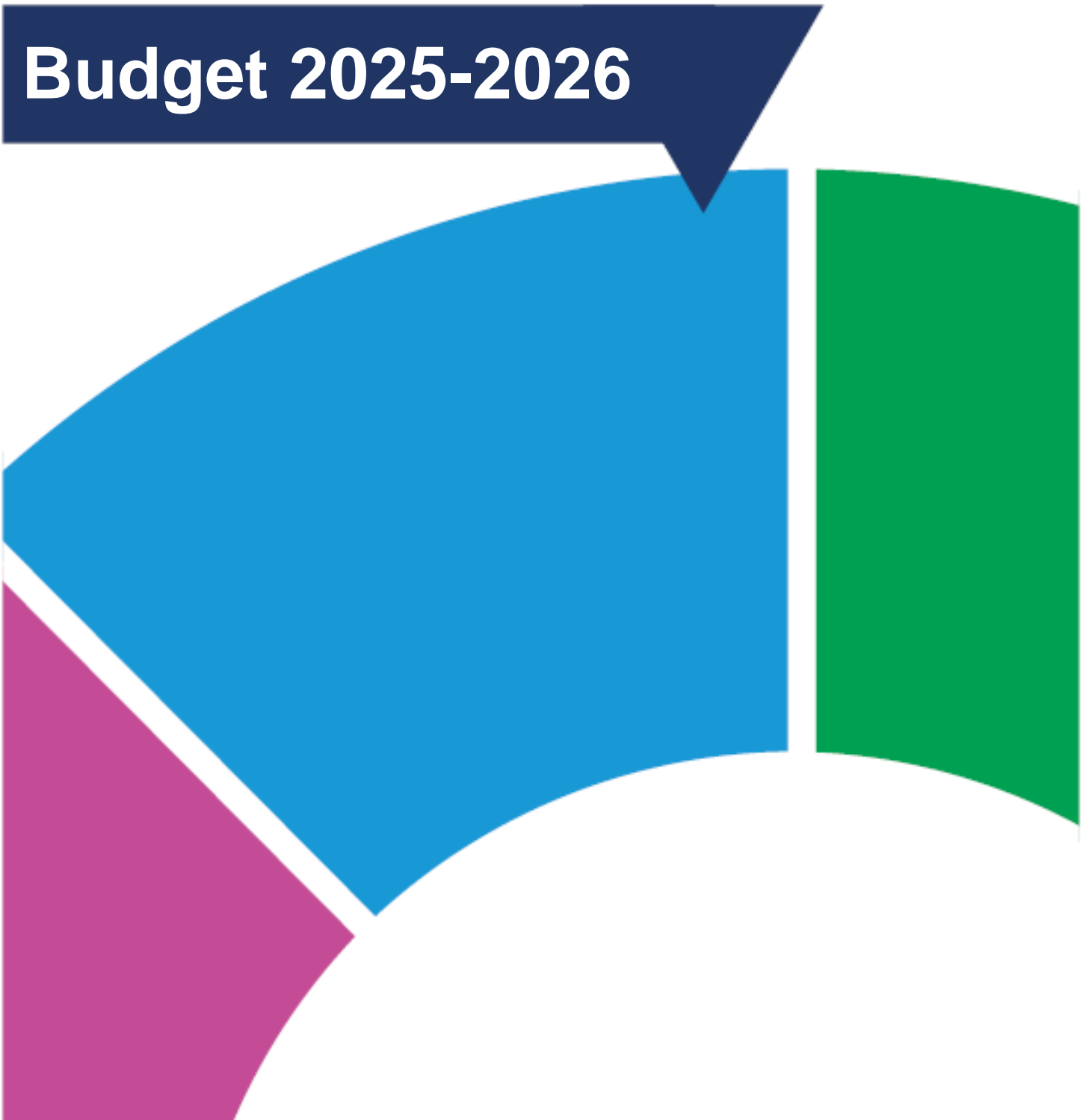


Capital Strategy

November 2024

Budget 2025-2026



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1. Introduction

The Council has a range of capital resources at its disposal, which are used to deliver services and to achieve strategic objectives. These resources include land and buildings, such as offices, schools, parks and open spaces, leisure centres and more.

The Council's ability to maintain these assets, in order to ensure and enhance their role in the delivery of services, is crucial to its financial resilience. If assets fall into disrepair, and are no longer able to fulfil their primary purpose, the Council's ability to deliver the associated services is impaired, and it has resources tied up in sub-optimal assets.

Planning and managing the use of the Council's capital resources is, therefore, vital. This includes understanding the role that these assets play in the delivery of services and ensuring that the authority's asset base remains fit for purpose.

The Capital Strategy provides a high-level overview of how capital expenditure, capital financing, investments, liabilities and treasury management activity contribute to the provision of services, together with an overview of how the associated risk is managed, and the implications for future financial sustainability.

The Strategic Asset Management Plan, and the Transport Asset Management Plan, provide information on the sustainability of these assets, and the efficient use of the asset portfolio to provide value for money. These Plans are available on the Council's website.

When incurring capital expenditure there is an element of risk that needs to be managed by the Council. This risk could be:

- the probability of whether an asset will deliver the projected outcomes;
- the accuracy of development and build cost for a Council led project;
- the accuracy of the forecasted future running costs and income at the time of acquisition;
- whether it is prudent to borrow for this expenditure

Like other authorities, the Council previously purchased property to provide multiple benefits, including an investment return. This investment return has provided an income stream to the revenue budget and helped to offset some of the budget pressures arising from increased demand and reduced funding from central government. The Council, whilst no longer acquiring such assets, manages existing assets which will have different characteristics and risks.

In recent years HM Treasury have taken actions to prohibit the purchase of investment assets bought primarily for yield. Torbay Council removed any further such purchases ('debt for yield') from its capital plans. In May 2022, the HM Treasury Public Works Loan Board, (PWLB), Borrowing guidance was further updated by reinforcing its expectation that Councils do not engage in any more commercial activity such as the purchase of investment property, and avoid activity that is "primarily for yield". The Council has to submit information to Treasury on an annual basis to demonstrate compliance with the guidance. The guidance further defines "regeneration" with a list of characteristics of what HM Treasury would regard as a permissible regeneration project. In summary the Council can only undertake regeneration projects to address

market failure, acting only when the private sector cannot deliver and the Council is making a change to the asset by significant investment or significant change. These regulations apply to all types of borrowing (not just from PWLB).

Economic Conditions

During 2023/24 the Council's capital programme experienced further significant increases in costs owing to instability in the contractor market, and to rises in borrowing costs; the impact of these market challenges is likely to continue over the next few years. These changes reduce the financial viability of capital projects, including those being funded by grants, where the grants have not increased to meet the increased costs.

Where it is considered necessary to proceed with a capital project, (say to secure grant funding or to complete a project already started), the Council can approve allocation of additional borrowing to that project; however, the impact of the additional borrowing costs will need to be assessed and funded in future year revenue budgets.

These additional costs do not alter the Capital Strategy, but rather focus attention that compliance with both the Capital Strategy and the Prudential Code is vital to ensure that capital expenditure and investment decisions are "prudent, affordable and sustainable".

Regulation

Authorities are required by regulation to have regard to the Prudential Code for Capital Finance in Local Authorities (2021) when carrying out their duties in England and Wales under Part 1 of the Local Government Act 2003. The key message from the Code is, in relation to capital expenditure, the consideration of Prudence, Affordability and Sustainability.

CIPFA's Prudential Code provides a framework for the self-regulation of the authority's capital financing arrangements. It requires local authorities to set limits on the amount they can afford to borrow in the context of wider capital and revenue planning.

A Capital Strategy is part of the Prudential Code requirements and sets out the long-term context in which capital expenditure and investment decisions are made; the strategy must give due consideration to both risk and reward and to the impact of the strategy on the achievement of the authority's priority outcomes.

The Financial Management Code of Practice has been issued by CIPFA 'to provide guidance for good and sustainable financial management in local authorities and will provide assurance that authorities are managing resources effectively'. The Financial Management Code applies to all local authorities and brings together statutory requirements and Codes of Practice into one document.

The Capital Strategy therefore reflects the standards outlined in the CIPFA Financial Management Code of Practice.

Objectives of the Capital Strategy

The Capital Strategy is one of the Council's key documents; it provides a medium/long term plan, consistent with the plans and strategies shown below, to provide a fully-integrated and transparent Plan for the Council:

- Strategic Asset Management Plan;
- Transport Asset Management Plan;
- Medium Term Resource Plan;
- Capital Investment Plan;
- Revenue Budget;
- Treasury Management Strategy;

The Capital Strategy is therefore the policy framework document that sets out the principles to be used to guide the allocation of capital investment across all the Council's services. It informs decisions on capital spending priorities within the Council's 4-year Capital Investment Plan. In addition, as part of the Strategy, the Director of Finance, (Chief Finance Officer), reports on the affordability and risk associated with the Capital Strategy.

The full picture of the control system around the Council's wide range of capital expenditure, and its funding, is reflected in a range of documents, monitoring and management arrangements.

Capital investment is defined as:

“Expenditure on the acquisition, creation, or enhancement of ‘non-current assets’ i.e., items of land, property and plant which have a useful life of more than 1 year”. Expenditure outside of this definition will therefore be classified as revenue expenditure.

Most non-current assets are properties that are used in service delivery. The Council's land, buildings and infrastructure asset base has a Balance Sheet value as at 31/03/24 of approx. £625m million (£608m as at 31/03/23), of which £190m million (£182m as at 31/03/23) are Investment Properties. The outstanding borrowing as at 31/03/24 was £359m (£383m at 31/03/23) with £14m of long-term liabilities in relation to PFI schemes.

The Capital Strategy is presented to Council as a Policy Framework document, and links with both the Treasury Management Strategy, Medium Term Resource Plan and the Corporate Asset Management Plan (the latter being the key operational asset plan covering repairs and maintenance).

This Strategy focuses on the key policies for the allocation of capital resources to schemes in line with Council priorities and statutory responsibilities.

2. Guiding Principles

Approach to Borrowing

The Council is able to borrow money on the money market or from the Public Works Loans Board (PWLb) to fund capital schemes or, on a short-term basis, is able to use its own internal resources

(i.e. cash flow). However, for all capital schemes initially funded from borrowing, the Council will have to fund the principal repayment and interest costs within its revenue budget.

All schemes funded from prudential borrowing are approved by Full Council, although in some cases approval of individual schemes within an overall allocation by Council have an alternative approval process (such as by Cabinet).

The Prudential Code requires authorities to ensure that decisions for capital expenditure are made with sufficient regard to the long-term financing implications, and potential risks, to the authority - including effective due diligence.

Based on the Council's latest Capital Investment Plan there is a need to take an additional £4m of borrowing by the end of 2027/28 to support capital projects, however the value of external borrowing reduces to £340m by the end of 2027/28, (excluding PFI), due to some external debt maturing in this period.

Due to the high level of existing Council borrowing, and viability and affordability issues across a number of approved capital projects, the Council renewed its approach to setting a Capital Investment Plan from 2024/25, only detailing the specific stages, (gateways), of individual projects based on the corresponding funding available. Various grants received, or due to be received, by the Council are held within a 'project pending' list awaiting drawdown subject to robust and realistic business cases. By taking this approach the specified need for future Council borrowing has been significantly reduced with any new borrowing required being closely scrutinised in terms of security of repayment and fit within the Council's overall debt portfolio.

The Council takes a prudent approach to new borrowing, paying particular regard to the robustness of the business case, include forward projections of affordability; the aim is for projects to be self-funding (i.e. create a revenue stream so that the cost of borrowing is cost neutral). As at 31 March 2024, the Council had accrued long term borrowing amounting to £383m. With the unusually high interest rates encountered over the last 12 months, the Finance Director, (Section 151 Officer), took the decision to repay £19m of this debt in order to reduce the overall level of long term liability.

Following the changes to PWLB the Council no longer acquires commercial properties using 'debt for yield'; however the risks around income on the properties previously purchased, and the ongoing cost of the borrowing, will still need to be managed. All new proposals for a self-funding or invest-to-save scheme supported by borrowing, must have a robust business case that is presented to the Finance Director, Capital and Growth Board and Directors prior to submitting to Council for approval.

Each business case, as appropriate, must clearly identify and consider the ongoing revenue implications of:

- fixed interest and principal repayment costs
- associated income stream(s) and sensitivity analysis
- volatility of the income stream(s)
- the contribution to the General Fund and breakeven points

- the sensitivity of that contribution
- achieving the target return linked to the purpose of the spend
- ensuring asset value exceeds outstanding debt
- demonstrating value for money
- project sustainability
- exit strategy and costs

All of the above need to be considered for the whole life of the asset.

Each business case must clearly identify and consider the ongoing balance sheet implications of:

- the change in the level of Council debt
- address how changes in asset value will be funded, i.e. capital appreciation and impairment, and the total of assets funded by borrowing
- maintenance of asset to ensure sustainable use

To ensure that all Members are fully informed of the risks and rewards associated with borrowing, reporting will include:

- total Council debt
- the underlying assets funded by that debt
- affordability - ongoing revenue costs of principal and interest
- income streams associated with that asset (over the asset's relevant lifespan)
- implications of changes in asset values or income streams

To support its revenue budget the Council will continue to evaluate any capital investment projects (whether the expenditure is either fully-Council, or shared with partners) that will produce an ongoing revenue income stream for the Council, as part of service delivery, or reduces on-going revenue requirements.

There may be the need for borrowing that has no identifiable future revenue stream, for example, to repair or construct infrastructure assets. Here a broader view needs to be taken of the value of constructing or repairing the asset to the overall economy of the Bay.

Where economic conditions impact the costs of a scheme, and additional borrowing may be deemed necessary for completion of a project, the cost of such borrowing falls on the revenue budget through repayments of debt on the Council's revenue account over a specified period. There may still be a need for such borrowing, but each proposal will be reviewed on a case-by-case basis, with the project re-evaluation clearly stating how the borrowing is to be afforded. Given the ongoing financial challenges facing the Council over the next few years, it is important that such schemes are exceptions.

The Council's Treasury Management Strategy provides further information on the Council's borrowing strategy for the coming financial year which is detailed in **Appendix 1**:

www.torbay.gov.uk/council/policies/finance-policies/treasury-management/

Long Term Capital Liabilities

The Council can also finance capital expenditure by means of a long term PFI contract, whereby a private sector company will build and then supply an asset back to the Council for a specified number of years (usually with services as well). At the end of the contract the asset transfers to the ownership of the Council. The value of the asset, and the associated liability over the life of the contract to fund that asset, is reflected on the Council's balance sheet on a discounted cashflow basis. As with borrowing, any Council decisions on agreeing contracts that result in long-term liabilities are made with sufficient regard to the long-term financing implications and potential risks to the authority, and include effective due diligence.

Councils may also lease assets for service delivery rather than purchase. Depending on the lease terms, including the length of lease, these assets, and the associated liability over the life of the lease to fund that asset, would be reflected on the Council's Balance Sheet in compliance with International Financial Reporting Standard 16.

Grant Allocations

The Council receives capital grant funding from central government and can bid for grant funding directly to government departments, or from other grant awarding bodies. Such awards include Town Deal Funding for Torquay, (£21.3m), Future High Streets Fund for Paignton, (£13.9m), £20m Levelling Up Fund Round 3, and £20m through the Levelling Up Partnership.

All significant capital grants received will be reported to Council. The presumption is that the grants will be allocated in line with the service intentions of the identified government body awarding the grant; however, on occasions, the Council will seek to reallocate funding for certain projects that either:

- (a) can no longer be delivered within the specified timespan of the grant and/or
- (b) costs of the project differ significantly from the original bid and subsequent grant allocated to the extent that the project is either no longer viable or that alternative projects offer better outcomes and/or returns from the funding.

The Council continues to bid for additional external grant funding for schemes which support corporate priorities or statutory service objectives, and where it can be proved that the project is sustainable with any requirements for match-funding and/or any future revenue consequences being fully considered and approved. All bids require to be signed off by the Director of Finance prior to submission. Where external grants are used, the grant conditions (linking the capital grant to the future use of the asset) must be adhered to.

The governance around capital bids and acceptance of capital funding requires that:

- (i) Directors ensure that all bids submitted for their portfolio are checked for accuracy
- (ii) Significant decisions made by Officers should have a formal Record of Decision
- (iii) Relevant meetings, for example where Group Leaders are consulted, should be minuted
- (iv) All future bids for Government money must be made and submitted in accordance with the Council constitution

Officers ensure that the submission of all future bids are in accordance with Council Policies

Having received formal approval of grant funding awards, the Council will maintain an active list of all such funding in a 'Grant Project Pending' list awaiting formal business cases to be developed, and approved, demonstrating full delivery, and targeted outcomes, from capital investment. The Council's Grant Project Pending list as at November 2024, is detailed in [Appendix 2](#).

Construction and delivery costs of specific projects will only move from the grant pending list to the approved Council Capital Investment Programme following formal Business Case approval which must include a robust analysis of costs and sources of funding available to complete.

3. Capital Receipts and Capital Contributions

The Council receives capital receipts and capital contributions from:

- Asset Disposals
- Right-to-Buy Clawback
- Section 106 agreements and Community Infrastructure Levy (CIL)
- Repayment of loans for a capital purpose

Asset Disposals

Purchases of assets are primarily to be retained in the long term. However, the benefit of selling the assets will be regularly reviewed by the Director of Finance for potential disposal. The review will need to consider the resulting impact on the Council's revenue budget and any impact of operational delivery from the lost income stream and any costs of disposal.

The policy is to pool all receipts from the sale of all assets sold to support the Capital Investment Plan in line with funding the Council's priorities, including the potential sale of any investment properties. The Capital Investment Plan might have a capital receipts target, and all capital receipts received should be allocated to support this target and not allocated to new schemes. An asset disposal will be deemed to occur when the Council transfers the freehold or a long lease (usually for leases over 40 years where the lease term is significant compared to the asset life).

The Council will consider exceptions to this policy where rationalisation of assets used for service delivery is undertaken and in respect of school sites where the Secretary of State has approved the disposal – such exceptions will require Council decision.

The Council will aim to maximise its capital receipts, where possible, by enhancing the land value prior to disposal, e.g., by obtaining planning permission or providing a development plan. As appropriate the Council may dispose of assets by tender or by public auction. A direct sale can be transacted however, such a transaction must be supported by an independent 'Red Book Valuation' demonstrating that the sale price represents appropriate 'value' for the Council

Asset Disposals at nil consideration or below market value

In considering asset disposals, the Council will comply with its Asset Management Plan and the need to consider the policy on Community Asset Transfers. The Council will consider, on a case-

by-case basis, the potential transfer of assets to an alternative provider after a full assessment of the long term (full life) risks and rewards of the transfer, including the achievement of best value, including potential market value, linked to the Council's aims and objectives.

The Localism Act 2011 introduced the "Community Right to Bid" and placed a duty upon local authorities in England to maintain a list of assets of community value. Once an asset is "Listed" any disposal will be under the Community Asset Transfer policy, or for market value by tender/auction.

Where the Council proposes to dispose of, or grant a long lease, at nil consideration or at a value below market value, this is required to be approved by Cabinet. This will also apply where the disposal is for a community or service benefit.

Right-to-Buy Clawback

100% of these receipts are currently used to support the provision of the Council's Housing Strategy, although this policy could be reviewed to provide additional resources for projects in other service areas through relevant Council approval.

Section 106 contributions and Community Infrastructure Levy (CIL)

Section 106 monies are received from developer contributions through the planning system. Unless there are service specific conditions on the use of the S106, the monies should be used to support existing Council priorities and commitments rather than be allocated to new schemes.

Any monies received for infrastructure from the Community Infrastructure Levy will not be allocated to a specific service but will be allocated under the CIL arrangements ("the Regulation 123 List") in line with Council's capital priorities, including any specific funding requirements, with the allocation of the "neighbourhood proportion" made after the funds have been received.

Repayment of loans for a capital purpose

Where the Council provides a loan for a capital purpose this will be approved by Full Council and accounted for as capital expenditure. The repayment of a loan by the borrower will be treated as a capital receipt; however any receipts of this nature will normally be applied to reduce the value of the Council's outstanding debt.

Capital Receipts to fund revenue transformation

The Ministry of Housing, Communities and Local Government (MHCLG) have continued to revise their statutory guidance in relation to the Local Government Act 2003 on the use of capital receipts. This provides Councils with the flexibility to use capital receipts for "the revenue costs of service reform". This flexibility is subject to a strategy for the use of capital receipts being approved by Full Council, and for the Council to submit "planned use of the flexibility" to MHCLG in advance of the financial year.

Potential uses for capital receipts, (subject to the capital receipts being received and Council approval of changes to capital plan), would be to support any implementation costs for the Council's transformation programme. MHCLG within their statutory guidance have included a

number of examples of the type of expenditure that would meet the definition of “revenue costs of service reform”.

The Council has not used this flexibility to date and do not plan to use it for the 2025/26 revenue budget setting.

Revenue and Reserves

The Council can use revenue funding and reserves for capital schemes. However, the Council’s preferred approach is generally not to use revenue or reserve funds to directly fund capital projects beyond the initial feasibility stage.

Once a revenue contribution has been applied to cover the capital costs of delivering a project it cannot be returned to revenue. However, the Council would be able, subject to the approval of the Director of Finance, to use prudential borrowing to replace any revenue or reserve funding used or proposed to be used. This will result in a one-off return of revenue funding to the Council’s revenue budget, offset by higher Minimum Revenue Provision (MRP) and interest costs to fund the prudential borrowing costs in future years.

A specific revenue reserve of £400k was approved by Council, created from the 2023/24 out-turn surplus, in order to fund initial feasibility and early development costs of emerging projects with the intention of replenishing the reserve as and when projects reach Outline Business Case stage and capital budgets are subsequently allocated.

The Council also holds a prudent revenue reserve to cover ‘revenue reversion’ costs of projects that, for whatever reason, fail to be delivered resulting in costs incurred not being able to be capitalised against approved budgets.

4. Prioritisation and Approval

It is always difficult to make choices between competing priorities within a top tier Council that delivers so many varied services. It is the responsibility of senior officers to recommend to Members the prioritisation of competing demands for capital resources, through the Capital Growth Board, in the context of the limited funding sources available.

The Council maintains and reports on a rolling four-year Capital Investment Plan that is updated and reported to Directors, Cabinet and Members, through Overview and Scrutiny, on a quarterly basis. The Capital Investment Plan will include any capital expenditure approvals by Council in the previous quarter.

The key stages in the Council’s prioritisation and approval process are as follows:

1. A service can submit a Project Initiation Document, (PID) for initial consideration to the Director of Finance and the Capital and Growth Board at any stage of a financial year.
2. For a specific project (following PID) to be approved/funded there will be a requirement for a detailed capital business case to be presented to the Director of Finance and Capital and Growth Board prior to wider consultation with Directors and the Cabinet.

3. If a scheme is to be funded from previously approved, (Council), allocations the scheme will progress in accordance with the stated approval process. If new (confirmed) funding is to be used for a scheme, (e.g. a specific grant), it will be reported to, and approved by, Full Council.

If funding has been allocated by Council to a service without individual schemes being identified, (such as a general allocation to schools for “basic need” projects), individual schemes within that allocation are subject to approval by the relevant Director.

4. Proposals for invest-to-save or self-financing schemes, (usually financed from prudential borrowing), will require a detailed capital business case. The capital business case is to be initially submitted to the Director of Finance and the Capital and Growth Board. If the scheme is supported, it will be recommended to Council for approval.
5. Any recommendations for schemes to be approved by Council will be included in the next quarterly budget monitoring report and/or a separate, stand-alone project report for larger spend and/or risk schemes.
6. Where there is a proposal to transfer capital resources from a previously approved scheme to a new scheme, the new scheme will be approved by Council.

Affordability and Sustainability of Proposals

The Prudential Code requires that, in making its capital investment decisions, the Council should have explicit regard to option appraisal and risk, asset management planning, strategic planning for the authority and achievability of the forward plan.

The Capital Business Case will identify the projected running costs and financing costs of the relevant asset, and assess the affordability of the proposals both for the initial investment and over the life of the asset. In all cases the capital expenditure and any ongoing costs must be sustainable in relation to the Council’s medium-term financial plans.

This will include consideration of:

- service objectives, e.g., strategic planning for the authority
- stewardship of assets, e.g., asset management planning
- value for money, e.g., option appraisal
- prudence and sustainability, e.g., risk, implications for debt and whole life costing
- affordability, e.g., implications for council tax/district rates
- practicality, e.g., achievability of the forward plan.

Where an asset is directly linked to generating an income or rental stream for service delivery, the initial Capital Business Case will need to consider the future risks to those revenue returns and how these will be mitigated. This may result in the creation of an earmarked reserve for both income volatility and future asset-related expenditure.

5. Capital Investment Plan 2024/25 to 2027/28

The Council adopted a new approach from 2024/25 regarding how it considers, and approves, projects into the four year Capital Investment Plan.

Approved spend for each project will reflect the relevant Gateway at which the specific project is at whether:

- Project initiation;
- Feasibility and Development;
- Strategic Outline Business Case;
- Outline Business Case;
- Full Business Case

This allows greater control and management of projects with regards to their affordability and feasibility. It also ensures that the Council minimises abortive costs on projects which ultimately are not able to be delivered.

The level of external grant funding that the Council has attracted over recent times has been significant. Ranging from Town Deal Funding, Future High Streets, Devolution and Levelling Up Round 3. To improve transparency and promote strong governance, all grant funding, linked to the associated projects that they relate to, will be maintained as a separate 'pending' monitoring sheet which will sit outside of the Council's approved Capital Investment Plan.

Projects, and associated funding will move across from the 'Grants Pending List' to the approved Capital Investment Plan, following the development, and approval, of a fully costed and deliverable Business Case (approved by Council). In addition, to enable momentum to be maintained on project delivery, the Council's Section 151 Officer has delegated authority to approve drawdown of grant funding into the Capital Investment Plan in instances where:

- (a) there is clarity on what needs to be delivered through the funding ;
- (b) there is an urgency to spend money in line with specific grant conditions and
- (c) the drawing down of such grant funding does not expose the Council to financial liability.

This will only occur in circumstances whereby there would be no residual financial risk to the Council should the project not ultimately be delivered with the corresponding grant having to be repaid.

The 'Grant Pending (approved Business Case) List', as at November 2024, is detailed as [Appendix 2](#) to this document, with the revised 2024/25 to 2027/28 Capital Investment Plan for the Council detailed in [Appendix 3](#).

Management and Monitoring of Capital Investment Plan

The key objective of the Council's management and monitoring of the Capital Investment Plan is to ensure that all Members and Directors have visibility of the Plan and the approval of individual

capital projects to encourage collective responsibility for the capital expenditure on a project. and the success of the schemes themselves.

There is a Senior Officer group, with Cabinet representation, called the Capital and Growth Board who ensure that progress against the programme – in terms of expenditure and timescales – is in line with what has previously been agreed. Where projects are exhibiting cost overruns or delays in the completion schedule, these should be addressed promptly.

Arrangements include:

1. Overview and Scrutiny Board and Cabinet will receive quarterly monitoring reports.
2. A Capital budget for forthcoming year will form part of each financial year's budget proposals
3. The Capital and Growth Board reviews the Council's Capital Investment Plan and the governance arrangements associated with its various projects
4. Cabinet and Directors have responsibility for the oversight and challenge on the delivery of the Capital Investment Plan including slippage and outcomes.
5. Capital business cases are to be submitted to the Director of Finance and the Capital and Growth Board prior to any wider consultation or consideration.

Alternative Funding and Delivery Opportunities

The Council, as appropriate, will continue to consider other methods of supporting capital expenditure within the Bay, using alternative funding, such as social investment, crowd funding, private sector finance and third sector funding or by other bodies delivering capital schemes instead of the Council. The Council can use its assets to support schemes or aim to maximise funding from any source possible.

The Council continues to bid for additional external funding and/or work with other bodies to secure capital investment and to consider use of its own assets in a development which supports corporate priorities or statutory service objectives. An assessment of the opportunity costs of alternative options must be considered with any agreement needing approval through the Director of Finance prior to submission and/or contractual commitment.

The Partnership agreement, approved by Council in December 2023, to work with Milligan and Wilmott Dixon will continue to explore all available funding options in order to address viability across a number of Council owned development sites across the Bay.

6. Non-Treasury Investments

The Council has previously considered the purchase of land and property as an investment to generate an ongoing income. CIPFA has classified investment properties as a Non-Treasury Investment for reporting purposes and they are included in the Treasury Management Code of Practice. The Council complies with the Ministry of Housing, Communities and Local Government, (MHCLG), statutory guidance and any sector-led commentary and opinions associated with this

activity. Consequently, all Council Investment Fund purchases have now ceased following the Government's decision to disallow all PWLB borrowing for such investments.

The original Investment Fund was £235m which primarily comprised of commercial property. Over time the value of these assets will change which will be reported in the Treasury Management Mid-Year Report and Outturn Report.

The Council's Treasury Management Strategy Statement also includes references to the monitoring and reporting of the Council's Non-Treasury Investments (NTI). The Strategy is available on the Council's website at:

www.torbay.gov.uk/council/policies/finance-policies/treasury-management/

It should be noted that if an investment property is sold, the funds received will be a capital receipt and cannot be taken to the revenue account e.g. to offset the loss of an income stream.

In relation to non-treasury investments the updated 2021 Prudential Code is clear in that "*an authority must not borrow to invest primarily for financial return*"

"Councils with existing commercial investments are not required by this Code to sell these investments, however Councils that have an expected need to borrow should review options for exiting their financial investments for commercial purposes and summarise the review in their annual Treasury Management Strategy. These reviews should evaluate whether to address expected borrowing needs by taking new borrowing or repaying investments based on a financial appraisal that takes into account of financial implications and risk reduction benefits"

Over the coming years the Council will come under increasing pressure to enter into significant new borrowing to support various regeneration and housing development projects. **Being able to demonstrate a review of our existing Commercial Investment holdings will be crucial in order to unlock such borrowing.**

The Council's investment properties are diversified over a number of sectors and are expected in 2025/26 to produce a net surplus, after borrowing costs and reserve provision, of over £4m. If any of these assets are sold, the Council will need to either;

- apply the capital receipt from the asset sale to another project, to either avoid borrowing costs on that project, or to reinvest in a project that generates an income stream to replace the revenue shortfall;
- apply the capital receipt to repay borrowing subject to any early repayment penalties;
- apply the ongoing borrowing costs of the asset now sold to another project, where the income from the new project will be able to cover the borrowing costs

The chosen action will need to be in place ideally from date of sale to avoid any ongoing cost of carry of both the old debt and ongoing revenue shortfall.

Loans to third parties for Capital Expenditure

Loans for a capital purpose were previously approved by Full Council subject to a business case and due diligence on the borrower, including, as appropriate, guarantees and bonds to secure the repayment of the loan. The loan value should not exceed the value of the underlying asset and

there should be no third parties legal charge on the asset. Interest is charged on the loan at a market rate which ensures compliance with Subsidy Control regulations.

With the new PWLB guidance, the Council's ability to issue capital loans will be extremely limited, unless they are to its own subsidiary companies.

7. Governance and accounting

Capital expenditure and assets held by wholly owned subsidiary companies

The Council has overall control of these entities and therefore is ultimately responsible for the companies' assets and liabilities. The governance of any subsidiary's activities are controlled by the Council through 'reserved matters' listed within the Memorandum and Articles of Association of the company. These 'reserved matters' cover capital expenditure and the making of any borrowing. The assets and liabilities of all Council companies are consolidated into the Council's Group Accounts.

As these capital assets and liabilities are part of the Council's overall financial position, the Council will report on the total group assets and liabilities and the associated risk and reward.

Training and Skills

The Council needs to ensure that all decisions in relation to capital are properly informed.

In relation to skills, the Director of Finance, Monitoring Officer and Director of Pride of Place will ensure that the appropriate expertise is always resourced in relation to any financial, legal and/or asset related due diligence required.

The Council's knowledge and skills will be complemented by the use of advisers and agents as required.

Links with Treasury Management

All capital decisions to be funded by prudential borrowing will directly impact on the Council's Treasury Management activities. The level and timing of the capital expenditure will be reflected in the Capital Investment Plan once approved and in the strategic cash flow forecasts to plan for the required borrowing. The resulting costs (Interest and MRP) and any income to fund those costs, will be included in the standard budget monitoring and budget setting process.

Total borrowing will also be monitored by the annual setting of both the Operational and Authorised Limits for borrowing as detailed within the Treasury Management Strategy.

Balance Sheet Issues

The impact of capital projects and any prudential borrowing involved, will be seen in the Council's balance sheet through.

- Increase in the value of the Council's non-current assets

- Increase in the value of Council's long-term debtors (if capital loan provided)
- Increase in the Council's long-term borrowing
- Maturity profile of borrowing and repayment of borrowing
- Profile of capital loan repayments
- Increase/decrease in Capital Financing Requirement (CFR) - borrowing offset by MRP.
- Annual depreciation on operational assets
- Annual revaluation of, or impairment on, operational assets
- Annual valuations of investment properties
- Impact on Council's cash flow in delivery stage or on purchase
- Impact on Council's cash flow at time of borrowing

The value of non-current assets should always aim to exceed the value of the outstanding liabilities. In addition, the value of the outstanding liabilities should not exceed, in the medium term, the Capital Financing Requirement (which is the measure of a Council's underlying need to borrow).

Director of Finance: Statement on Delivery, Affordability and Risk of Capital Strategy

Background

The current guidance for a Council's level of borrowing is the Prudential Code (December 2021) The following extracts from the Code summarise the approach to level of borrowing (self-regulating) and the governance that should apply:

“the local authority shall ensure that all its capital and investment plans are affordable, prudent and sustainable.”

“A local authority shall determine and keep under review how much money it can afford to borrow.”

“the level of capital investment that can be supported will, subject to affordability and sustainability, be a matter for local discretion.”

“a local authority must not borrow more than or in advance of their needs purely in order to profit from the investment of the extra sums borrowed.”

Torbay Council Borrowing Position

The Council's borrowing position, and costs, are summarised in the following table:

	2023/24 actual	2024/25 forecast	2025/26 budget	2026/27 estimate	2027/28 estimate
External Borrowing	£359m	£355m	£349m	£347m	£340m
Other Debt Liabilities	£14m	£13m	£12m	£11m	£10m
Net Revenue Stream	£130m	£139m	£147m	£152m	£157m
Financing costs (£m)	£14m	£17m	£16m	£16m	£16m
Proportion of net revenue stream	10.8%	12.2%	10.9%	10.5%	10.2%

During the last 18 months, the Director of Finance has reviewed the overall long term debt liability of the Council alongside investments and cash balances held. This has resulted in a proportion of long-term debt being repaid, (taking advantage of the relatively high interest rates), with total debt reducing from its peak in 2023/24 of £385m.

The Council's Capital Investment Plan has been thoroughly reviewed, and revised, to ensure future affordability and sustainability. This has reduced our forward-looking borrowing requirements with the consideration for any new borrowing coming under much closer scrutiny and governance through robust Business Cases and comprehensive financial appraisals.

Borrowing - Risks for the Council

The Council's risk principally lies in:

(a) **Commercial Investment portfolio** – where borrowing is financed through rental income from the assets held. As mitigation, an Investment Reserve is maintained to address forecasted fluctuations, (e.g. break periods), however, future economic conditions could result in the level of income generated being less than that needed to fund the debt. Current annual income, covering debt costs, maintenance of assets and revenue contribution is circa £14m per annum. The robustness and sufficiency of the Investment Reserve will be reviewed regularly by the Director of Finance and Cabinet Portfolio Holder for Finance and Housing;

(b) **Affordability of Capital Investment Plan** – the Plan has been reviewed as part of the budget setting process for 2025/26, being scaled to reflect affordability and deliverability over the medium term. Governance processes have been significantly strengthened during 2024/25 to provide greater transparency and control on projects and corresponding expenditure entering into the approved plan;

(c) **Maintenance of Council Assets** – whereas annual budgets are set aside for on-going repairs and maintenance of assets held by the Council, the funding for any significant repairs and major investment, (e.g. roof replacement), that might occur in the future is inconsistent across the estate. As mitigation, the Council has reviewed, and updated, its Asset Management Strategy, clearly stating the ownership, and condition, of all of the Council's assets. Through proposed increases to Repairs and Maintenance budgets, as detailed within the Medium Term Resource Plan, an element will be set aside to create a 'major repairs reserve' which will be reviewed regularly by the Director of Finance;

(d) **Robustness of Business Cases** – the Council will continue to deliver significant capital projects over the coming years, particularly around Town Centre Regeneration and, much needed, local housing development. Such projects will require the Council to consider further borrowing alongside alternative funding opportunities. Long term revenue affordability of any future borrowing must be robustly challenged through appropriate and comprehensive business cases with strong oversight provided through the Capital Growth Board.

Due to historic low borrowing rates, the Council has fixed all its loans and adopted a flat maturity profile, mitigating the risk of increasing rates on this historic debt. Future borrowing will increase the Council's fixed interest and borrowing costs, which will be an annual charge to the revenue budget.

Director of Finance Report Within the Prudential Code

It is the responsibility of the Chief Finance Officer to explicitly report on the delivery, affordability and the risks associated with this Strategy.

Delivery

The delivery of the individual schemes on the Capital Investment Plan are directly linked to the original approval of the capital project supported by each project having a client officer and a project manager who are responsible for the delivery of the project.

Members, via Overview and Scrutiny Board and Cabinet, will receive quarterly updates to the Capital Investment Plan. These updates are driven by the requirement by financial reporting, however in doing so Members can review, and challenge, the delivery of projects and any changes to both the timing, cost and intended outcomes from the various projects.

The Council's Directors Team, supported by the Capital and Growth Board, has oversight for the delivery of, and challenge to, the Capital Plan.

Affordability

Affordability is critical in applying the Capital Strategy and approving projects for inclusion in the Capital Investment Plan. Where Council borrowing is required, there will be a specific, stand alone report on the project presented to Council for approval, supported by a Business Case identifying the expenditure and funding, appraisal of alternative options and the risks and rewards of the scheme.

All projects need to have a clear funding source. If external funding such as an external grant is to be used there needs to be a clear funding commitment prior to committing financial liability for the Council.

Affordability of each project needs to be understood, not only for the funding of the capital spend, but also to cover any ongoing costs of the operation and funding of that capital spend as well as the on-going costs of maintaining the constructed asset.

Where borrowing is to be used the affordability has to include the interest costs of the borrowing and the provision for the repayment of the borrowing. This repayment is matched to a prudent asset life and any income streams estimated to fund this asset must be sustainable. At no stage should the asset value be lower than the value of outstanding debt, other than for a short period, unless there is a clear plan to mitigate that shortfall or to sell that asset.

Affordability of the Council's entire Capital Investment Plan has been thoroughly reviewed and updated as part of the 2025/26 budget setting process adopting a gateway process whereby individual projects will be challenged, regarding deliverability and affordability, at various stages of their progression.

Risks

The risks associated with the Capital Investment Plan with a significant level of borrowing can be mitigated (and indeed should be mitigated) as “business as usual”, i.e. all capital projects are supported by business cases, have adequate project management and/or project boards, suitable skills for the delivery of the project, tax planning, cash flow, clear operational plan for the use of the asset, security and due diligence on loans and purchases, use of external advice where appropriate, project contingencies, full tender process and regular and transparent reporting to Members.

There are clear links from the Capital Investment Plan to both the Treasury Management Strategy, prudential indicators, authorised borrowing limits and the revenue budget. These are also subject to review and oversight by members at Audit Committee and Full Council.

For new borrowing, this increases the Council's overall liabilities that will need to be repaid in the future and increases the Council's level of fixed interest and repayment costs that it will incur each year. This is a clear risk that all Members need to be aware of. However, this risk for all assets is mitigated by a robust business case and a full Minimum Revenue Provision that will repay the borrowing costs over a (prudent) asset life.

Housing and regeneration projects are a different type and level of risk with both variations in income streams, (tenant non-renewal etc.), and from asset values (impact of economic conditions and retail trends etc.).

Conclusion

The current system of borrowing is still a self-regulatory system which means that responsibility for borrowing decisions, and the level of borrowing incurred by a Council, are determined at a local level.

The responsibility for decision making and ongoing monitoring in respect of capital expenditure, investment and borrowing, including prudential indicators, remains with Full Council as specified in the Prudential Code. Borrowing decisions result in a long-term commitment to fund that borrowing, and as such, all decision making and ongoing reporting should be as transparent as possible to all Members and the residents of Torbay.

The pace and level of change in the Council's borrowing linked to regeneration and housing schemes is potentially significant. The Council's capital financing requirement, (i.e. its underlying need to borrow), needs to be realistic and kept under regular review by the Director of Finance, Cabinet and Full Council.

Malcolm Coe

Director of Finance (Chief Finance Officer)

November 2024