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Date: Friday, 17 February 2017

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Dear Member

COUNCIL - THURSDAY, 23 FEBRUARY 2017

I am now able to enclose, for consideration at the Thursday, 23 February 2017 meeting of the Council, the following reports that were unavailable when the agenda was printed.

Agenda No	Item	Page
3.	Minutes	(Pages 244 - 251)
8.	Annual Strategic Agreement between Torbay Council, South Devon and Torbay Clinical Commissioning Group and Torbay and South Devon NHS Foundation Trust Report of the Overview and Scrutiny Board	(Page 252)
15.	Revenue Budget 2017/2018 – Mayor’s Response to objections	(Pages 253 - 256)
16.	Capital Plan 2017/2018 – Mayor’s Response to objections	(Pages 257 - 258)
17.	Mayor's Response to Objection to the Review of Reserves – Mayor’s Response to objections	(Pages 259 - 260)
20.	Request for Loan to South Devon College to Support the Development and Construction of a New Hi Tech Skills Centre – Report and recommendations of Overview and Scrutiny	(Pages 261 - 264)
22.	Transformation Project - Generating Income through Housing – Report and recommendations of Overview and Scrutiny	(Pages 265 - 276)

Yours sincerely

June Gurry, Clerk



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

9 February 2017

-: Present :-

Chairman of the Council (Councillor Hill) (In the Chair)
Vice-Chairwoman of the Council (Councillor Brooks)

The Mayor of Torbay (Mayor Oliver)

Councillors Amil, Bent, Bye, Carter, Cunningham, Darling (M), Darling (S), Doggett, Ellery, Excell, Haddock, King, Kingscote, Lewis, Manning, Mills, Morey, Parrott, Robson, Pentney, Sanders, Stockman, Stocks, Stubbley, Sykes, Thomas (D), Tolchard, Tyerman and Winfield

140 Apologies for absence

Apologies for absence were received from Councillors Barnby, Morris, O'Dwyer, Stringer and Thomas (J).

141 Transformation Project - Children's Services Medium Term Finance Strategy

The Council considered the submitted report on a review by the Director of Children's Services of the previously approved Children's Services 5 Year Financial Strategy as to whether the targets within the strategy were realistic and achievable. It was noted that the review identified that the savings envisaged in the original strategy were not achievable due to a range of factors and the Director of Children's Services had prepared a revised Children's Services Medium Term Financial Strategy (2017-2021) as a result.

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

that the Children's Services Medium Term Finance Strategy (MTFS) (2017 – 2021) and the revised contribution to the 2017/2018 Revenue Budget as set out in Appendix 1 to the submitted report be approved.

142 Revenue Budget 2017/2018

Further to the meeting of the Council held on 2 February 2017, Members considered the recommendations of the Mayor in relation to the Revenue Budget 2017/18 as set out in the submitted report and supporting documents.

In accordance with legislation, the Chairman advised that recorded votes would be taken on the motion and the objection.

Mayor Oliver proposed and Councillor Mills seconded a motion as set out below:

- (i) that the proposals identified for service change, income generation and efficiencies in 2017/2018 and 2018/2019, as set out in the proposed Revenue Budget Digest, be approved;
- (ii) that the net revenue expenditure of £109.642m resulting in a Council Tax requirement of £60.075m for 2017/2018, a 3.99% increase which includes a 2% increase in Council Tax specifically for adult social care be approved;
- (iii) that, in relation to (ii) above, the Council's commitment (by a statement signed by the Chief Financial Officer) to allocate the additional funding of £1.155m raised by the 2% increase in Council Tax to adult social care be confirmed;
- (iv) that the Dedicated Schools Grant be used in accordance with the Schools Financial Regulations and that the Chief Finance Officer be authorised to make amendments as required when the final figures are confirmed;
- (v) that, in accordance with the requirement of the Local Government Act 2003, the advice given by the Chief Finance Officer with respect to the robustness of the budget estimates and the adequacy of the Council's reserves (as set out in the submitted report) be considered and noted; and
- (vi) that it be noted that Brixham Town Council has yet to set its budget for 2017/2018 and this precept, when known, will be included as part of the Torbay Council budget for Council Tax setting purposes.

During the debate and in accordance with Standing Order A14.4, Councillor Thomas (D) proposed and Councillor Darling (S) seconded an objection to the motion as follows:

that the Council formally objects to the Mayor's revenue budget proposals, as a number of members across all political groups on the Council object to some or all of the following issues:

- i) that the Council should heed the advice of our Chief Executive, Section 151 Officer, the full Senior Leadership Team and the Local Government Association by increasing the Council tax by an additional 1% for adult social care in 2017/18, which is in line with the Government's recommendations. This is to ensure that Torbay Council is able to continue to support vulnerable adults in accordance with the Council's Corporate Plan;**

- ii) **in light of the funding crisis facing the NHS and adult social care, the Council is very concerned on the Section 151 Officer's qualified opinion in respect of the Adult Social Care expenditure. Therefore, the Council objects to the apparent inadequate provision for the risk share agreement with the Integrated Care Organisation and the potential costs of withdrawal from the current risk share arrangement from December 2017;**
- iii) **that the reduction in the Youth Service funding is likely to result in uncertainty for grants given to community led youth service provision and this element of the future provision of youth services should be protected;**
- iv) **the continued cost to the Council of the Air Show at £100,000;**
- v) **the £61,000 to reduce grounds maintenance, the impact this will have and the achievability of sponsorship;**
- vi) **all senior officers share secretarial support and the Mayor should consider the level of his two full time support officers to release resources for priority areas elsewhere in the Council; and**
- vii) **members believe it is unsafe to increase the expected income from the Investment fund prior to securing the purchase agreed by Council in December 2016 and prior to agreeing a change in the strategy which would be beneficial in supporting the aims of increasing the scope of investment opportunities.**

In accordance with the Constitution at F2.9, the Council therefore requires the Mayor to consider this objection by 17 February 2017 and either:

- a) **submit a revision of the estimates or amounts as amended by the elected Mayor with the reasons for any amendments made to the estimates or amounts, to the Council for its consideration; or**
- b) **inform the Council of any disagreement that the elected Mayor has with any of the Council's objections and the elected Mayor's reasons for any such disagreement.**

A recorded vote was taken on the objection. The voting was taken by roll call as follows: For: Councillors Bent, Brooks, Bye, Carter, Cunningham, Darling (M), Darling (S), Doggett, Ellery, Hill, Kingscote, Lewis, Morey, Pentney, Robson, Sanders, Stockman, Stocks, Sykes, Thomas (D), Tolchard, Tyerman and Winfield (23); Abstain: Mayor Oliver and Councillors Amil, Excell, Haddock, King, Manning, Mills, Parrott and Stubley (9); and Absent: Councillors Barnby, Morris, O'Dwyer, Stringer and Thomas (J) (5). Therefore the objection was agreed by Council (shown in bold text above) and the Chairman advised that the Mayor would

consider the objection and publish his response on 17 February 2017 for consideration at the Council meeting on 23 February 2017.

The Council then considered an amendment in relation to 2018/19 budget, which was considered under Standing Orders for Council Meetings and required Council decision at this meeting.

Councillor Lewis proposed and Councillor Morey seconded the amendment which was agreed (unanimously) by the Council as set out below:

that the Council does not consider or adopt indicative budget figures for 2018/19 at this stage as part of consideration of the Revenue Budget for 2017/18. This will provide officers further opportunity to develop proposals and enable the Overview and Scrutiny Board to examine them in their entirety as part of the 2018/19 budget setting process.

143 Capital Plan Budget 2017/2018

Further to the meeting of the Council held on 2 February 2017, Members considered the recommendations of the Mayor in relation to the Capital Plan 2017/2018 as set out in the submitted report.

In accordance with legislation, the Chairman advised that recorded votes would be taken on the motion and the objection.

Mayor Oliver proposed and Councillor Mills seconded a motion as set out below:

that the Capital Plan for 2017/2018 as set out in Appendix 1 to the submitted report be approved.

During the debate and in accordance with Standing Order A14.4, Councillor Tyerman proposed and Councillor Carter seconded an objection to the motion as follows:

that the Council formally objects to the Mayor's Capital Plan budget proposals on the basis that a number of schemes have substantially changed and/or a significant time has passed since Council's original approval. Therefore, these should be re-examined by the Overview and Scrutiny Board to enable it to make recommendations to the Council before they are approved.

In accordance with the Constitution at F2.9, the Council therefore requires the Mayor to consider this objection by 17 February 2017 either:

- a) **submit a revision of the estimates or amounts as amended by the elected Mayor with the reasons for any amendments made to the estimates or amounts, to the Council for its consideration;**
or

- b) inform the Council of any disagreement that the elected Mayor has with any of the Council's objections and the elected Mayor's reasons for any such disagreement.**

A recorded vote was taken on the objection. The voting was taken by roll call as follows: For: Councillors Bent, Brooks, Bye, Carter, Cunningham, Darling (M), Darling (S), Doggett, Ellery, Hill, Kingscote, Lewis, Morey, Pentney, Robson, Sanders, Stockman, Stocks, Stubbley, Sykes, Thomas (D), Tolchard, Tyerman and Winfield (24); Abstain: Mayor Oliver and Councillors Amil, Excell, Haddock, King, Manning, Mills and Parrott (8); and Absent: Councillors Barnby, Morris, O'Dwyer, Stringer and Thomas (J) (5). Therefore the objection was agreed by Council (shown in bold text above) and the Chairman advised that the Mayor would consider the objection and publish his response on 17 February 2017 for consideration at the Council meeting on 23 February 2017.

144 Review of Reserves

Members considered the submitted report setting out a review of the Council's financial reserves as part of the Council's annual budget process.

Mayor Oliver proposed and Councillor Mills seconded a motion as set out below:

- (i) that the transfer of £2.750m identified from a number of individual earmarked reserves (as detailed in paragraph A2.19 of the submitted report) to the following reserves be approved:
- a) £2.0m to the Comprehensive Spending Review to fund the predicted 2016/17 Council overspend primarily as a result of budget pressures in children's and adults social care; and
 - b) £0.750m to the General Fund Reserve to be used as a contingency to support the Council's financial risks in future years; and
- (ii) that, given the significant financial pressures facing the Council in future years, the allocation of additional funds, as required, to the Comprehensive Spending Review Reserve in each budget process from 2018/2019 onwards to increase, and then maintain, an ongoing minimum balance in the reserve of £2m be agreed.

During the debate Councillor Bye proposed and Councillor Ellery seconded an objection to the motion as follows:

that the Council formally objects to the Mayor's review of reserves proposals on the basis of the reallocation of reserves from Harbours (£272,000) and Regeneration (£201,000).

In accordance with the Constitution at F4.9, the Council therefore requires the Mayor to consider this objection by 17 February 2017 and either:

- a) submit a revision of the review of reserves with the reasons for any amendments to the Council for its consideration; or**
- b) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.**

The objection was put to the vote and declared carried.

The objection (substantive motion) was then considered by members, which was agreed by Council (shown in bold text above). The Mayor would consider the objection and publish his response by 17 February 2017 for consideration at the Council meeting on 23 February 2017.

145 Treasury Management Strategy 2017/18 (incorporating the Annual Investment Strategy 2017/18 and the Minimum Revenue Provision Policy 2017/18)

The Council received the Treasury Management Strategy for 2017/18 as set out in the submitted report. Members noted the strategy aimed to support the provision of all Council services through the management of the Council's cash flow, debt and investment operations.

Mayor Oliver proposed and Councillor Mills seconded a motion, which was agreed by the Council as set out below:

that the Treasury Management Strategy for 2017/18 (incorporating the Annual Investment Strategy and Minimum Revenue Provision Policy) and including the Prudential and Treasury Indicators for the coming financial year as set out in Appendix 1 to the submitted report be approved.

146 Corporate Asset Management Plan

The Council considered an annual review of the Corporate Asset Management Plan (as set out in the submitted report) which set out the strategies that the Council will use to rationalise the number of assets that it has, replace them where appropriate and improve the quality of its remaining assets.

Mayor Oliver proposed and Councillor Mills seconded a motion, which was agreed by the Council as set out below:

that the Corporate Asset Management Plan 2015-2019 (2017/2018 Revision) set out in Appendix 1 to the submitted report be approved.

147 Corporate Capital Strategy including the Capital Receipts Strategy

Members considered the submitted report setting out a review of the Corporate Capital Strategy. The strategy set out the principles to be used to guide the allocation of capital investment across all Council services and informed decisions on capital spending priorities within the Council's 4-year Capital Plan.

Mayor Oliver proposed and Councillor Mills seconded a motion, which was agreed by the Council as set out below:

that the Corporate Capital Strategy (including the Capital Receipts Strategy) as set out in Appendix to the submitted report be approved.

Chairman

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Strategic Agreement between Torbay and South Devon NHS Foundation Trust and Torbay Council/South Devon and Torbay Clinical Commissioning Group



Report to the Council

February 2017

At its meeting on 15 February 2017 the Overview and Scrutiny Board considered a report that set out the way in which Torbay Council and South Devon and Torbay Clinical Commissioning Group (CCG) will commission services from Torbay and South Devon NHS Foundation Trust (Trust).

Representatives from both the CCG, the Trust and the Council's Director of Adult Social Services attended the meeting and provided a context to the agreement between the three parties and responded to Members questions.

The Board welcomed the establishment of the Adult Services and Public Health Monitoring Working Party recognising that all Members have a role to play in ensuring the delivery of joined up, integrated and effective health and care to people living in Torbay.

Resolved: that Council be recommended to approve the recommendations as set out in the submitted report.

Record of Decisions

Mayor's Response to the Objections to the Revenue Budget 2017/2018

Decision Taker

Mayor on 16 February 2017

Decision

- (i) that the Mayor disagrees with the Council's objections in relation to the Revenue Budget for the reasons set out below; and
- (ii) that the Mayor's original budget proposals presented to Council on 9 February 2017 be recommended to Council, subject to the indicative budget figures for 2018/19 being removed and that these be considered as part of the development of the Revenue Budget for 2018/19, as set out below:
 - (a) that the proposals identified for service change, income generation and efficiencies in 2017/2018, as set out in the proposed Revenue Budget Digest (excluding 2018/2019 indicative figures), be approved;
 - (b) that the net revenue expenditure of £109.642m resulting in a Council Tax requirement of £60.075m for 2017/2018, a 3.99% increase which includes a 2% increase in Council Tax specifically for adult social care be approved;
 - (c) that, in relation to (b) above, the Council's commitment (by a statement signed by the Chief Financial Officer) to allocate the additional funding of £1.155m raised by the 2% increase in Council Tax to adult social care be confirmed;
 - (d) that the Dedicated Schools Grant be used in accordance with the Schools Financial Regulations and that the Chief Finance Officer be authorised to make amendments as required when the final figures are confirmed;
 - (e) that, in accordance with the requirement of the Local Government Act 2003, the advice given by the Chief Finance Officer with respect to the robustness of the budget estimates and the adequacy of the Council's reserves (as set out in the submitted report) be considered and noted; and
 - (f) that it be noted that Brixham Town Council has yet to set its budget for 2017/2018 and this precept, when known, will be included as part of the Torbay Council budget for Council Tax setting purposes.

Reason for the Decision

To respond to the Council's objections to the Revenue Budget for 2017/2018 with reasons as follows:

- (i) and (ii) - the Mayor has recommended that Council Tax should be increased by 3.99% but that the Council does not increase Council Tax by the additional 1% for adult social care which has recently been permitted by the Government. Whilst the Council continues to see economic regeneration in Torbay, our local economy remains fragile, with many

residents on fixed incomes and families struggling to make ends meet. Many people have paid tax on their income over many years and expect the National Health Service to be funded out of National Taxation and should not be paying twice for this.

The additional 1% would not change the Section 151 Officer's qualified opinion in respect of adult social care. However, the Council is working with the Integrated Care Organisation to determine a mutually beneficial resolution that is affordable to all parties whilst maintaining suitable adult social care provision which will alleviate concerns going forward.

(iii) - these proposals have been put forward by the Director of Children Services who has been in extensive dialogue with the shadow Youth Trust and is confident that a youth provision will be delivered going forward.

(iv) - the Council as already decided to support the Air Show (at the Council meeting on 21 July 2016) and the Air Show Working Party has had a number of meetings and is confident of the long term financial benefit of the Air Show.

(v) – the Mayor dismissed the argument put forward as there was no alternative proposal on where this funding could be found.

(vi) - Elected Members should be aware of the workload that the Mayor has and the additional responsibilities that have been taken on by his support staff as a result of the Torbay Development Agency withdrawing its secretarial support for events and other working groups.

(vii) - the Council is expecting to exchange contracts early next week on a significant purchase which will realise the anticipated income proposed.

To implement the decision of the Council in respect of the 2018/2019 proposals.

Implementation

The Mayor's response to the Council's objection will be considered at the Council meeting on 23 February 2017.

Information

At the adjourned Council meeting held on 9 February 2017, the Council formally objected to the Revenue Budget 2017/2018 proposals, as a number of members across all political groups on the Council object to some or all of the following issues:

- i) that the Council should heed the advice of our Chief Executive, Section 151 Officer, the full Senior Leadership Team and the Local Government Association by increasing the Council tax by an additional 1% for adult social care in 2017/18, which is in line with the Government's recommendations. This is to ensure that Torbay Council is able to continue to support vulnerable adults in accordance with the Council's Corporate Plan;
- ii) in light of the funding crisis facing the NHS and adult social care, the Council is very concerned on the Section 151 Officer's qualified opinion in respect of the Adult Social Care expenditure. Therefore, the Council objects to the apparent inadequate provision for the risk share agreement with the Integrated Care Organisation and the potential

costs of withdrawal from the current risk share arrangement from December 2017;

- iii) that the reduction in the Youth Service funding is likely to result in uncertainty for grants given to community led youth service provision and this element of the future provision of youth services should be protected;
- iv) the continued cost to the Council of the Air Show at £100,000;
- v) the £61,000 to reduce grounds maintenance, the impact this will have and the achievability of sponsorship;
- vi) all senior officers share secretarial support and the Mayor should consider the level of his two full time support officers to release resources for priority areas elsewhere in the Council; and
- vii) members believe it is unsafe to increase the expected income from the Investment fund prior to securing the purchase agreed by Council in December 2016 and prior to agreeing a change in the strategy which would be beneficial in supporting the aims of increasing the scope of investment opportunities.

In accordance with the Constitution at F2.9, the Council required the Mayor to consider this objection by 17 February 2017 and either:

- a) submit a revision of the estimates or amounts as amended by the elected Mayor with the reasons for any amendments made to the estimates or amounts, to the Council for its consideration; or
- b) inform the Council of any disagreement that the elected Mayor has with any of the Council's objections and the elected Mayor's reasons for any such disagreement.

The Council also approved the following amendment in relation to 2018/19 budget:

that the Council does not consider or adopt indicative budget figures for 2018/19 at this stage as part of consideration of the Revenue Budget for 2017/18. This will provide officers further opportunity to develop proposals and enable the Overview and Scrutiny Board to examine them in their entirety as part of the 2018/19 budget setting process.

The Mayor considered the recommendations of the Council and his proposed response is set out above.

Alternative Options considered and rejected at the time of the decision

None

Is this a Key Decision?

Yes – Reference Number: I024886

Does the call-in procedure apply?

No

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

None

Published

17 February 2017

Signed: _____
Mayor of Torbay

Date: 16 February 2017

Record of Decisions

Mayor's Response to the Objection to the Capital Plan Budget 2017/2018

Decision Taker

Mayor on 16 February 2017

Decision

- (i) that the Mayor disagrees with the objection; and
- (ii) that the Capital Plan Budget proposals for 2017/2018, as set out in Appendix 1 to the submitted report and as presented to the adjourned Council meeting on 9 February 2017, be recommended to Council for approval.

Reason for the Decision

To respond to the Council's objections to the Capital Plan Budget for 2017/2018. If a scheme is materially different an approved scheme it will be presented back to Council for approval as a matter of course.

Implementation

The Mayor's response to the Council's objections to the Capital Plan Budget will be considered at the Council meeting on 23 February 2017.

Information

At the adjourned Council meeting held on 9 February 2017 the Council formally objected to the Mayor's Capital Plan budget proposals on the basis that a number of schemes have substantially changed and/or a significant time has passed since Council's original approval. Therefore, these should be re-examined by the Overview and Scrutiny Board to enable it to make recommendations to the Council before they are approved.

In accordance with the Constitution at F2.9, the Council required the Mayor to consider this objection by 17 February 2017 either:

- a) submit a revision of the estimates or amounts as amended by the elected Mayor with the reasons for any amendments made to the estimates or amounts, to the Council for its consideration; or
- b) inform the Council of any disagreement that the elected Mayor has with any of the Council's objections and the elected Mayor's reasons for any such disagreement.

The Mayor considered the recommendation of the Council and his response is set out above.

Alternative Options considered and rejected at the time of the decision

None

Is this a Key Decision?

Yes – Reference Number: I024886

Does the call-in procedure apply?

No

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

None

Published

17 February 2017

Signed: _____
Mayor of Torbay

Date: 16 February 2017

Record of Decisions

Mayor's Response to the Objections to the Review of Reserves

Decision Taker

Mayor on 16 February 2017

Decision

The Mayor disagrees with the Council's objection and confirms his original recommendation to Council as set out below:

- (i) that the transfer of £2.750m identified from a number of individual earmarked reserves (as detailed in paragraph A2.19 of the submitted report) to the following reserves be approved:
 - a) £2.0m to the Comprehensive Spending Review to fund the predicted 2016/17 Council overspend primarily as a result of budget pressures in children's and adults social care; and
 - b) £0.750m to the General Fund Reserve to be used as a contingency to support the Council's financial risks in future years; and
- (ii) that, given the significant financial pressures facing the Council in future years, the allocation of additional funds, as required, to the Comprehensive Spending Review Reserve in each budget process from 2018/2019 onwards to increase, and then maintain, an ongoing minimum balance in the reserve of £2m be agreed.

Reason for the Decision

To respond to the Council's objection to the Review of Reserves. The Harbour Reserve was £727,000 and the Regeneration Reserve was £789,000 at the start of the 2016/2017 financial year and the proposal is move the money from these two Reserves to the General Fund which will give the Council more resilience for the significant financial risks facing the Council over the next few years, which was supported by senior officers of the Council.

Implementation

The Mayor's response to the Council's objection will be considered at the Council meeting on 23 February 2017.

Information

At the adjourned Council meeting held on 9 February 2017, the Council formally objected to the Mayor's review of reserves proposals on the basis of the reallocation of reserves from Harbours (£272,000) and Regeneration (£201,000).

In accordance with the Constitution at F4.9, the Council required the Mayor to consider this objection by 17 February 2017 and either:

- a) submit a revision of the review of reserves with the reasons for any amendments to the

Council for its consideration; or

- b) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.

The Mayor considered the recommendation of the Council and his proposed response is set out above.

Alternative Options considered and rejected at the time of the decision

None

Is this a Key Decision?

No – Reference Number: I029677

Does the call-in procedure apply?

No

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

None

Published

17 February 2017

Signed: _____
Mayor of Torbay

Date: 16 February 2017



Meeting: Council

Date: 23 February 2017

Wards Affected: All Wards

Report Title: Proposed loan to South Devon College to support the development and construction of a new Hi Tech Skills Centre

Is the decision a key decision?

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

Executive Lead Contact Details: Mayor Oliver, Mayor and Executive Lead for Finance and Regeneration, (01803) 207001 and mayor@torbay.gov.uk

Supporting Officer Contact Details: Anne-Marie Bond, Assistant Director Corporate and Business Services, anne-marie.bond@torbay.gov.uk

1. Proposal and Introduction

- 1.1 South Devon College is looking to construct an exciting new, purpose built hi-tech and digital centre to meet the skills demands from employers, to encourage and retain local talent, develop and grow high level sustainable jobs for Torbay students and support economically and strategically important local and regional sectors. The building is scheduled to open in September 2019.
- 1.2 The College is seeking loan support from Torbay Council because of the significant positive economic and community benefit the new hi tech skills centre will bring. This will also allow South Devon College to access borrowed funds at a cost effective and fixed rate which forms part of the College's long term strategy for a financially secure organisation. This sustainable financial strategy allows it to continue to grow, develop and improve, to best serve its local community and to seek to maximise the potential to develop an Institute of Technology and University potential at South Devon College.

2. Reason for Proposal

- 2.1 To consider the request from South Devon College to provide them with a loan to enable them to develop and construct a new hi tech skills centre.

3. Recommendation(s) / Proposed Decision

- 3.1 That the Council provide South Devon College with a loan on terms set out in exempt Appendix 1 to the submitted report to enable them to develop and construct a new hi tech skills centre.

Appendices

Appendix 1: Financial details of proposed loan to South Devon College (Exempt)

Supporting Information

- 4.1 This project will create approximately 5000m² of exciting new high quality, education and skills facilities at South Devon College. It will replace low quality short term leased premises, safeguarding current provision, with an outstanding higher level skills and high tech facility directly designed to meet identified local and regional skills needs at Level 4 and Level 5 in the growing hi-tech sector, and increased population through local housing and employment growth in Torbay.
- 4.2 It will create the step change that is required in the area, both in developing Higher Education provision and meeting the demands of local employers, to continue to stimulate and sustain economic growth in this key sector offering new professional and technical education that provides individuals with high quality routes to local employment. This supports the current Economic Strategy of the Council.
- 4.3 Torbay and South Devon has a nationally significant and growing hi-tech cluster that has the potential to make a huge economic and social impact on the area. Increased Higher Education provision through the creation of a dedicated Hi-Tech Skills Centre will ensure the opportunity to meet the needs arising from this.
- 4.4 The sector includes international companies based in Paignton and South Devon such as Spirent Communications, Oclaro, Gooch & Housego, Alpha Engineering and Ltech who are all supportive of the developments. In addition, assistive and medical technologies (including the Pharmaceutical Manufacturing Unit owned by the local NHS Trust) are strongly growing sectors locally and will benefit greatly from high quality local higher level skills development in this area.
- 4.5 The centre will support skills in key specialist areas such as electronics, photonics, advanced engineering and manufacturing, mechatronics, electrical engineering, engineering science, 3-D printing, CNC technology, computer programming and coding, cyber security and data analytics ("Big Data"). This will sit alongside related and integrated curriculum in the creative digital industries. This will allow new curriculum developments to meet key growth sectors and local skills needs in Torbay and South Devon, particularly in the higher skills, hi tech industries, health and social care sectors with associated research and development, supporting innovation and business start-up. The new and re-designed curriculum will also include Higher Level and Degree Apprenticeships with standards designed to meet employer requirements allowing Torbay to be at the forefront of the delivery of these vital new higher qualifications.
- 4.6 New technology skills are increasingly in demand from both the creative and digital sector, including business start-ups through the Torbay Innovation Centres. The Hi

Tech and Digital Centre will support and compliment the new EPIC building, on which construction is soon to start, building on strong partnership work.

- 4.7 The Hi Tech Skills Centre is a significant local project which aligns with Torbay vision, wider corporate, economic and strategic plans including complimenting and supporting the new EPIC building adjacent to the College's Long Road campus.

**Request for Loan to South Devon College
to Support the Development and
Construction of a New Hi Tech Skills
Centre**



Report to the Council

February 2017

At its meeting on 15 February 2017 the Overview and Scrutiny Board considered an exempt report that sought loan support for a development and construction of a new Hi Tech Skills Centre that would enable the college to continue to grow, develop and improve in order to best serve the local community. A representative from South Devon College was present and responded to Members questions.

Resolved: that the Council be recommended to support the proposal.



Meeting: Council

Date: 23 February 2017

Wards Affected: All

Report Title: Transformation Project – Generating Income through Housing

Is the decision a key decision? Yes - Reference I025402

When does the decision need to be implemented? Immediately

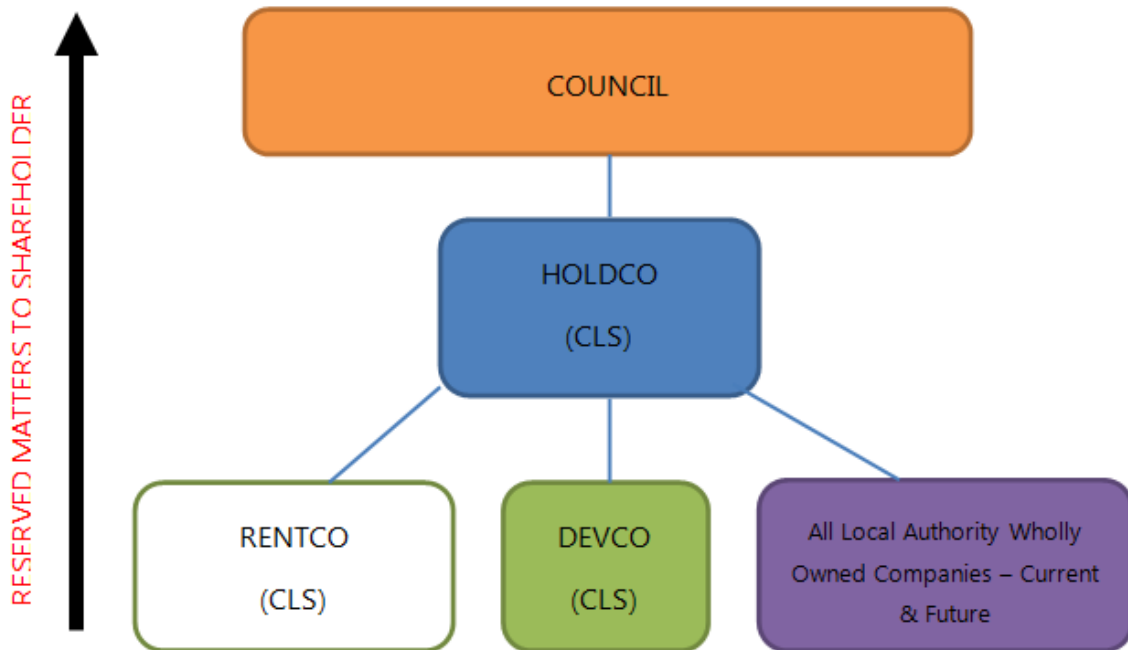
Executive Lead Contact Details: Councillor Mark King, Executive Lead for Planning Transport and Housing, 01803 207114, mark.king@torbay.gov.uk

Supporting Officer Contact Details: Caroline Taylor, Director of Adults and Transformation (Housing-client side), 01803 208949, caroline.taylor@torbay.gov.uk

1. Introduction

- 1.1 On 22 September 2016, Council agreed the principle of setting up a new wholly owned company to develop and own homes, with the overarching aim of maximising income back to the Council, as well as supporting the objectives of the Council's Housing Strategy. Council approved the use of funding to undertake necessary further due diligence in order to progress the proposal.
- 1.2 This report updates Council on the development of proposals. This report comes to Council for approval of the company structure, with the Policy Framework document to come back to Council for consideration in April 2017.
- 1.3 The Council has appointed Anthony Collins Solicitors LLP together with their financial and tax sub-consultants (ACS) to provide legal, tax and financial advice. Attached at Appendix 2 (exempt) is a detailed legal report from ACS that includes recommendations on the structure and governance framework that the Council is advised to adopt to best achieve its objectives, together with advice on operational and compliance matters. The report shows the structures in diagrammatic form. The Council has the power to establish and participate in companies under sections 1 and 4, Localism Act 2011.
- 1.4 In summary it is proposed that:
 - (a) The Council forms **three new companies limited by shares:** (i) a **Holding Company**, (ii) a **Housing Development Company** and (iii) a **Housing Rental Company**.

- (i) Companies limited by shares are appropriate where the Council wishes to generate a return and are accepted and well tested vehicles. Many councils have set up companies over recent years to deal with similar circumstances and with similar objectives.
- (ii) Charitable and community vehicles have been considered but at this stage are considered not to be appropriate, for the reasons detailed in the legal report. This situation is to be kept under review for the future as it may be that as the Holding Company and the Housing Development Company develop their business the situation will change and a charitable or community vehicle may then be more appropriate
- (iii) The Holding Company will be wholly owned by the Council and, as the name suggests, act as a holding company for the Council's interest in the Housing Development Company as well as any other company that the Council decided in the future to include within the Holding Company group. The Council has a number of wholly owned companies, and it is proposed that the Council should organise all of its wholly owned companies under the Holding Company.



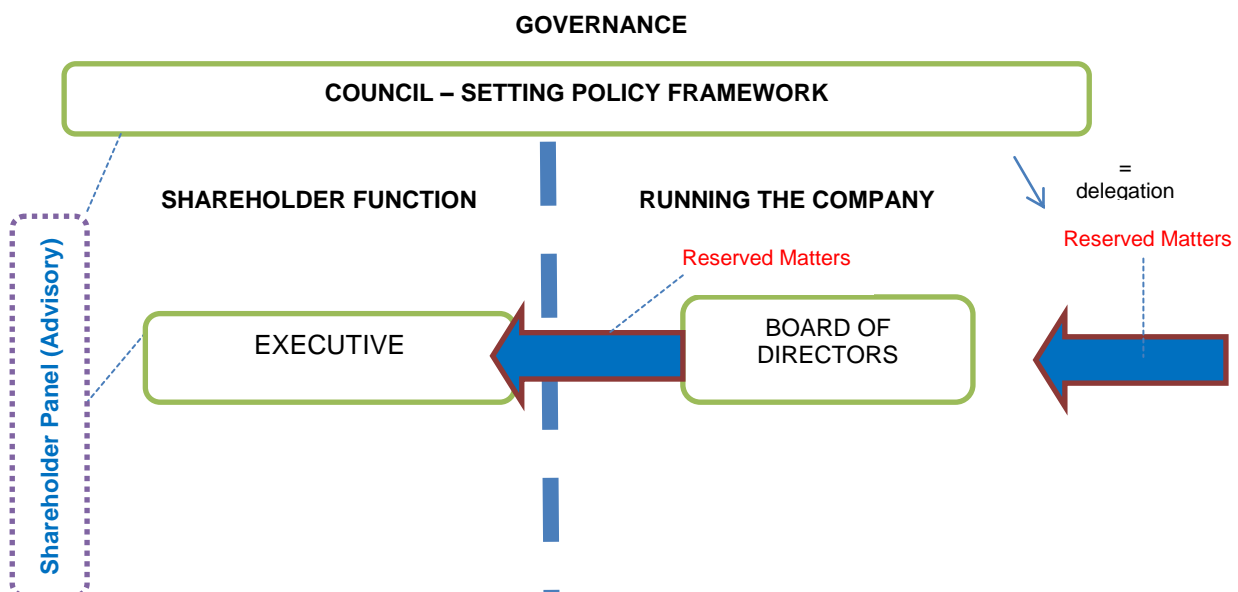
- (b) The Housing Development Company would focus on development of land – initially it is proposed that this would be land acquired from the Council.
 - (i) The Housing Development Company would not itself have the resources to develop the sites and therefore based on a consideration of the particular site, the Housing Development Company would have to enter into an arrangement with a developer to build the homes and infrastructure required. The land acquired from the Council would be in exchange for a loan note in the amount of its market value with interest charged on the loan note at market rates. The loan note

would be repaid on onward sale of the developed land. The loan will come from the Council's approved prudential borrowing.

- (c) The Housing Rental Company meets elements of the medium to long term needs of the Council in that it enables the delivery of elements of the Council's housing strategy and could produce income back to the council over a longer period.
 - (i) This Company would purchase properties from the Housing Development Company and third parties for rental.
 - (ii) To ensure the most optimal VAT treatment any rental activities should be kept separate from the development activities in the Housing Development Company. The Housing Rental Company would still be able to sit under the Holding Company structure as described above.

1.5 The recommended governance model sees:

- (a) Council approving Housing Company Policy Framework,
- (b) Council approving Business Cases from DevCo or RentCo, by approving the Prudential Borrowing required for each scheme.
- (c) The Executive Function of the Council participating in shareholder decision
- (d) making as the owner of the Company, in accordance with the Policy Framework.
- (e) To ensure that there is wider input from Members it is proposed that a shareholder panel is created to advise the Executive on shareholder decision making, and Council on any Council decisions. It is proposed that this be a cross party Working Party comprising of 8 members.
- (f) Officers of the Council would be appointed as directors of the companies together with independent directors. All appointments to the companies would be undertaken through the Council's Employment Committee (save those necessary to initially set up the company with Companies House).



- 1.6 The companies are separate legal entities and so have to be treated as distinct from the Council in that:
- (a) Any land sold to a company must be sold for best consideration under s123 of the Local Government Act 1972;
 - (b) Any funding to the companies must be provided on market terms – this could be through equity investments (i.e. for shares) or more likely repayable loans at market rates – to avoid any suggestion of giving State Aid to the companies;
 - (c) Any support that the Council provides to the companies (e.g. back office services) must be provided on at least a full cost recovery basis.
- 1.7 Further detail on the legal implications can be found at Appendix 2.

2. Reason for Proposal

- 2.1 Torbay Council's Efficiency Plan which covers up to the end of 2019/20 sets out that there is an estimated funding gap of £21.5m over the plan period.
- 2.2 The Council's transformation programme identified within the Efficiency Plan explains that the Council will *'deliver projects which will maximise income from investments and services'*.
- 2.3 There continues to be an immense challenge to prepare and deliver robust budgets year on year which provides the statutory services of the Council as well as those discretionary services which are valued by the community. Over 60% of the Council's net budget is allocated to social care and the estimated budget gaps needs to be set in the context that the Council faces rising costs, in particular to meet the needs of an increasingly elderly and frail population as well as additional pressures in children's services.
- 2.4 The findings from the two external peer review processes are that the Council is a viable organisation moving forward provided that tough financial decisions are made at pace.
- 2.5 The objectives of the new companies are to:
- (a) Maximise the return from Council assets and in particular the land that the Council holds;
 - (b) Provide a revenue income to the Council to support other Council services;
 - (c) Enable the delivery of elements of the Council's Housing Strategy which may include:
 - (iii) Increase the number of affordable homes delivered;
 - (iv) Increase standards in the private rented sector;
 - (v) Provide greater flexibility when dealing with housing needs for local people;

- (vi) Increase the level of adapted accommodation to allow more people with care and support needs to live in specialist housing;
- (vii) Unlock stalled sites in and around the town centre to assist with regeneration and increase footfall in the areas town centres; and
- (viii) Assist with regenerating areas of deprivation.

2.6 Since Council last considered this matter, Officers have been engaged in undertaking due diligence and instructing external consultants to advice on the development of the proposals.

2.7 The prudential borrowing proposed must be authorised by Council.

3. Recommendation(s) / Proposed Decision

3.1 That Council approves the establishment of Holding Company as a wholly owned company limited by shares of the Council for all Council wholly owned companies, and delegates to the Director of Adults and Transformation authority to implement this decision, including approval of the Memorandum and Articles of Association, in consultation with the Executive Lead for Planning, Housing and Transport, and Group Leaders.

3.2 The Council approves the establishment of a Housing Development Company as a wholly owned subsidiary (company limited by shares) of Holding Company, and delegates to the Director of Adults and Transformation authority to implement this decision, including approval of the Memorandum and Articles of Association, in consultation with the Executive Lead for Planning, Housing and Transport, and Group Leaders.

3.3 The Council approves the establishment of a Housing Rental Company as a wholly owned subsidiary (company limited by shares) of Holding Company, and delegates to the Director of Adults and Transformation authority to implement this decision, including approval of the Memorandum and Articles of Association, in consultation with the Executive Lead for Planning, Housing and Transport, and Group Leaders.

3.4 That Council authorise the Director of Adults and Transformation to approve the appointment of any Officer(s) as a director and/or company secretary of Holding Company and/or either the Development Company or Rental Company during the application to register Holding Company and/or Housing Development Company.

3.5 That the Housing Company Policy Framework document be presented to Council for consideration in April 2017, together with an outline business case.

Appendices

Appendix 1: Supporting Information and Impact Assessment

Appendix 2: Anthony Collins Solicitors Report (Exempt)

Background Documents

Report to Council – Transformation Project – Generating Income through Housing dated 22 September 2016

Supporting Information and Impact Assessment

Service / Policy:	Transformation
Executive Lead:	Cllr Mark King
Director / Assistant Director:	Caroline Taylor

Version:	1.0	Date:	February 2017	Author:	Caroline Taylor
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Section 1: Background Information	
1.	<p>What is the proposal / issue?</p> <p>On 22 September 2016, Council agreed the principle of setting up a new wholly owned development company to develop and own homes with the overarching aim of maximising income back to the Council as well as supporting objectives set out in the Council’s Housing Strategy.</p> <p>The current proposal is to approval of the company structure, with the Policy Framework document to come back to Council for consideration in April 2017.</p> <p>In summary it is proposed that:</p> <p style="padding-left: 20px;">(a) The Council forms three new companies limited by shares: (i) a Holding Company, (ii) a Housing Development Company and (iii) a Housing Rental Company.</p> <p>The Holding Company will be wholly owned by the Council and, as the name suggests, act as a holding company for the Council’s interest in the Housing Development Company as well as any other company that the Council decided in the future to include within the Holding Company group. The Council has a number of wholly owned companies, and it is proposed that the Council should organise all of its wholly owned companies under the Holding Company.</p> <p>The Housing Development Company would focus on development of land – initially it is proposed that this would be land acquired from the Council.</p> <p>The Housing Rental Company meets elements of the medium to long term needs of the Council in that it enables the delivery of elements of the Council's housing strategy and could produce income back to the council over a longer period.</p>
2.	<p>What is the current situation?</p> <p>This is a new proposal for the Council.</p>
3.	<p>What options have been considered</p> <p>Charitable and community vehicles have been considered but at this stage are</p>

	<p>considered not to be appropriate, for the reasons detailed in the legal report (Appendix 2). This situation is to be kept under review for the future as it may be that as the Holding Company and the Housing Development Company develop their business the situation will change and a charitable or community vehicle may then be more appropriate</p>
4.	<p>How does this proposal support the ambitions and principles of the Corporate Plan 2015-19?</p> <p>Ambitions: Prosperous and Healthy Torbay</p> <p>Principles:</p> <ul style="list-style-type: none"> • Use reducing resources to best effect
5.	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>No consultation is required at this stage.</p>
6.	<p>How will you propose to consult?</p> <p>As above.</p>

Section 2: Implications and Impact Assessment	
7.	<p>What are the financial and legal implications?</p> <p>Please see Appendix 2 for the legal tax and financial analysis received.</p>
8.	<p>What are the risks?</p> <p>Please see Appendix 2 for the risks associated with this proposal.</p>
9.	<p>Public Services Value (Social Value) Act 2012</p> <p>N/A – the Council will not be procuring services.</p>
10.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>Please see Appendix 2.</p>
11.	<p>What are key findings from the consultation you have carried out?</p> <p>N/A</p>
12.	<p>Amendments to Proposal / Mitigating Actions</p> <p>N/A</p>

Equality Impacts

13	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people	No differential impact		
	People with caring Responsibilities	No differential impact		
	People with a disability	No differential impact		
	Women or men	No differential impact		
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>	No differential impact		
	Religion or belief (including lack of belief)	No differential impact		
	People who are lesbian, gay or bisexual	No differential impact		
	People who are transgendered	No differential impact		
	People who are in a marriage or civil partnership	No differential impact		
	Women who are pregnant / on maternity leave	No differential impact		

	Socio-economic impacts (Including impact on child poverty issues and deprivation)	No differential impact
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	No differential impact
14	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	No differential impact
15	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	No differential impact

**Transformation Project – Generating
Income through Housing**

Report to the Council

February 2017



At its meeting on 15 February 2017 the Overview and Scrutiny Board considered an exempt report and appendices that provided an update on the development of proposals in particular the outline business case, proposed structure and governance implications for generating income through housing.

The Overview and Scrutiny Board made the following recommendations to Council:

That Council be recommended:

- i) to approve the establishment of the company structures as set out in the submitted report and presented to Council on 23 February 2017; and
- ii) that the Housing Company Policy Framework document together with an outline business case be presented to Council in April 2017.