



Title: **Transfer of Brixham Town Hall to Brixham Town Council**

Public Agenda Item: **Yes**

Wards Affected: **Berry Head with Furzeham**

To: **Council** On: **31 October 2011**

Key Decision: **Yes – Ref 1005097**

Change to Budget: **No** Change to Policy Framework: **No**

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1. What we are trying to achieve and the impact on our customers

1.1 To respond to a request from Brixham Town Council to transfer the freehold of the Town Hall (excluding the library and museum) to provide it with a permanent base.

2. Recommendation for decision

2.1 **That, subject to receiving the South West Regional Development Agency's consent , the Mayor be recommended to authorise the Executive Head Commercial Services, in consultation with the Chief Executive of the Torbay Development Agency, to transfer the freehold of the Brixham Town Hall to Brixham Town Council, as identified on plan EM2151 for no capital receipt .**

2.2 **That, subject to receiving the South West Regional Development Agency's consent, the Mayor be recommended to authorise the Executive Head Commercial Services, in consultation with the Chief Executive of the Torbay Development Agency and the Executive Head Children, Schools and Communities, to simultaneously enter into a 125-year lease at a peppercorn rent from Brixham Town Council for use by Torbay Council for an area within the Town Hall for the Torbay Youth Service.**

3. Key points and reasons for recommendations

3.1 The Council has received a request from Brixham Town Council to transfer the freehold of the Town Hall to the Town Council.

- 3.2 It is considered that the request should be granted for the land and buildings shown on plan EM2151, which excludes the library and the museum – see Appendix 1.
- 3.3 Under the Local Government Act 1972: General Disposal Consent 2003 ('the Consent') Councils may dispose of land for less than the best consideration that can reasonably be obtained.
- 3.4 The Consent means that where the undervalue is £2,000,000 or less specific Secretary of State consent is not required for the disposal of any interest in land which the Authority considers will help to secure the promotion or improvement of the economic, social or environmental well-being of any part of its area.
- 3.5 Continued occupation by Torbay Council can be regularised by the Town Council granting a lease to Torbay Council.
- 3.6 It is considered that the proposal will have such economic and social benefits. It is proposed that there is no restriction on what the Town Council might do with the Town Hall in the future (other than the proposed long lease back to Torbay Council).
- 3.7 The transfer of the Town Hall requires the consent of the South West Regional Development Agency having regard to the terms of an agreement dated 08 May 2008.

For more detailed information on this proposal please refer to the supporting information attached.

**Steve Parrock
Chief Executive, Torbay Development Agency**

**Charles Uzzell
Commissioner of Place and Environment**

Supporting information

A1. Introduction and history

- A1.1 The Town Council currently occupies part of the Town Hall by way of a 5-year lease from 21 May 2007. To provide them with a permanent base they have requested that the freehold of the Town Hall be transferred to them. The transfer would exclude the library and the museum. The latter is leased to the Brixham Heritage Museum & History Society.
- A1.2 Other tenants of the Town Hall include Brixham Does Care and the Police. The theatre and Scala Hall are run by the Facilities Management Section of the Torbay Development Agency on behalf of Torbay Council. It has an informal arrangement with the Brixham Arts and Theatre Society (BATS) to manage these facilities with any income over and above the budgeted income target being shared 50:50 with BATS.
- A1.3 Part of the premises is also currently used by Torbay Council for the Youth Service and as a Connections Office. Re-location options have been considered for the Connections Office and a decision has been taken to move this function into Brixham Library. The intention is that this will take place before the end of the financial year.
- A1.4 The continued occupation by Torbay Council for the Youth Service after the transfer will need to be regularised. The proposal is that this be dealt with by way of a 125-year lease back to Torbay Council at a peppercorn rent.
- A1.5 A summary of the remaining repairs contained in the Costed Condition Survey is contained in Appendix 2 with the repairs remaining for the period 2010 – 15 being £76,100. Repairs costing in the region of £113,600 have been carried out since 2007.
- A1.6 Torbay Council is being asked to transfer the freehold of the Town Hall site for nil consideration. Under the Local Government Act 1972: General Disposal Consent 2003 ('the Consent') Councils may dispose of land for less than the best consideration that can reasonably be obtained.
- A1.7 The Consent removes the requirement for a Council to seek specific consent from the Secretary of State for the disposal of any interest in land where the difference between the unrestricted value of the interest to be disposed of and the consideration accepted (the 'undervalue') is £2,000,000 or less and the Council considers the disposal will help secure the promotion or improvement of the economic, social or environmental well-being of any part of its area. The unrestricted value is the best price reasonably obtainable.
- A1.8 It is considered that the transfer of the Town Hall will have economic and social benefits since it is the local council with direct accountability to the population of Brixham which will have an asset and take control of.

It is proposed that there are no restrictions imposed in the transfer specifying what the Town Council can use the Town Hall for in the future.

A1.9 External valuers consider that the unrestricted value of the freehold of the Brixham Town Hall, as identified on plan EM2151, is £465,000. The undervalue, especially having regard to the value of the recommended 125-year peppercorn lease back of an area for the Youth Service, would therefore be well within £2,000,000 even with Torbay Council not obtaining any capital receipt.

A1.10 In 2008 the South West Regional Development Agency (RDA) provided a grant to Torbay Council for various projects within Brixham. One of the terms of the agreement, which expires on 31 December 2026, is that, if any land or buildings is disposed of (including a sale, lease, licence, assignment or transfer by another means) which is within the red line on a plan of central Brixham then the RDA's consent will be required. The Town Hall is within this red line (see Appendix 3). There are exceptions but none appear applicable in this case.

A1.11 The agreement also states that in the above circumstances the Council should use any capital receipt or accumulated income for a variety of purposes. Since the transfer of the Town Hall would be at nil consideration then these provisions do not apply.

A2. Risk Assessment

A2.1 Outline of significant key risks

A2.1.1 Torbay Council would lose the revenue generated by the Town Hall, both in terms of the rental income and the income from the Scala Hall/Theatre. Appendix 4 shows the relevant income. The total annual rental income (net of the Council grant and the rent from Youth Enquiry Service (Brixham) Ltd) is £8,330.

A2.1.2 Should Torbay Council require additional office accommodation within Brixham after the transfer then it would need to either reach agreement with Brixham Town Council or seek an alternative solution.

A2.1.3 As mentioned in A1.7 above it is proposed that there are no restrictions imposed in the transfer specifying what the Town Council can use the Town Hall for in the future. If the Town Council obtained planning permission for an alternative use (e.g. residential) and sold it for this purpose then Torbay Council would not receive a share in the uplift in value. This risk is considered to be minimal as long as Torbay Council remain in occupation under the terms of the 125-year lease.

A2.2 Remaining risks

A2.2.1 None

A3. Other Options

A3.1 The Council could decide not to support this initiative and retain the freehold of the Town Hall in its ownership and:

- a) Instead of re-newing the 5-year lease in 2012 Torbay Council could grant a long lease to Brixham Town Council. This would provide a base for the Town Council for the duration of the lease with them being responsible for the

insurance, repairs and other running costs for the asset or;

- b) Torbay Council could re-new the short-term lease to the Town Council when it expires in 2012.

A4. Summary of resource implications

A4.1 Asset Management of the Torbay Development Agency (TDA) and the Head of Commercial Services would be involved with the negotiation and preparation of the legal documentation.

A4.2 The Town Council will become responsible for the operational costs associated with the running of the Town Hall but they will receive the rental income from the leases, which is currently received by Torbay Council.

Whilst Torbay Council would be foregoing a rental income of £8,330 per annum it would be saving the following operational costs (2011/12 figures unless advised otherwise):

Business Rates – £11,582.75

Insurance Premium - £1,037.82

Electricity – £905

Gas – £4,873.95

Water – £2,100.04

Water Hygiene testing - £44.06 per month = £528.72 per annum

Asbestos re-inspection - £259

Reactive maintenance costs – Approximately £7,000

CCTV – Maintenance costs associated with the CCTV system is approximately £500 with approximately £1,400 being paid for a line rental to BT to allow the images to be monitored from the Council's control room.

Torbay Council would also not be responsible for the remaining repairs contained in the Costed Condition Survey, as outlined in A1.4 of this report (£76,100) and any future repairs.

The above utility costs (electricity, gas and water) are an average for the financial years 2009/10 & 2010/11.

A4.3 The Council may, however, become responsible for a share of the above costs arising from the terms of the 125-year lease so the net savings could be less than the above figures. For example there are 5 CCTV cameras operating at the Town Hall some of which cover the areas occupied by Torbay Council staff and as such Torbay Council may need to contribute towards the costs. Detailed terms have, however, yet to be discussed with the Town Council.

A4.4 Torbay Council offers a grant to Brixham Does Care (BDC) to help off-set the market rent for the 2 leases it holds from the Council. The Council currently provides this grant by foregoing part of the rent. If, after the transfer, Brixham Town Council requires BDC to pay the full market rent then BDC may expect Torbay Council to carry on paying the grant. In this case Torbay Council would not be in a position to forego rent (as it will not be entitled to receive it) but would have to pay them a grant. A revenue budget for this payment would need to be found.

A4.5 There may be Stamp Duty Land Tax on the value of the asset but this would be a cost to the Town Council.

A4.6 It is not proposed that any of the TDA's Facilities Management staff are transferred to the Town Council so there are no human resource implications.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

A5.1 It is not considered that the proposal will have an impact on equalities or crime and disorder.

A5.2 The intention is that the Town Council becomes responsible for the repair and maintenance of the asset following the transfer.

A6. Consultation and Customer Focus

A6.1 The Brixham Community Partnership is aware of the proposal and was of the view that the Town Council should lead on the public consultation. Brixham Town Council sent all households in Brixham a questionnaire on the issue of the Town Council taking over the Town Hall with 61% being in favour with the same percentage being in favour of increasing the precept if it was found to be required in order to fund the running of the Town Hall.

It is understood, however, that the response to the questionnaire was low with a return rate of only 0.3%.

A6.2 The Town Council has also discussed this in public sessions at meetings with the idea being generally supported. This matter was also discussed at the Town Council meeting on 11 August and it was proposed and resolved to accept the transfer of the Town Hall from Torbay Council to Brixham Town Council.

A6.3 The tenants, Brixham Art & Theatre Society (BATS) and the organiser of the markets in the Scala Hall were contacted and invited to comment on the proposal by 01 September. The letters stated that, if they did not respond by then it would be assumed that they did not have any comments to make. No correspondence was received by this date.

An email has subsequently been received from BATS. This email was forwarded to BTC for its comments. The email and response has been replicated in Appendix 5 of this report. Further comments by Officers have also been included.

A7. Are there any implications for other Business Units?

A7.1 Library staff have the use of car parking spaces to the rear of the library. The transfer documentation will need to protect their ability to use these spaces, together with access rights for delivery vehicles.

A7.2 The Facilities Management and the Asset Management teams within the TDA manage the building on behalf of Torbay Council and the Town Council will need to decide whether to commission these services from the TDA. It is understood that the Town Council have indicated that it intends to commission the Facilities

Management service from the TDA for a 5-year period. The Town Council has confirmed that it is content for this time period to be included as a stipulation in the transfer.

A7.3 If the Town Council commissions services from an external organisation other than the TDA then, depending upon the values involved, it will probably need to undertake some form of quote / procurement exercise. This, however, is for the Town Council to consider.

Appendices

- Appendix 1 - Plan showing the extent of land to be transferred.
- Appendix 2 - Summary of the Costed Condition Survey
- Appendix 3 - Regional Development Agency Agreement Plan
- Appendix 4 - Income from leases and hiring of Scala Hall / Theatre
- Appendix 5 - Response from BATS and Comments by Brixham Town Council & Torbay Council

Documents available in members' rooms

None

Background Papers:

The following documents/files were used to compile this report: B0139