

## Record of Decisions

### Covenant protecting Churston Golf Club from development

#### Decision Taker

Mayor on 22 October 2015

#### Decision

- (i) That further to the Decision of the Mayor taken on 4 December 2014, in accordance with the correspondence from the Department for Communities and Local Government dated 2 September 2015, and in consideration of the position of the Churston, Galmpton and Broadsands Community Partnership dated 6 October 2015, the General Disposal Consent Order 2003 shall be applied to the disposal (by way of a restrictive covenant), of the land comprising of Churston Golf Club. Thereby meaning that the specific consent of the Secretary of State is not required.

#### Reason for the Decision

To allow the decision of 4 December 2014 in respect of the Covenant to proceed.

#### Implementation

This decision to apply the General Disposal Consent (GDC) 2003 will take effect at the end of the call in period.

#### Information

At the time of the Decisions of the Mayor in September and December 2014, it was believed that in order to progress the disposal of land at Churston Golf Club, by way of a restrictive covenant, in order to comply with s.123 Local Government Act 1972, the specific consent of the Secretary of State was required.

However advice received from DCLG in their letter of 2 September 2015 indicated that the General Disposal Consent (GDC) Order 2003, could be applied. Thereby meaning that specific consent was not required. The letter from DCLG stated;

*“On the basis of the information provided to date, and as the covenant effectively empowers local residents to participate in decision-making concerning any future proposed development of the land, it appears to us arguable that such a covenant does promote local residents’ social, environmental and economic interests as required by the GDC 2003. In this regard it seems to us that local residents are themselves most likely to value their own social, economic and environmental interests when considering any future development proposed on the land.*

*It also appears to us that the proposed restrictive covenant is intended to ensure greater protection for local residents against unwelcome development of the land, and therefore may arguably promote their social, environmental and economic interests as required by the GDC 2003 because the covenant is against the freehold. In contrast, without the restrictive covenant, the Golf Club holds only a lease which it appears may be capable of being broken by the Council. The interests of residents may therefore be better protected by the proposed restrictive covenant than they are at present.*

*Finally, I refer to the Mayor's rationale for his decision to grant the covenant: (...decisions on development of this land in the future should not be in the hands of one person (i.e. the Mayor...), but it should be for the majority of the ward to decide upon. The Mayor believes that this is the principle of localism at its best.)*

*You may also wish to consider whether this rationale, which informs the decision to enter into the covenant, may also be consistent with the aim of promoting the well-being of residents as articulated in the GDC 2003.*

The Churston, Galmpton and Broadsands Community Partnership have provided a letter dated 6 October 2015 providing their perspective of why the GDC should be applied.

### **Alternative Options considered and rejected at the time of the decision**

Alternative options were not considered.

### **Is this a Key Decision?**

Yes – Reference Number: I020921

### **Does the call-in procedure apply?**

Yes – in respect of the decision to apply the General Disposal Consent (GDC) 2003 only. This element of the decision will come into force and may be implemented on 30 October 2015 unless the call-in procedure is triggered (as set out in Standard Orders in relation to Overview and Scrutiny).

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

No

### **Published**

22 October 2015

Signed: \_\_\_\_\_  
Mayor of Torbay

Date: 22 October 2015