

Interim report from Elected Mayor Oliver

Issued in response to the Monitoring Officer Report dated 3 July 2017

1. Introduction

1.1 On 27 June the Elected Mayor took the following decision

“That following receipt of a valuation from the District Valuer dated 17 May 2017 which at paragraph 11 confirms that a 10 year covenant would not have an effect on the value of the Council’s property interest in land comprising Churston Golf Course the Council enters into a deed covenanting with the residents of Churston & Galmpton ward in the following terms:-

‘Torbay Council covenants with all inhabitants of the ward of Churston and Galmpton that for a period of **10 years** beginning on the date of this deed it will not on the land, shown edged in red on the plan attached to the submitted report to the Council meeting on 25 September 2014, known to be Churston Golf Course, allow any development of Churston Golf Course without any such proposal first obtaining the majority of votes in a referendum of the persons who at the day of the referendum would be entitled to vote as electors at an election of Councillors for the Churston and Galmpton Ward and are registered as local government electors at an address within this Ward. For the purposes of this covenant ‘development’ shall not include any development permitted under the terms of the lease between The Council of the Borough of Torbay and Churston Golf Club Limited dated 3 April 2003. Nothing contained or implied in this Deed shall prejudice or affect the exercise by the Council of its regulatory functions under the Town and Country Planning Act 1990 or any other statute or statutory instrument.’

In accordance with the Local Government Act 1972, the Mayor on behalf of the Council has all necessary information to make this Covenant. The covenant will then be appropriately registered with the Land Registry with immediate effect

1.2 In my opinion, as the former Managing Partner of a firm of Chartered Surveyors and Property Valuers based in Torbay, this 17th May advice from the District Valuer was clear and unambiguous. It was on the basis of this I made my decision.

1.3 After having made my decision I was presented with new information from the District Valuer dated 29 June 2017 and a Monitoring Officer Report dated

3 July 2017.

1.4 The constitution as at 21 June 2017 states on page 393:

5. Consideration of Monitoring Officer Reports

5.1 The Executive or Council (as appropriate) must consider a Monitoring Officer Report within 21 days of copies being first sent to the elected Mayor and all members. The Executive or Council (as appropriate) are also under a duty to ensure that no step is taken to give effect to any proposal or decision to which such a report relates until the end of the first business day after the day on which consideration of the report is concluded. The Executive and Council's responsibilities under this paragraph may not be delegated.

5.2 As soon as practicable after the Executive has concluded its consideration of a Monitoring Officer Report, the Executive must prepare a report and send a copy to every member of the Council and to the Monitoring Officer. This report must specify what action (if any) the Executive has taken in response to the Monitoring Officer Report; what action (if any) it proposes to take (and when); and the Executive's reasons for taking (or not taking) action. (There is no equivalent obligation upon the Council to prepare a report in response to a Monitoring Officer Report.)

2. Mayor's interim response

2.1 In accordance with this draft of the constitution and as announced at the meeting on 24 June, the Mayor and the Executive begun considering the Monitoring Officer Report within the 21 day period. However we have not yet been able to conclude our consideration of the report for the reason below.

2.3 I have determined I require independent advice. It is for this reason I have requested certain facts from the Monitoring Officer. The Monitoring Officer has not yet been able to respond to me, therefore I am not in a position to respond to the Monitoring Officer

Signed:  Date: 2 August 2017
Elected Mayor of Torbay