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Date: Tuesday, 29 April 2025

Governance Support
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Torquay
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Dear Member

OVERVIEW AND SCRUTINY BOARD - WEDNESDAY, 7 MAY 2025

I am now able to enclose, for consideration at the Wednesday, 7 May 2025 meeting of the Overview and Scrutiny Board, the following reports that were unavailable when the agenda was printed.

Agenda No	Item	Page
4.	Urgent Items Call-in of Cabinet Decision on Brokenbury Solar Farm	(Pages 3 - 22)

Yours sincerely

Governance Support
Clerk

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Call-In of Cabinet's Decision on Brokenbury Solar Farm

Reasons for Call-In:

1. to request fully detailed business cases for both options, including detailed analysis of the risks referred to in the report;
2. to provide the detailed risk analysis and subsequent details of any mitigations that may have been recommended, including resilience/contingency planning, service level agreements with equipment suppliers and any other mitigations;
3. to ask the Cabinet to reconsider their decision to not have a community dividend for this solar farm project in contrast to the proposed solar farm in Torquay;
4. to provide details of the income/expenditure for each of the 30 years for both the Council built scheme and the Cabinet's preferred lease option;
5. to ask the Cabinet to provide in more detail why they feel the Council should not be involved in building a solar farm and to evidence the comments by Cabinet members that the council lacks the skills for major projects; and
6. to ask the Cabinet why both options for the solar farm were not included in the report to Cabinet.

Process and Options Available for Call-In:

7. The call-in promoter will present their reasons for call-in as set out in the submitted paper.
8. The Cabinet Member(s) will provide a verbal response to the issues raised.
9. The Overview and Scrutiny Board will discuss the issues raised and then has the following options available:
 - A. **Take no further action.** The original decision will take effect from the date of the meeting of the committee.
 - B. **Refer the decision back to the decision maker for reconsideration, setting out in writing the nature of the committee's concerns.** Within a further ten working days, the decision maker will resolve to either:
 - (i) confirm the decision without modification; or
 - (ii) confirm the decision with modification; or
 - (iii) rescind the decision.

If the decision maker does none of the above within ten working days, the decision shall be deemed to have been rescinded.

C. **In exceptional circumstances, refer the matter to the Council for scrutiny, giving reasons for why the matter is being referred to Council.** Upon such request, the proper officer shall arrange a meeting of the Council within 20 working days (excluding the day of receipt or the day of the meeting) or as soon thereafter, as is reasonably practicable, unless:

- (i) a normal Council meeting is scheduled within 30 working days (excluding the day of receipt or the day of the meeting) in which case the matter shall be referred to that meeting; or
- (ii) if a normal Council meeting is not scheduled within 30 working days and the decision-maker confirms to the proper officer that he/she is content for the matter to be referred to the next normal Council meeting.

At the Council meeting, if the Council does not object to the decision, no further action is necessary and the decision will be effective from the date of the Council meeting.

Provided the decision has been made in accordance with the Policy Framework and the Budget, the Council has no power to amend the decision but may refer any decision to which it objects back to the decision maker together with the Council's views on that decision and the Subsequent Action referred to in Option B shall apply.

Proposer: Councillor Long
Seconder: Councillor Cowell

The notice was also signed by Councillors Steve Darling, Law and Penny

Appendices:

Appendix 1 – Report to Cabinet
Appendix 2 – Cabinet Record of Decision

Meeting: Cabinet / Council

Date: 15 April 2025 / 16 May 2025

Wards affected: Churston with Galmpton

Report Title: Brokenbury Solar Farm

When does the decision need to be implemented? Upon conclusion of the Call-in period and Council meeting on 16 May 2025.

Cabinet Member Contact Details: Cllr Chris Lewis, Cabinet Member for Place Development and Economic Growth and Deputy Leader, chris.lewis@torbay.gov.uk

Director Contact Details: Malcolm Coe, Director of Finance, Malcolm.coe@torbay.gov.uk

1. Purpose of Report

- 1.1. To provide an update on the project and to recommend a change to the original delivery model. The Power Purchase Agreement (PPA) previously reported for Brokenbury Solar Farm is proposed to be replaced by an option to lease the land to Pennon (SWW is part of Pennon) for Pennon to build the solar array and maintain it thereafter.

2. Reason for Proposal and its benefits

- 2.1. The reason for the proposal is to deliver a solar farm which will reduce carbon emissions within Torbay in line with the Councils Energy and Climate Change Strategy.
- 2.2. The solar farm will provide renewable energy to a SWW water treatment plant at Galmpton. The water treatment plant serves Torbay residents.
- 2.3. By leasing its land the Council will benefit from a capital receipt at the outset equivalent to the costs incurred to date in obtaining planning consent. Furthermore, an annual market rent will be paid to the Council by Pennon in accordance with the lease terms over a maximum 40 year period.
- 2.4. Working with SWW/Pennon the Council can ensure its planning consent can be built out by Pennon by leasing its land.

3. Recommendation(s) / Proposed Decision

1. That Cabinet recommends to Council:

That the following decision of Council made on 18 July 2024 be rescinded:

‘that up to £2,750,000 of prudential borrowing be approved subject to securing a unit rate per MWh that exceeds the loan repayments, covers projected maintenance and other operational and equipment replacement costs and provides an appropriate surplus per annum over the life of the scheme commensurate with level of risk ‘.

2. That the following decision of Cabinet made on 11 June 2024 be rescinded:

‘that the Chief Executive in consultation with the Leader of the Council, Finance Director and Cabinet Member for Finance should review and agree the final business plan after the EPC tender and Power Purchase Agreement (PPA) stage are complete and subject to that agreement is then authorised to agree and finalise the detailed terms and enter into contract with South West Water (SWW) or another purchaser of the electricity.’; and

3. That subject to 2. above authority be delegated to the Director of Finance, in consultation with the Cabinet Member for Place Development and Economic Growth, to agree and finalise the detailed lease terms, in line with an independent market valuation, and enter into a long lease for the land edged red as set out in appendix 1 to the submitted report.

4. Appendices

Appendix 1: Red line Boundary Plan

Appendix 2: Lease option summary - Exempt Appendix

Appendix 3: Commercial factors – Exempt Appendix

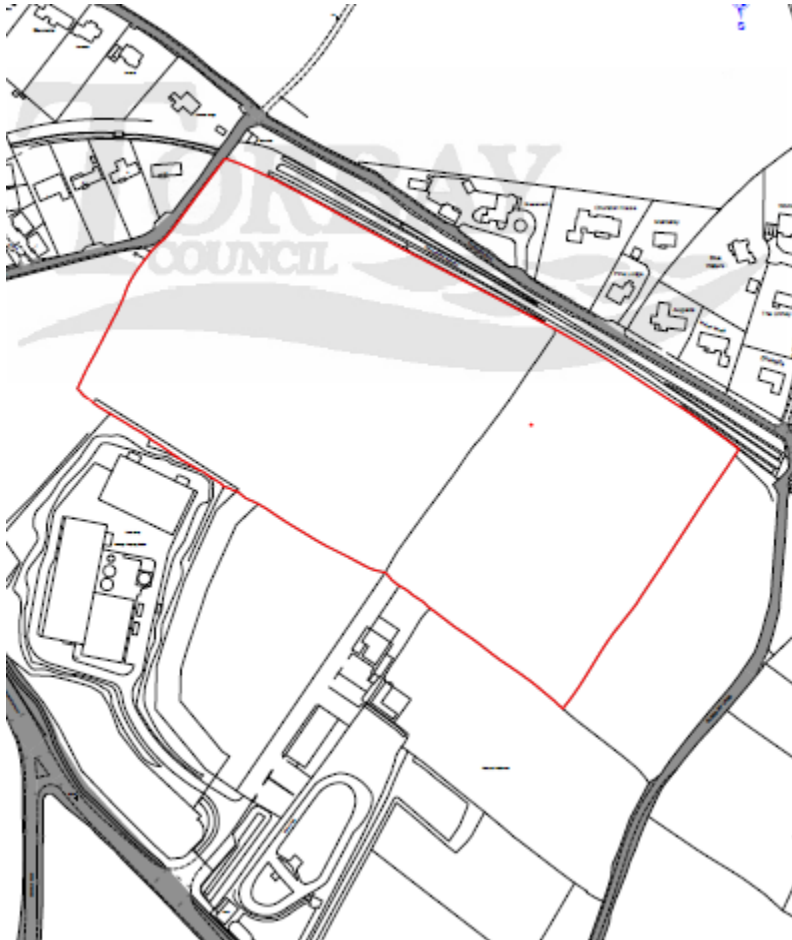
5. Background Documents

- Previous Brokenbury Solar Farm Cabinet paper 11/06/24 [Brokenbury Solar Farm Cabinet Report.pdf](#)
- Previous Record of decision Brokenbury Solar Farm 11/06/24 [Record of Decision Brokenbury Solar Farm.pdf](#)

Supporting Information

6. Introduction

- 6.1. On 11 June 2024 Cabinet approved funding for a solar farm at Brokenbury. A link to the previous report and record of decision can be found in section 5.
- 6.2 The two fields at Brokenbury (edged red below) are located off Bridge Road and to the north and east of the Southwest Water (SWW) treatment plant in Churston. The fields extend to 16.66 acres.



- 6.5 Planning consent has been obtained on 18.11.22 reference P/2021/0658. This is for a 2MWp solar farm. The consent has been granted for a 3-year time period whereby work must have started (but not completed). The below plan forms part of the planning consent and shows the location of the solar panels in blue.

- 8.2. In granting a long lease to Pennon, the tenant on completion of the lease will make a capital contribution to cover the Council's costs incurred to date associated with obtaining planning consent. Furthermore, the Council will receive an annual market rent for the duration of the lease term. The lease terms will restrict use of the land in alignment with the existing planning consent referred to above unless approved by the Council.
- 8.3. At present the Council's maintenance costs for the land are minimal. In granting a long lease to Pennon all such maintenance liabilities will be passed to the tenant.

9. Legal Implications

- 9.1. A long lease is to be granted to Pennon, providing the tenant with the ability to build out the scheme in accordance with the existing planning consent referred to above. Each party will need to bear its own legal costs associated with the transaction.

10. Engagement and Consultation

- 10.1. Public consultation for the project has been carried out in line with the usual planning application process.
- 10.2. The key stakeholder and end user of the renewable energy has been closely engaged with during the strategic work up of the project, which is ongoing.
- 10.3. A comms plans will be produced by Torbay Council comms team if the lease option is pursued. This will likely include local news and social media platforms.

11. Procurement Implications

- 11.1. None.

12. Protecting our naturally inspiring Bay and tackling Climate Change

- 12.1. On 24 June 2019, Torbay Council declared a 'Climate Emergency'. Torbay Council is a partner of and supports the work of the Devon Climate Emergency Response Group, which is aiming to produce a collaborative Devon-wide response to the climate emergency to achieve net zero carbon emissions by 2050 and prepare Devon for the necessary adaptation to infrastructure and services required to respond to climate change.
- 12.2. Torbay Council's current Energy and Climate Change Strategy describes how the Council will help minimize the economic, social and environmental costs of climate change by demonstrating leadership and providing encouragement in working toward emission reductions and resilience to our changing climate.
- 12.3. The UK government also has a net zero strategy "Build Back Greener". This strategy sets out policies and proposals for decarbonising all sectors of the UK economy to meet Central Governments net zero target by 2050. Renewable energy including solar power forms part of this strategy.

- 12.4. The proposed solar farm would allow the end user to use sustainable electricity generated on Torbay Council owned land to power the end users site. The identified end users' site being SWW's Brokenbury Water Treatment Works serves residents throughout Torbay. Delivery of the solar farm would be a positive step towards meeting the targets set out in the Climate Change Strategy.

The objective is to provide a 2MWP solar farm to generate renewable energy over a 25-year period which will:

Contribute to Torbay's net zero target by reducing our carbon footprint by 458.75 tonnes of CO₂ a year or 13,762.5 tonnes of CO₂ over a 30-year period and 18,350 tonnes of CO₂ over a 40 year period. These figures are approximate based on average sunlight.

13. Associated Risks

- 13.1 The detailed lease terms are not yet agreed and as such there is a risk that terms cannot be agreed.

14. Equality Impact Assessment

Protected characteristics under the Equality Act and groups with increased vulnerability	Data and insight	Equality considerations (including any adverse impacts)	Mitigation activities	Responsible department and timeframe for implementing mitigation activities
Age	18 per cent of Torbay residents are under 18 years old. 55 per cent of Torbay residents are aged between 18 to 64 years old. 27 per cent of Torbay residents are aged 65 and older.	no differential impact		
Carers	At the time of the 2021 census there were 14,900 unpaid carers in Torbay. 5,185 of these provided 50 hours or more of care.	no differential impact		
Disability	In the 2021 Census, 23.8% of Torbay residents answered that their day-to-day activities were limited a little or a lot by	no differential impact		

	a physical or mental health condition or illness.			
Gender reassignment	In the 2021 Census, 0.4% of Torbay's community answered that their gender identity was not the same as their sex registered at birth. This proportion is similar to the Southwest and is lower than England.	no differential impact		
Marriage and civil partnership	Of those Torbay residents aged 16 and over at the time of 2021 Census, 44.2% of people were married or in a registered civil partnership.	no differential impact		
Pregnancy and maternity	Over the period 2010 to 2021, the rate of live births (as a proportion of females aged 15 to 44) has been slightly but significantly higher in Torbay (average of 63.7 per 1,000) than England (60.2) and the South West (58.4). There has been a notable fall in the numbers of live births since the middle of the last decade across all geographical areas.	no differential impact		
Race	In the 2021 Census, 96.1% of Torbay residents described	no differential impact		

	<p>their ethnicity as white. This is a higher proportion than the South West and England. Black, Asian and minority ethnic individuals are more likely to live in areas of Torbay classified as being amongst the 20% most deprived areas in England.</p>			
Religion and belief	<p>64.8% of Torbay residents who stated that they have a religion in the 2021 census.</p>	no differential impact		
Sex	<p>51.3% of Torbay's population are female and 48.7% are male</p>	no differential impact		
Sexual orientation	<p>In the 2021 Census, 3.4% of those in Torbay aged over 16 identified their sexuality as either Lesbian, Gay, Bisexual or, used another term to describe their sexual orientation.</p>	no differential impact		
Armed Forces Community	<p>In 2021, 3.8% of residents in England reported that they had previously served in the UK armed forces. In Torbay, 5.9 per cent of the population have previously served in the UK armed forces.</p>	no differential impact		

Additional considerations				
Socio-economic impacts (Including impacts on child poverty and deprivation)		no differential impact		
Public Health impacts (Including impacts on the general health of the population of Torbay)		Clean energy will prevent the use of fossil fuel alternative and help to sustain a cleaner atmosphere and environment for all in the local area.		
Human Rights impacts		no differential impact		
Child Friendly	Torbay Council is a Child Friendly Council, and all staff and Councillors are Corporate Parents and have a responsibility towards cared for and care experienced children and young people.	no differential impact		

15. Cumulative Council Impact

15.1. None

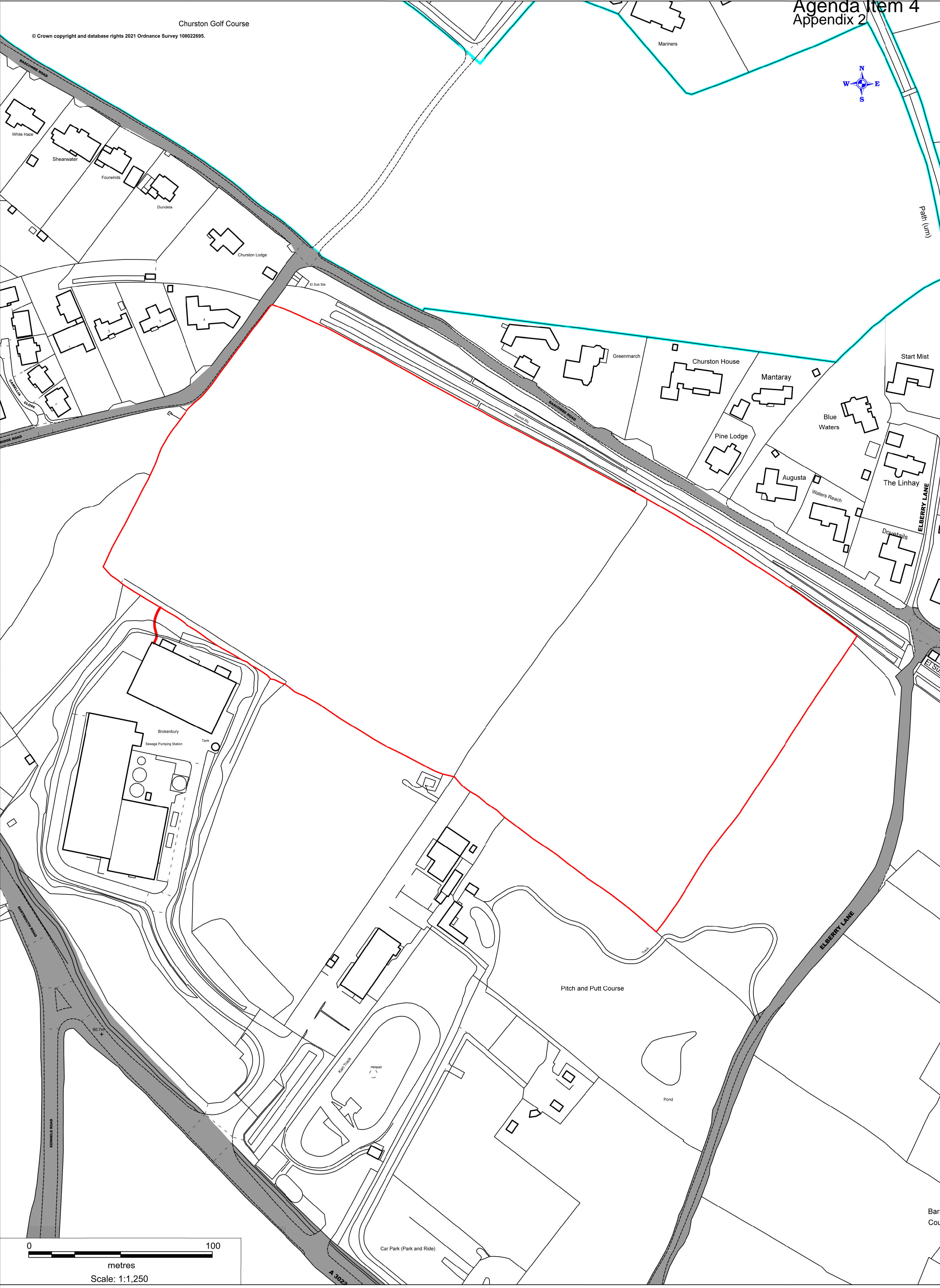
16. Cumulative Community Impacts

16.1. None

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Churston Golf Course

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