



Appendix 1 to Report OSB/4/11

Minutes of the Overview and Scrutiny Board

17 February 2011

-: Present :-

Councillor Thomas (J) (Chairman)

Councillors Amil, Baldrey, Carter (C), Excell, McPhail, Parrott, Pentney, and Richards

(Also in attendance: Councillors Addis, Bent, Carter (R), Lewis, Mills, Morey, Oliver, Stringer, and Tolchard)

537. Apologies

Apologies for absence were received from Leon Butler and Alyson Sheldrake.

538. Committee Membership

It was reported that, in accordance with the wishes of the Conservative and Liberal Democrat Groups, the membership of the Board had been amended for this meeting by including Councillors Amil and Carter (C) instead of Councillors Manning and Darling respectively.

539. Call-in – Churston Golf Club Proposals

The Board considered Reports 34/2011, 35/2011, and 11/2011 in relation to Churston Golf Club proposals. The Board was advised of the details of a call-in by eight Members of the Council of the decision by the Mayor to grant a variation to the lease of Churston Golf Club.

The Call-in Promoter, Councillor Baldrey, set out the reasons for calling-in the decision and six of the Call-in Supporters also addressed the Board about their concerns regarding the decision. Councillors present spoke in favour and against the decision of the Mayor.

The Board heard representations from members of the public who were opposed to the decision of the Mayor and from members of the public who supported the Mayor's decision.

The Board considered the concerns raised against the Mayor's decision: including local community opposition to the project; that the proposal unduly favoured the Golf Club; that the Golf Club did not face imminent financial failure; public consultation had not occurred; the potential role of the Mayor in talks to achieve compromise; the cross-party nature of the call-in; the suggestion that the Golf Club would be built on if the variation in lease was not granted was erroneous; the proposed variation in lease would hinder a compromise solution; forthcoming proposals in the Localism Bill would be relevant to

such matters; due statutory process and the risk of judicial review; the Mayor's possible personal prejudicial interest in the matter; the effects of the proposals on the Churston/Brixham peninsula; the likelihood of affordable housing resulting from the development; the strength of restrictive user clauses within the lease granted to Churston Golf Club; and the value of the Mayor obtaining further legal advice on the lease.

The Board considered the issues raised in favour of the Mayor's decision: including the importance of the Golf Club to the Bay and the financial benefit to the Club of the Mayor's decision; the Mayor's decision as separate to planning issues; the importance of consulting the local community wider than Churston; the likely benefit to the Bay of enhanced golf facilities; the financial viability of proposed alternatives; the benefit to Council services of the Mayor's decision; the building on the golf course that would follow the financial failure of the Golf Club; and the need for housing within Torbay.

The Mayor responded to the points raised by the Call-in Promoter and Supporters, the Members of the Board, Councillors present, and the representations from members of the public: including that the benefits to the Council and to the Bay's residents of the decision he had made outweighed any disadvantages; the best way to preserve the land of Churston Golf Club was to grant the variation in lease; the variation to the lease could facilitate compromise solutions; the land the Golf Club held could be at risk of development if the Club failed and the Club could in the future apply to the Land Tribunal [Upper Tribunal (Lands Chamber)] to vary the restrictions on use; that the planning considerations such as highway access or the relocation of the Golf Club clubhouse were for the development management committee to determine after a planning application was made; the inappropriateness of specific compromise solutions proposed; the affordable housing contributed by the proposed development either on-site or off-site; the near-unanimous support of Cabinet colleagues for his decision; the likelihood that if the Golf Club failed financially then a developer would bid more for the lease than another golf club; the low response rate to the survey of Churston residents that had indicated opposition to the development; the representation he had received in favour of the development; the consequences of granting the lease to the Golf Club in 2003; Councillors' tendencies to compromise, defer, or debate decisions that needed to be taken; and the value of advice he had received from Council officers relative to that offered by Board members and other Councillors.

Resolved:

That the issue be referred to the Council for consideration for the following reasons:

The Overview and Scrutiny Board recommends the Mayor consider making a decision based on the points outlined in Report 34/2011. The Overview and Scrutiny Board recommends all parties concerned are contacted to reach a compromise decision.

(Note: In accordance with Standing Order A19.5, Councillor Parrott requested his vote against be recorded.)

Chairman
