

OVERVIEW AND SCRUTINY BOARD

A meeting of **Overview and Scrutiny Board** will be held on

Wednesday, 4 November 2015

commencing at **10.30 am**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,
Torquay, TQ1 3DR

Members of the Board

Councillor Lewis (Chairman)

Councillor Barnby
Councillor Bent
Councillor Bye
Councillor Darling (S)

Councillor Stockman
Councillor Stocks
Councillor Tolchard
Councillor Tyerman

Co-opted Members of the Board

Penny Burnside, Diocese of Exeter

Working for a healthy, prosperous and happy Bay

For information relating to this meeting or to request a copy in another format or language please contact:

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OVERVIEW AND SCRUTINY BOARD AGENDA

1. **Apologies**

To receive apologies for absence, including notifications of any changes to the membership of the Committee.

2. **Declarations of Interest**

- a) To receive declarations of non pecuniary interests in respect of items on this agenda

For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

- b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda

For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(Please Note: If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

3. **Urgent Items**

To consider any other items that the Chairman decides are urgent.

4. **Churston Covenant - Application of the General Disposal Consent Order 2003**

(Pages 3 - 5)

The above decision was called-in by Councillors Lewis, Darling, Barnby, Tyerman and Bent on 26 October 2015.

The reasons for the call-in are attached together with the Record of Decision.

Call-in Reasons – Churston Covenant – Application of General Disposal Consent Order 2003

1. The General Disposal Consent Order 2003 states that “where applicable, authorities should have regard to the community strategy”. The Record of Decision does not state how regard has been had to any community strategy.
2. When last considering the proposed covenant, members were informed that the General Disposal Consent Order could only be relied upon “if the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2 million”. No information is provided within the Record of Decision on the valuation that has taken place.
3. The General Disposal Consent Order requires that before the making of the covenant, the Council’s intention to do so should be advertised in a local newspaper for two consecutive weeks and any objections needed to be duly considered. It is understood that this advertisement was placed in December 2014.
 - a. No reference to the response to this consultation is included in the Record of Decision.
 - b. Between that advertisement being placed and the Record of Decision being published, the Inspector’s Final Report on the Examination into the Torbay Local Plan has been published. This included that (amongst other things) Churston Golf Club should be added to the list of possible housing sites for the medium/long term.

This may impact on the views which people may wish to express in response to the advertisement.

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