



Policy Development and Decision Group (Joint Operations Team)

24 July 2017

-: Present :-

Mayor Oliver, Councillors Amil, Excell, Haddock, King, Mills and Parrott

(Also in attendance: Councillors Barnby, Brooks, Ellery, Manning, Morey, Stubbley and Tyerman)

9. Appointment of Vice-Chairman

Councillor King was appointed as Vice-Chairman for the remainder of the 2017/18 Municipal Year.

10. Minutes

The minutes of the Policy Development and Decision Group (Joint Operation Team) held on 18 May 2017 were confirmed as a correct record and signed by the Chairman.

11. Article 4 Direction for Houses in Multiple Occupation

The Group considered a report which sought to agree whether to progress an Article 4 Direction which would remove permitted development rights from properties which allow change of use from Use Class C3 Dwelling to C4 House in Multiple Occupation (HMO) (for between 3-6 persons) across Torbay.

The Policy Development and Decision Group (Joint Operations Team) made the following recommendations to the Mayor:

- (i) that Spatial Planning and Community Services undertake to investigate any further potential to align Housing Licensing and Development Management processes to ensure that full opportunity for early intervention regarding breaches of existing planning and/or licensing requirements with regards to HMOs is undertaken; and
- (ii) that Spatial Planning prepares a report and further develops a case for Council to make a decision on whether to prepare an Article 4 Direction which would have the effect of removing permitted development rights to change dwellings to small houses in multiple occupation (Class C3 Dwellings to C4 Small Houses of Multiple Occupation), without the need for express planning permission. That 6 months notice is given prior to the Article 4 Direction taking effect.

The Mayor considered the recommendations of the Policy Development and Decision Group (Joint Operations Team) set out above at the meeting and his decision, together with further information is attached to these Minutes.

12. Mayor's response to the Section 5 report issued by the Monitoring Officer

The Mayor considered the Section 5 report issued by the Monitoring Officer. The Mayor's response is attached to these minutes.

Chairman

Record of Decisions

Article 4 Direction for Houses in Multiple Occupation

Decision Taker

The Mayor on 24 July 2017

Decision

- (i) That Spatial Planning and Community Services undertake to investigate any further potential to align Housing Licensing and Development Management processes to ensure that full opportunity for early intervention regarding breaches of existing planning and/or licensing requirements with regards to HMOs is undertaken; and
- (ii) that Spatial Planning prepares a report and further develops a case for Council to make a decision on whether to prepare an Article 4 Direction which would have the effect of removing permitted development rights to change dwellings to small houses in multiple occupation (Class C3 Dwellings to C4 Small Houses of Multiple Occupation), without the need for express planning permission. That 6 months notice is given prior to the Article 4 Direction taking effect.

Reason for the Decision

Members had raised concerns regarding the proliferation and management of HMOs in Torbay and were keen to investigate further ways that the problems associated with HMOs could be better managed.

Implementation

The decision will come into force and may be implemented on Wednesday, 9 August 2017 unless the call-in process is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

Information

This proposal had been developed for further discussion at Policy Development and Decision Group before being considered at Council. An Article 4 Direction would remove permitted development rights from properties which allow change of use from Use Class C3 Dwelling to C4 House in Multiple Occupation (HMO) (for between 3-6 persons) across Torbay.

The potential benefits of managing small HMOs may lead to better realising the achievement of mixed and balanced communities and better amenity for residents in Torbay (helping to achieve a Prosperous and Healthy Torbay).

Alternative Options considered and rejected at the time of the decision

Not to proceed with an Article 4 Direction.

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

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

None

Published

1 August 2017

Signed: _____
Mayor of Torbay

Date: _____

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 as presented with new information from the District Valuer dated 29 June 2017 and a Monitoring Officer Report dated

- 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