

## Record of Decisions

### Petition requesting a covenant protecting Churston Golf Course from development

#### Decision Taker

Mayor on 27 June 2017

#### 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 of the value of the Council's property interest in land comprising Churston Golf Course the Council enters into a deed of 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

#### Reason for the Decision

To implement the Mayor's Decision of 4 December 2014.

#### Implementation

This decision will come into force and may be implemented on 12 July 2017 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

#### Information

At the Council meeting held on 4 December 2014 the Mayor decided to make a 100 year covenant.

At that stage the Mayor's legal advice was that he was required to specifically refer the disposal to the Secretary of State. This he did, but the Secretary of State subsequently confirmed the Mayor was entitled to use the General Disposal Consent and no such referral was in fact required.

The Mayor's legal advice was then to use the General Disposal Consent. This he did, but on the day satisfactory information was provided to the Mayor to allow him to rely on said consent the Council amended its constitution removing the Mayor's ability to implement the decision.

The Mayor continues to be able to make decisions on covenants where there is no value impact. The Mayor has been advised by the District Valuer that a 10 year covenant will not have a value impact. Accordingly, the Mayor has made a 10 year covenant.

The Mayor's decision is set out above.

### **Alternative Options considered and rejected at the time of the decision**

Alternatives were considered.

One alternative considered was that the Mayor should move away from the clear commitment he has at all times made to the residents of Churston and Galampton and deny them a covenant. The Mayor does not prefer this option particularly when other covenants have recently been made for the people of Torquay in relation to Windmill Hill.

Another alternative considered was to revisit the previous circumstances which prevented the original 100 year covenant being implemented. The Mayor does not prefer this option either. On balance and having considered all the options the Mayor has determined a 10 year covenant is in the interest of Torbay as a whole.

### **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**

3 July 2017

Signed: \_\_\_\_\_  
Mayor of Torbay

Date: 27 June 2017