



**Meeting:** Council

**Date:** 4 December 2014

**Wards Affected:** All wards

**Report Title:** Petition regarding Churston Golf Course – further advice following Local Plan Hearing

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## **1. Purpose and Introduction**

- 1.1 The purpose of this brief report is to provide Members with further advice on the impact of the petition regarding Churston Golf Course on the Council's 5 year supply of housing land and on the new Local Plan. This report has been informed by the Hearing, conducted by the Local Plan Inspector, on the new Local Plan between 18<sup>th</sup> – 20<sup>th</sup> November.
- 1.2 This report updates Members on the advice provided to Council on 25 September 2014. It suggests a number of actions required to ensure the Plan remains sound, robust and deliverable, should the proposed Covenant be agreed by the Mayor.
- 1.3 Officers do not now believe the loss of the 1<sup>st</sup> & 18<sup>th</sup> site, Churston Golf Course will, in itself, render the Local Plan unsound. However, in order to maintain this position the Council will need to identify additional land to add to the Local Plan to help meet Torbay's housing needs and further advice must be provided to show that the Churston covenant will not set a precedent for other covenants on Council owned land included in the Local Plan. This opinion is based on further significant work and information, including advice from the Inspector, since the Council meeting on 25 September.

## **2. Proposed Decision**

- 2.1 That the report is noted and, if the Churston Covenant is agreed, the Council agree the actions detailed in paragraphs 4.2.1 – 4.2.4 of this report.
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## Supporting Information

### 4. Position

- 4.1 The Local Plan Inspector received advice, on the opening day of the Hearing, from Bloors' legal representative, that agreement by the Mayor to the Covenant will not allow the Inspector to consider the Local Plan as a sound Plan. If the Inspector accepts that advice, and the Plan is not found sound, there will, in officers' opinion, be considerable delays (probably 9 - 12 months) and costs whilst the Plan is redrafted, resubmitted and re-examined. The Inspector was also advised by Bloors' barrister that, should he find the Plan sound, there is likely to be a legal challenge from Bloors to that decision. Even if that challenge is unsuccessful, the process itself will result in considerable delays to the production of a new Local Plan. In the meantime the Bay would be without an up to date Local Plan, with significant consequences for investment, quality and location of new development.
- 4.2 With that (and other issues) in mind, the Inspector has set out further work for the Council to undertake on the Local Plan. The first of these additional pieces of work relates to the Churston Covenant. The Inspector's advice to the Council is that, if the Mayor confirms his support for the Covenant, the Council will need to modify the Local Plan. The Inspector was evidently also concerned about the issue of precedent (i.e. on other Council owned land included within the Local Plan) and market confidence. Whilst the Inspector was not explicit about the actions the Council needs to take, it is officers' view that a number of actions must be undertaken to maintain the robustness and soundness of the Local Plan, namely:
- 4.2.1 An additional site(s) needs to be added to the Council's 5 year housing land supply, as the 1<sup>st</sup> & 18<sup>th</sup> at Churston Golf Course (132 homes) will need to be removed from the list of 5 year supply sites. The additional site may be Wall Park (165 homes), subject to the completion of a S106 Agreement. However, as Wall Park is a site already identified in the Local Plan, a further action is needed.
- 4.2.2 Another site(s), not yet identified in the Local Plan, will need to be added to the Local Plan to help demonstrate that the Council is trying to meet its objectively assessed housing need over the Plan period, as required by the National Planning Policy Framework. This is very much as predicted in the previous report to Council (Sept 2014) and subsequent advice to Overview & Scrutiny Board meetings. A list of possible sites was provided to the Sept 2014 Council meeting. That list was refined and presented to the Local Plan Hearing, in response to a clear request from the Inspector for the Council to show what land could come forward, should the Inspector ask for an increase in the number of new homes currently promoted in the Local Plan. That refined list is included as Appendix 1 to this report, which carefully explains why these sites represent development beyond the Bay's environmental capacity.
- 4.2.3 The need to identify an additional / new site to the Local Plan would trigger the need for a refreshed Sustainability Appraisal and Habitats Regulation Assessment. This will require quite significant work before Xmas 2014.
- 4.2.4 Finally, the Council also needs to provide robust advice to the Inspector that the Churston Covenant does not set a precedent for similar covenants on other Council owned land /sites which support delivery of the Local Plan.

- 4.3 These actions would need to be completed well before Christmas 2014, in order to provide comfort to the Inspector and allow him to issue a letter to the Council before Christmas on the next steps for the Local Plan. In that letter, the Inspector will also confirm Torbay's objectively assessed housing need (i.e. the number of homes he believes the Local Plan should be providing).
- 4.4 In the report to Council on 25 September 2014 officers advised that, if the covenant was put in place (and Churston Golf Course (1st & 18th) removed from the Council's 5 year housing land supply) the Local Plan would be unsound. Since then a significant amount of additional work has been done on this issue, the Local Plan Hearing has been completed and, as reported above, the Local Plan Inspector has provided comment. In the light of this additional work and information, officers no longer believe that loss of the 1st & 18th site would, in itself, render the Local Plan unsound. However, the actions outlined above would need to be completed - if the Covenant is agreed - in order to ensure that remains the case. In particular the Council will need to identify additional land to add to the Local Plan to help meet Torbay's housing needs and further advice must be provided to show that the covenant will not set a precedent for other covenants on Council owned land included in the Local Plan.

## **5. Possibilities and Options**

- 5.1 Appendix 1 of this report includes headline analysis of the options for further sites to be added to the Local Plan. There is a considerable amount of sustainability appraisal work to support the headline analysis. These sites were excluded from the Local Plan, because of their sensitivity in environmental terms or for other delivery reasons. Officers will, in particular, explore the potential of the first 8 sites shown in the diagram on page 3 of the appendix. It should be noted that the information in Appendix 1 has already been provided to the Inspector (see para 4.1.2 above).
- 5.2 If the Mayor does not agree the Churston Covenant officers may not need to explore the potential of these 'excluded' sites, depending also on the Inspector's decision on Torbay's objectively assessed housing need.

## **6. Equal Opportunities**

- 6.1 An Equalities Impact Assessment has been undertaken for the new Local Plan. This will be refreshed should the Churston Covenant be agreed and if the actions identified in this report need to be taken forward.

## **7. Public Services (Social Value) Act 2012**

- 7.1 The proposals do not require the procurement of services or the provision of services.

## **8. Consultation**

- 8.1 The Local Plan has been the subject of substantial public consultation. This is set out in the Council's schedule of submission documents (<http://www.torbay.gov.uk/index/yourservices/planning/strategicplanning/localplanexamination.htm>)

## **9. Risks**

- 9.1 The risks associated with approval of the Churston Covenant were set out in the report to Council (25 September 2014), which have been updated in this report, and in response to the questions asked by the Overview and Scrutiny Board (16<sup>th</sup> and 22<sup>nd</sup> October 2014).
- 9.2 There are a number of risks associated with the actions identified in the report, notably that the Council could, if the actions are not undertaken, have an unsound new Local Plan and a lack of land in its 5 year housing land supply. This would undermine efforts to secure sustainable development in the Bay.

## **Appendices**

Appendix 1: Torbay Local Plan: 'Excluded' Sites

## **Additional Information**

<http://www.torbay.gov.uk/index/yourservices/planning/strategicplanning/localplanexamination.htm>