

## **Record of Decisions**

### **Windmill Hill Covenant (Mayoral Decision)**

#### **Decision Taker**

Mayor on 26 February 2015

#### **Decision**

That the Council enters into a deed covenanting with the residents around the Windmill Hill playing fields as follows:-

“Torbay Council covenants with all inhabitants of the ward of Tormohun that for a period of 100 years beginning on the date of this deed it will not on the land shown edged red on the plan attached erect or permit the erection of any permanent structure or permit the sale and/or consumption of alcohol 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 Tormohun Ward and are registered as local government electors at an address within this Ward. For the purpose of this covenant ‘permanent structure’ shall mean any structure intended to remain on the land for a period greater than 3 months. This covenant shall not apply to the installation, construction or renewal (whether by statutory undertakers or otherwise) of any media for the supply or removal, electricity, gas, water, sewage, energy, telecommunications, data and all other services and utilities and all structures, machinery and equipment ancillary to those media/or to the installation of street furniture and sports equipment. 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.”

#### **Reason for the Decision**

To respond to a request made from representatives of the community for a covenant on Windmill Hill and to support the protection of this public open space for use for sport and recreation. The placing of a covenant on Windmill Hill will help to reduce anti-social behaviour in the area and prevent substantial permanent development on the site without first obtaining the consent of the majority of residents in the Ward.

#### **Implementation**

This decision will come into force and may be implemented on 11 March 2015 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

#### **Information**

The submitted report set out options to protect the area of Windmill Hill shown edged red on the attached plans by way of a covenant and to allow the present uses of Windmill Hill to continue as well as new uses, provided that they are supported by the community.

At the Council meeting the following recommendation to the Mayor was approved:

- (i) That Council notes paragraph 6.2 of the submitted report where Legal Services and Senior Managers recommend that the land is adequately protected and that the site is currently designated as an Urban Protected Landscape Area and that policy C2 of the Local Plan also applies:

“There will be a presumption against loss of existing recreational and leisure facilities, unless:

- (i) There is clear evidence that they are surplus to requirements, and alternative recreational / leisure uses have been sought as replacement or improved facilities in lieu of existing provision which are able to address any new deficiencies that arise, and
  - (ii) A compelling case is made for wider social and economic benefits arising from such a proposal.”;
- (ii) that Council also notes the wider Community Partnership (Hele’s Angels) has identified the site as a Local Greenspace for inclusion in the Neighbourhood Plan. This designation has the affect of ruling out development in all but very exceptional circumstances, giving it equivalent policy status to that of greenbelt protection; and
  - (iii) that given the high level of protection, the Council recommends that the Mayor takes no further action in respect of a covenant on Windmill Hill.

The Mayor considered the recommendation of the Council made on 26 February 2015 and the original proposal put forward by Councillors Excell and Amil and his decision is set out above.

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

Alternative options are set out in the submitted report.

### **Is this a Key Decision?**

Yes – Reference Number: I019066

### **Does the call-in procedure apply?**

Yes

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

Councillor Excell declared a non-pecuniary interest as a member of the Windmill Board and Councillor Faulkner (J) declared a non-pecuniary interest as Chair of the Windmill Centre.

### **Published**

3 March 2015

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

Date: 3 March 2015