

## ABERDEEN CITY COUNCIL

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<b>COMMITTEE</b>	Planning Development Management Committee
<b>DATE</b>	2 July 2020
<b>EXEMPT</b>	No
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	Review of Two-Year Waiver on Affordable Housing in the City Centre
<b>REPORT NUMBER</b>	PLA/20/100
<b>DIRECTOR</b>	Gale Beattie
<b>CHIEF OFFICER</b>	Gale Beattie
<b>REPORT AUTHOR</b>	David Berry
<b>TERMS OF REFERENCE</b>	5

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### 1. PURPOSE OF REPORT

- 1.1 This report provides an initial review of the waiver on affordable housing requirements for developments within the city centre, which has been in place since September 2018, and seeks to extend the affordable housing waiver for a period of eighteen months.

### 2. RECOMMENDATION(S)

That the Committee:-

- 2.1 Approves an eighteen-month extension to the waiver on affordable housing requirements relating to planning applications for new build housing developments and changes of use to residential use within the city centre<sup>1</sup>, such that the waiver will continue to apply for applications determined until 30<sup>th</sup> June 2022 subject to a direction applied to the grant of planning permission time limiting the duration of the relevant consent to 12 months.

### 3. BACKGROUND

#### Background to the Affordable Housing Waiver

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<sup>1</sup> As defined on the map attached at Appendix A

- 3.1 At its meeting on 20<sup>th</sup> September 2018, the Planning Development Management Committee approved the introduction of a two-year waiver on affordable housing requirements for developments within the city centre until 31<sup>st</sup> December 2020 (RES/18/178). This decision was informed by a City Centre Living Study, which was commissioned by the Council to review the potential for city centre living in Aberdeen and to provide an assessment of the scale, scope, programme and actions required to achieve this. The study recommended introducing a two-year moratorium on developer obligations and affordable housing requirements for residential developments.
- 3.2 In making its decision to approve the two-year waiver, the Committee noted that affordable housing contributions would not be sought for applications under Section 32 of the Town and Country Planning (Scotland) Act 1997 (“the Act”) for housing approved starting from the date of the Committee decision for a period up to 31<sup>st</sup> December 2020. It noted that approval in this context would mean the validation and approval of the application by the Planning Authority, any Section 75 legal agreement and the issuing of a decision notice by the Planning Authority. In order to mitigate the risk of the waiver leading to an increase in planning approvals but not housing delivery, the Committee also noted that such development would be required to commence within 12 months of the decision notice, which would be secured via a direction applied to the grant of planning permission time limiting the relevant consent. It was agreed that a report would be brought to the Committee towards the end of the two-year waiver period detailing the outcomes.
- 3.3 The planning service has previously advised that eligible applications should be submitted by 30<sup>th</sup> June 2020 in order to allow sufficient time for processing and determination before the 31<sup>st</sup> December deadline. In light of this advice and the Committee instruction, and to provide prospective applicants with clarity on the position beyond 31<sup>st</sup> December, it is considered appropriate to undertake a review of the affordable housing waiver at this stage.

### **Initial Review Findings**

- 3.4 An initial review has been undertaken of the number of planning applications submitted and approved within the city centre since the introduction of the affordable housing waiver. The review has been based on information extracted from the Council’s electronic planning system. Owing to technical limitations within the system, the initial review data may not capture every relevant application within the city centre zone. Nevertheless, it provides a useful indication of the extent to which the waiver has helped to incentivise residential development within the city centre.
- 3.5 In summary, the initial review has shown that 12 eligible applications have been submitted for residential development within the city centre since the introduction of the waiver. These applications include proposals for just over 600 housing units in total. Planning permission has been granted for 8 sites which benefit from the affordable housing waiver. These permissions enable the development of just over 450 housing units in total within the city centre. Development is noted to have commenced on 3 sites, although no housing units have been completed to date.

- 3.6 For comparison, an analysis was undertaken of the number of applications submitted for housing development within the city centre prior to the introduction of the affordable housing waiver. This has shown that only 1 application (37 units total) was submitted between January-September 2018, 2 applications (18 units total) were submitted during 2017, and 1 application (42 units total) was submitted during 2016. Based on this comparative data, it seems clear that the affordable housing waiver has led to a significant increase in the number of applications for residential development in the city centre.

### **Impact of Covid-19**

- 3.7 The lockdown period imposed as a consequence of the Covid-19 pandemic has clearly had a significant impact on the development industry. Insofar as this report is concerned, the lockdown and associated suspension of development activity is likely to have suppressed both the delivery of housing units on sites that obtained planning permission during the early part of the waiver period and the number of applications that might otherwise have been submitted for new housing development over the last few months. These factors are likely to have significantly altered the results that would otherwise have occurred and therefore make it difficult to draw firm conclusions about the outcomes of the affordable housing waiver at this stage.

### **Proposed Extension to Affordable Housing Waiver**

- 3.8 Taking into account the comments above, and as part of the Council's efforts to assist the development industry in its recovery from the impacts of the Covid-19 pandemic, it is proposed that the city centre affordable housing waiver should be extended for a period of eighteen months. This would enable applications that might otherwise have been submitted over the last few months to continue to benefit from the affordable housing waiver, as well as providing more time to review the extent to which housing units are delivered on applications that received planning permission during the early part of the waiver period.
- 3.9 It is therefore proposed that affordable housing contributions would not be sought for applications under Section 32 of the Act for new build housing development or change of use to residential use in the city centre<sup>2</sup> approved before 30<sup>th</sup> June 2022. In line with the original terms of the affordable housing waiver, approval in this context would mean the validation and approval of the application by the Planning Authority, any Section 75 legal agreement and the issuing of a decision notice by the Planning Authority. The requirement for such development to commence within 12 months of the decision notice is also proposed to be retained, and this would continue to be secured via a direction applied to the grant of planning permission time limiting the relevant consent. It should also be advised to potential applicants that eligible applications should be submitted by 31<sup>st</sup> December 2021 in order to allow sufficient time for processing and determination before the 30<sup>th</sup> June 2022 deadline. A further

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<sup>2</sup> As defined on the map attached at Appendix A

report will be brought to the Committee before the end of June 2022 to review the outcomes in more detail.

#### 4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from the recommendations of this report.

#### 5. LEGAL IMPLICATIONS

- 5.1 There is a risk that the decision to extend the waiver on affordable housing contributions for developments in the city centre may be challenged by third parties; particularly from city centre peripheral and non-city centre developments who are required to make contributions towards affordable housing. However, the risk of a successful challenge is considered to be low. This is because there is evidence that the waiver is required in the City Centre, as outlined in the City Centre Living Study, and because financial viability can be a material consideration and is detailed as a consideration in terms of the Supplementary Guidance. In addition, and in line with Supplementary Guidance: Affordable Housing, the Planning Authority shall continue to negotiate with all developers and consider the impact of viability of the development and affordable housing contributions.
- 5.2 Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 requires the Planning Authority, when determining applications for planning permission, to determine in accordance with the provisions of the development plan unless material considerations indicate otherwise. The Planning Authority will continue to determine applications in line with legislation.

#### 6. MANAGEMENT OF RISK

Category	Risk	Low (L) Medium (M) High (H)	Mitigation
<b>Strategic Risk</b>	The lack of future affordable housing contributions in the city centre is not considered a risk.	L	There is limited development and most will fail viability tests with affordable housing contributions.
<b>Compliance</b>	Legal challenge to extended waiver on developer contributions for affordable housing.	L	This has been considered and the risk of any challenge is considered low. This is because there is evidence that the waiver is required in the City Centre and because financial viability can be a material consideration and is

			detailed as a consideration in terms of the Supplementary Guidance. The Planning Authority will continue to negotiate with developers on viability as per the Supplementary Guidance on Affordable Housing.
<b>Operational</b>	None		
<b>Financial</b>	The lack of future affordable housing contributions in the city centre is not considered a risk.	L	There is limited development and most will fail viability tests with affordable housing contributions.
<b>Reputational</b>	None		
<b>Environment / Climate</b>	None		

## 7. OUTCOMES

<b><u>COUNCIL DELIVERY PLAN</u></b>	
	<b>Impact of Report</b>
<p><b>Aberdeen City Council Policy Statement</b></p> <p>Policy Statement 4 (Economy) - Increase city centre footfall through delivery of the City Centre Masterplan including the redesigned Union Terrace Gardens.</p>	<p>The proposals in this report will help to deliver CCMP objectives:</p> <ul style="list-style-type: none"> <li>• <b>Changing perceptions</b> - Promoting the view of Aberdeen city centre as an energetic, inclusive and fascinating place where people will want to live, work and visit.</li> <li>• <b>Made in Aberdeen</b> - Building on local distinctiveness and maximising local business opportunities.</li> </ul> <p>This supports inclusive economic growth.</p>
<b>Aberdeen City Local Outcome Improvement Plan</b>	
<p>Prosperous Economy Stretch Outcomes</p>	<p>The proposals in this report will help to deliver CCMP objectives:</p> <ul style="list-style-type: none"> <li>• <b>Changing perceptions</b> - Promoting the view of Aberdeen city centre as an energetic, inclusive and fascinating place where people will want to live, work and visit.</li> <li>• <b>Made in Aberdeen</b> - Building on local distinctiveness and maximising local business opportunities.</li> </ul> <p><b>This supports inclusive economic growth.</b></p>

Prosperous People Stretch Outcomes	The promotion of city centre living will provide more housing choice in Aberdeen that will help people to be supported to live as independently as possible.
Prosperous Place Stretch Outcomes	The proposals in this report will help to deliver CCMP objectives: <ul style="list-style-type: none"> <li>• <b>Changing perceptions</b> - Promoting the view of Aberdeen city centre as an energetic, inclusive and fascinating place where people will want to live, work and visit.</li> </ul> This supports stretch outcomes 14 and 15, with respect to addressing climate change and reducing the need to travel.
<b>Regional and City Strategies</b>  City Centre Masterplan	The proposals in this report will help to deliver CCMP objectives: <ul style="list-style-type: none"> <li>• <b>Changing perceptions</b> - Promoting the view of Aberdeen city centre as an energetic, inclusive and fascinating place where people will want to live, work and visit.</li> <li>• <b>Made in Aberdeen</b> - Building on local distinctiveness and maximising local business opportunities.</li> </ul>

## 8. IMPACT ASSESSMENTS

Assessment	Outcome
Impact Assessment	Equality & Human Rights Impact Assessment not required
Data Protection Impact Assessment	Not required

## 9. BACKGROUND PAPERS

None

## 10. APPENDICES

Appendix A – Map of City Centre Boundary

## 11. REPORT AUTHOR CONTACT DETAILS

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