

ABERDEEN CITY COUNCIL

COMMITTEE	Council
DATE	22 August 2012
LEAD OFFICER	Chief Executive
TITLE OF REPORT	City Garden Project
REPORT NUMBER:	OCE/12/014

1. PURPOSE OF REPORT

The report requests the Council to confirm whether or not it wishes the decisions taken at its meeting on 25 January 2012 in relation to the City Garden Project to be actioned.

2. RECOMMENDATION

That the Council resolves either

i) that the decisions taken at the meeting of 25 January 2012 in relation to the City Garden Project are actioned;

or

ii) that no further action be taken on the City Garden Project

3. FINANCIAL IMPLICATIONS

The financial implications relating to the project are set out in the report considered by the Council at its meeting on 25 January 2012 (EPI/12/032).

4. OTHER IMPLICATIONS

The other implications of the project are set out in the report considered by the Council at its meeting on 25 January 2012 (EPI/12/032).

5. BACKGROUND/MAIN ISSUES

At the Special Meeting of the Council held on 25 January 2012, members considered a report by the Director of Enterprise, Planning and Infrastructure on the City Garden Project (EPI/12/032). The report is available [here](#).

Council resolved to:

- (a) engage in future activities required to progress the City Garden Project (CGP), subject to obtaining public endorsement of the proposed CGP design (see [appendix1](#) to the report) in the proposed public referendum on 1st March 2012; and ensuring that Council engagement in such activities cannot, in any respect, be construed as prejudicial to any future planning process;
- (b) instruct officers to enter into negotiations with a view to putting in place a development agreement with Aberdeen City Gardens Trust (ACGT) and/or their representatives, which sets out the terms upon which Aberdeen City Council (ACC) would be prepared to make necessary Council owned land available, to realise the proposed development described in Appendix 1 of the report after 1st March subject to:-
- i. Council owned land, made available for the project, remaining in Council ownership, in perpetuity;
 - ii. Any assets built upon the land in question becoming the property of the Council;
 - iii. ACGT producing a viable business plan for the construction and future operation of the CGP (“the CGP Business Plan”) which will be used to underpin the development agreement, and in addition to the normal information contained within a commercial business plan, will also need to confirm:-
 - that sufficient provision has been made to enable future management and maintenance of the development, to a high standard, without the need for any direct revenue support from the Council and/or the Common Good Fund;
 - that the minimum amount of space possible, i.e. only as much as is needed to secure the development’s long-term financial sustainability, will be used for wholly commercial or semi-commercial purposes, and that the remaining space will be used for civic, cultural, communal and non-commercial leisure purposes; and
 - the expected use of the internal and external space by including a full description of the proposed civic, cultural and acceptable commercial and semi commercial uses;
- (c) require that the Finance and Resources Committee will scrutinise and approve the final terms of the development agreement before it is signed by all relevant parties;
- (d) instruct officers to submit a detailed business case (based on the document attached as [appendix2](#) to the report), as the basis

for negotiating a final Tax Increment Financing (TIF) agreement with Scottish Futures Trust (SFT), which will enable ACC to fund enabling infrastructure related to the proposed City Centre Regeneration Programme, and which specifically:-

- i. secures a maximum funding contribution of £70million towards the CGP, in recognition of this project's significance to the delivery of the City Centre Regeneration Programme;
 - ii. secures a further £22million towards the other projects identified within the City Centre Regeneration Programme; and
 - iii. mitigates the risks to ACC and ensures that the Council is not placed in a position whereby it is exposed to any additional risks, other than the risks highlighted in the attached business case;
- (e) require the Finance and Resources Committee to scrutinise the terms of and approve the final TIF Agreement before it is signed by all relevant parties;
- (f) agree to fund all Council costs (external and internal) associated with drafting and negotiating necessary future legal agreements associated with the project (e.g. development agreement, TIF agreement, future operating agreement, lease agreements etc), subject to a maximum cost of £300,000, to be met from the Council contingency budget;
- (g) agree that no direct funding will be provided towards the cost of designing, planning or constructing the CGP, other than that:-
- i. generated through the proposed TIF Agreement;
 - ii. already committed to the public referendum being held to gauge support for the CGP;
 - iii. required to cover external fees associated with the negotiation and production of necessary legal documentation between ACC and ACGT and/or other project stakeholders; or
 - iv. required to cover the cost of officer time committed to supporting future activities needed to realise the CGP, (see paragraph (a) above);
- (h) encourage negotiations to take place between various Council services and ACGT relating to the possible exploitation of space within the development for art, cultural, leisure and heritage purposes, on a financial basis that is commensurate with the requirement to minimise the CGP's future ongoing management and maintenance costs (see (b)iii above);

- (i) request ACGT to appoint the design team associated with the preferred design scheme (see Appendix 1) and move forward with the detailed design process in parallel with negotiations relating to the Development Agreement and the TIF Agreement, as soon as possible after the result of the public referendum is known and assuming this confirms public support for the CGP;
 - (j) require ACGT to confirm, in a legally binding form, that they have access to at least £70 million of private sector funds to invest in the CGP, prior to the signing of:-
 - i. an appropriate Development Agreement; and
 - ii. A TIF agreement confirming ACC's ability to invest at least £70 million in enabling infrastructure related to the CGP;
- and
- (k) agree that notwithstanding the approval of the foregoing recommendations, the Council is forming no view of any proposed development in its capacity as planning authority.

The minute of the meeting is available [here](#).

As noted at (a) above, the public referendum on the matter took place on 1 March 2012 with the majority of those voting favouring the City Garden Project over the retention of Union Terrace Gardens (45,301/41,175).

Members will be aware that work has been underway on the development of the TIF business case, as envisaged in paragraph (d) above, with a revised draft being circulated to all elected members on 28 June 2012 ahead of a meeting of the Finance and Resources Committee to consider the document.

The report by the Director of Enterprise, Planning and Infrastructure on the TIF business case (EPI/12/176) considered by the Finance and Resources Committee at its meeting on 17 August 2012 has been referred by that Committee to the Council.

Members will of course also be aware that at the Scottish Local Government elections on 3 May 2012, Scottish Labour secured the largest number of seats on the City Council and subsequently joined in coalition with the Scottish Conservative and Unionist and Independent Alliance Groups to form the Council Administration.

During the campaigning for both the referendum and the local government election the Labour Group stated its opposition to the City Garden Project and subsequent to the election the Council Leader committed to an early vote on the matter.

Given all the above, the Council is requested to confirm whether or not it wishes the decisions taken at its meeting on 25 January 2012 in relation to the City Garden Project to be actioned.

6. IMPACT

There will be a great deal of public interest in the Council's consideration of this matter.

7. BACKGROUND PAPERS

None.

8. REPORT AUTHOR DETAILS

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