

## ABERDEEN CITY COUNCIL

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| <b>COMMITTEE</b>          | Planning Development Management Committee   |
| <b>DATE</b>               | 20 September 2018                           |
| <b>REPORT TITLE</b>       | City Living Study – Developer Contributions |
| <b>REPORT NUMBER</b>      | RES/18/178                                  |
| <b>DIRECTOR</b>           | Resources                                   |
| <b>CHIEF OFFICER</b>      | Corporate Landlord                          |
| <b>REPORT AUTHOR</b>      | Stephen Booth                               |
| <b>TERMS OF REFERENCE</b> | 8   |

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### 1. PURPOSE OF REPORT

The City Growth and Resources Committee at its meeting on 19<sup>th</sup> June 2018 received a report on the City Centre Living study. One of the key recommendations was to introduce a moratorium on developer obligations. This report contains details of this recommendation and seeks to implement a waiver on Affordable Housing in the City Centre for a period of two years.

### 2. RECOMMENDATION(S)

That Committee: -

- 2.1 Approves the introduction of a two-year waiver on developer obligations in respect of affordable housing (from the date of the decision of this Committee until 31<sup>st</sup> December 2020) as outlined at paragraph 3.9 of this report.

### 3. BACKGROUND

#### **City Centre Living Study Recommendation - Introduce a Moratorium on Developer Obligations**

- 3.1 The Council commissioned a report to review the potential for city centre living in Aberdeen and to provide an assessment of the scale, scope, programme and actions to achieve this.
- 3.2 The report recommended introducing a two-year moratorium on developer obligations and affordable housing requirements in respect of residential development of less than 50 units within the city centre.

## **Affordable Housing and the Planning System**

- 3.3 The application of developers' obligations in the city centre for residential development is under consistent challenge, as it can undermine viability of schemes. Residential projects in the city centre usually involve significant uncertainties in particular in respect of renovations or site preparation due to the nature of the City Centre sites and existing developments. This increases risk for developers (particularly when compared against greenfield development) that can make investment unattractive.
- 3.4 The Scottish planning system recognises that housing developments must be financially viable to ensure that the housing which Scotland requires is delivered. Many areas of Scotland have limited ability to seek developer obligations or affordable housing due to their poor housing markets. Aberdeen has historically been in the fortunate position that financial viability has been less of a factor in housing developments not coming forward. It must be recognised however that other factors, such as higher than average construction and land costs, do have an impact on the financial viability. The City Living Study shows there are also specific areas such as the City Centre, where additional costs such as those associated with complex conversions, working with listed buildings or buildings in conservation areas, also have an impact. This is currently compounded by a challenging economic climate. To achieve the aims of the City Centre Masterplan, in creating a vibrant city centre where people wish to live, the Council needs to consider the financial viability of these developments and help support the delivery of housing in the city centre where appropriate.
- 3.5 Consequently, consideration needs to be given to off-set these risks through innovative approaches that will secure investment in new homes in the city centre. An approach is recommended by the City Centre Living Strategy with regard to applying a waiver on developers' contributions to achieve this.
- 3.6 The Aberdeen Local Development Plan 2017 (ALDP) and associated Supplementary Guidance set out the Council's planning policies for development across the City. They support the City Centre Masterplan and Delivery Programme by identifying the city centre not only as the centre of the Aberdeen but the centre of the city region. The success of the city centre is therefore crucial to the success of Aberdeen and, as identified in the City Centre Masterplan and the City Living Study, part of making the city centre vibrant is to increase its population.
- 3.7 The City Living Study is clear that residential development in the city centre is not viable and this needs to be considered if the goals of the ALDP and City Centre Masterplan are to be achieved. The ALDP includes policies on both Developer Obligations and Affordable Housing and the supporting Supplementary Guidance sets out detailed guidance on how these should be applied. Both the Developer Obligations and Affordable Housing Supplementary Guidance recognise that the financial viability of a development

must be taken into consideration when calculating contributions. To achieve a viable development, it may therefore be necessary to reduce or remove obligations. In order to achieve this the City Centre Living study therefore recommended a moratorium on Developer Obligations and Affordable housing being sought on new residential developments of less than 50 units in the City Centre.

- 3.8 This waiver will offer the potential to fill the identified viability gap. Any change to policy will require to be made in line with the review of the Aberdeen Local Development Plan in 2022. During this period there is a risk that any housing projects could be moth-balled as developers await the outcome. The city centre living study recommendation also fails to link the proposed waiver to housing delivery. It could result in an increase in planning applications/approvals but not result in the implementation of consents for residential development. Finally, the waiving of all obligations may result in under provision in health, education and other services/infrastructure that would not be appropriate as these are required more directly to mitigate the impact of the development. Furthermore, if these obligations were waived there would be a direct impact on the public purse which would be required to provide this mitigation. The City Centre Living Study clearly showed that Affordable Housing had a far more significant impact on the viability of developments, than other developer obligations. A more focused approach is therefore required which is targeted on delivering development within a defined timescale and limits the impact on services.
- 3.9 The recommended approach would therefore be for Affordable Housing contributions not to 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 decision of the committee, for a period up to the 31st December 2020. Approval in this context will 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. This would apply within an area of the City Centre as defined on the map attached at Appendix A. Such development would be required to commence within 12 months of the decision notice and would be secured via a direction applied to the grant of planning permission time limiting the relevant consent. There will be an expectation that such development will include a mix of unit types and sizes, to encourage sustainable mixed communities. A report will be brought to committee at the end of the two-year period detailing the outcomes.

#### **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 apply a two-year waiver may be challenged by third parties; particularly from city centre peripheral and non-city centre developments who are required to pay contributions towards Affordable

Housing. However, 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 this report, 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.

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

|                    | Risk   | Low (L),<br>Medium<br>(M), High<br>(H) | Mitigation   |
|--------------------|--|--|--|
| <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>Legal</b>       | Legal challenge to waiver on developer contributions on affordable housing contributions.        | 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 as outlined in this report 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>Employee</b>    | None   |  |  |
| <b>Customer</b>    | None   |  |  |
| <b>Environment</b> | None   |  |  |
| <b>Technology</b>  | None   |  |  |

|              |      |  |  |
|--------------|------|--|--|
| Reputational | None |  |  |
|--------------|------|--|--|

## 7. OUTCOMES

| Local Outcome Improvement Plan Themes |   |
|---------------------------------------|---|
|                                       | Impact of Report  |
| <b>Prosperous Economy</b>             | <p>The promotion of City Centre Living will help deliver on 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> |
| <b>Prosperous People</b>              | <p>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.</p>   |
| <b>Prosperous Place</b>               | <p>City centre living address:</p> <ul style="list-style-type: none"> <li>• <b>A living city for everyone</b> - Increasing housing in Aberdeen city centre and creating a more liveable place.</li> <li>• <b>Culturally distinctive</b> - Ensuring Aberdeen city centre reflects its distinctive local culture so it is like no other place.</li> </ul> <p>This will contribute to safe and resilient communities and a people friendly city</p>  |
| <b>Enabling Technology</b>            | <p>City centre living housing can be developed that uses latest technology. This will contribute to a city centre that is:</p> <ul style="list-style-type: none"> <li>• <b>Technologically advanced and environmentally responsible</b> - Providing the capacity, quality and reliability of infrastructure required by residents and utilising resources responsibly.</li> </ul> <p>In particular, digital connectivity and innovation will be supported.</p>                            |

### Design Principles of Target Operating Model

|                                   | <b>Impact of Report</b>   |
|-----------------------------------|---|
| <b>Customer Service Design</b>    | The report addresses option of working better with partners.  |
| <b>Organisational Design</b>      | The report looks to redesign service to better meet our outcomes.                                     |
| <b>Workforce</b>                  | The project will have workforce and co-location implications if delivery can be explored and tested.  |
| <b>Process Design</b>             | The project at a high level looks to consider process design between partners in the future.          |
| <b>Technology</b>                 | Technology and digital opportunities will be considered in the development of the project and spaces. |
| <b>Partnerships and Alliances</b> | The project is an example of how benefits can be achieved in working in a cross agency manner.        |

## 8. IMPACT ASSESSMENTS

| <b>Assessment</b>                                    | <b>Outcome</b>            |
|--|---------------------------|
| <b>Equality &amp; Human Rights Impact Assessment</b> | <i>EHRIA not required</i> |
| <b>Data Protection Impact Assessment</b>             | <i>Not required</i>       |
| <b>Duty of Due Regard / Fairer Scotland Duty</b>     | <i>Not applicable</i>     |

## 9. BACKGROUND PAPERS

*None*

## 10. APPENDICES

Appendix 1 – Map of City Centre Boundary

Appendix 2 - City Centre Masterplan –

<https://www.aberdeency.gov.uk/services/strategy-performance-and-statistics/city-centre-masterplan>

Appendix 3 - City Living Study

<https://committees.aberdeency.gov.uk/documents/s85127/Final%20City%20Living%20Report%20appendix.pdf>

## 11. REPORT AUTHOR CONTACT DETAILS

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