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## OVERVIEW AND SCRUTINY COMMISSION

19 OCTOBER 2021

(7.15 pm - 9.10 pm)

PRESENT: Councillor Peter Southgate (in the Chair),  
Councillor Peter McCabe, Councillor Ben Butler,  
Councillor Billy Christie, Councillor Paul Kohler,  
Councillor Nick McLean, Councillor Aidan Mundy,  
Mansoor Ahmad, Councillor John Dehaney,  
Councillor Thomas Barlow, Roz Cordner and  
Councillor Sally Kenny

ALSO PRESENT: Councillor Martin Whelton, Councillor Ed Gretton

Paul McGarry (FutureMerton Manager) and James McGinlay  
(Assistant Director for Sustainable Communities)

### 1 APOLOGIES FOR ABSENCE (Agenda Item 1)

There were no apologies received.

### 2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

There were no declarations of pecuniary interest.

### 3 CALL-IN OF "CLARION ESTATE REGENERATION PROGRAMME SUPPORT" (Agenda Item 3)

The Chair reminded Commission Members that this meeting is not to take a second look at a decision made by Cabinet. It is rather to decide whether the decision taken is in accordance with our principles of decision making. In this case the challenge is that the decision taken has not been proportional to the desired outcome, is a presumption in favour of openness and there has been no consideration of alternatives.

Councillor Ed Gretton was invited to introduce the key points described in the call-in form;

- The financial assessment which forms the basis of the decision is extremely out of date and was undertaken during the bleak economic circumstances. The Council cannot make a safe, reliable and proportionate decision using a financial assessment that was formulated during the pandemic.
- References to an 'earn out', if the project does make a return in the end, are not reliable or advisable. Earn outs are notoriously difficult because the payer, in this case Clarion, controls its own accounting policies, controls its own costs

and sets out how it calculates its own profit, so it's extremely rare for these earn outs to ever pay out.

- Another critical point is originally there were going to be 608 homes in High Path, whereas now there's going to be up to 2300 homes because of the changes to the arrangement. The Council's estate's plan states that the aim is to improve the community but if you move a community from 608 homes to 2,300 it's very difficult to see how that's going to improve the community with such a real risk of over population and overcrowded housing.

The Head of Regeneration, commented that the clawback is a suspension and not a waiver. There is a mechanism in place that if the project breaks even the clawback will be repaid. We have a robust analysis that will be refreshed. Viability assessments are refreshed and will need to be refreshed annually for the duration of the project.

In response to questions from Members of the Commission, the Head of Future Merton and James Kinnersly from SQW explained;

The financial model used at that time was in line with government guidance and policy and GLA guidance and policy. Merton has no control over how Clarion finance but it is worth noting that that Industry standard for development finance would be 6-7%. 5% is competitive.

Stock transfer agreement had a number of controllable mechanisms for decent homes standard. Amendments were not sought. Obligation for delivery of decent homes either via refurbishment or estate regenerations through new builds.

The Chair asked Members to consider the information provided in response to the call-in request and decide whether or not to refer back to Cabinet for reconsideration.

Cllr Nick McLean moved that the Commission refer the matter back to Cabinet due to the issues of proportionality and complexity. The matter only appeared at scrutiny a few days before Cabinet and it needs to be looked at again and reviewed. This was seconded by Cllr Paul Kohler.

Vote: Three Members voted in favour, six against with one abstention. Therefore the matter will not be referred back to Cabinet and the decision shall take effect immediately.

#### 4 EXEMPT APPENDICES C-H (Agenda Item 4)

Taken with Item 3.