

Audit and Scrutiny Committee
27 June 2023

At a Special Meeting of the Audit and Scrutiny Committee of North Ayrshire Council at 10.15 a.m. involving participation by remote electronic means.

Present

John Bell, Eleanor Collier, Cameron Inglis, Tom Marshall, Matthew McLean and Davina McTiernan.

Also Present

Timothy Billings, Stewart Ferguson, Todd Ferguson, Margaret Johnson and Christina Larsen.

In Attendance

M. Boyd, Head of Service (Finance), A. Craig, Head of Service (Democratic), S. Wilson and D. McCaw, Committee Services Officers (Chief Executive's Service).

Chair

Councillor Bell in the Chair.

Apologies

Ian Murdoch, Donald Reid and John Sweeney.

1. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 11 and Section 5 of the Code of Conduct for Councillors.

2. Call-In: Council Tax for Second and Empty Homes and Non Domestic Rates Thresholds: Consultation

Submitted report by the Chief Executive on a call-in request received in respect of a decision taken by Cabinet on 13 June 2023 on the proposed response from North Ayrshire Council to the Scottish Government consultation on Council Tax for second and empty homes, and non-domestic rates thresholds. The original Cabinet report and consultation response were attached at Appendix 1 to the report. Appendix 2 to the report contained briefing notes provided by the Head of Service (Finance) in response to the matters raised in the call-in request form.

The Cabinet on 13 June 2023 agreed to approve the proposed consultation response at Appendix 1 to the report, for submission to the Scottish Government by the consultation deadline of 11 July 2023.

Subsequently, a call-in request was received from Councillors Billings, T. Ferguson and Stephen in the following terms:-

Reason for Call-In

“That the response to the Scottish Government consultation will form the basis of North Ayrshire’s policy if this becomes policy and therefore, the Council’s responses should be as complete and considered as possible. The current response makes several assumptions about the potential benefits of charging additional council tax on second homes that are not supported by any evidence. North Ayrshire Council is currently undertaking wide-reaching research into the housing supply and housing demand on Arran, with the aim of ascertaining where the housing gaps are on Arran and what needs to be done to fill the gaps. There is no reference to this work in the response.

Other specific items are:

Question 2 – people with a second home for work purposes – the current response is ‘don’t know’ and only suggests that key workers and staff in vital services should be exempt from additional tax. We already know that our island economies are struggling and that there is a shortage of staff across all sectors of the economy, therefore, if somebody needs to get a second home to take up employment on Arran or Cumbrae they should not be penalised with additional council tax.

Question 3 – The issues with the answer to this question are that it makes some assumptions and does not provide a complete answer to the question. In particular:

- there is an assumption that local authorities must have this power as it is ‘important’ so that they can influence the housing market to increase the availability of houses for local people. There is no evidence that just making more houses available will increase the availability of housing for the people that Arran needs to support local businesses or public services. Arran already has more houses for sale per head of the population compared with the rest of North Ayrshire, including properties at the cheaper end of the housing stock.
- the answer assumes that a second home is used intermittently, which some may be. However, a second home that is also rented out as a holiday let would come into this category. There needs to be recognition between the various types of second home usage because anecdotal evidence suggests that holiday makers will spend more money in local restaurants and shops than a permanent resident.
- there is an assumption that the same tax levels would be appropriate for all areas within the local authority whereas it is possible that different levels of tax on second homes could be needed depending on the local circumstances. In addition it may be appropriate to have different levels of additional council tax on different levels of council tax. For example, if the main purpose of the additional council tax is to increase the availability of affordable housing for sale there is no point in penalising people living in houses rated at G for council tax as these will never be ‘affordable’ homes.

Question 4 – this question is about the maximum level of taxation. The response from does recognise that levels of taxation will depend on modelling and impact assessment. However, it does not include recommendations that local authorities should have full flexibility on level of taxation so that different levels of taxation could be used in different areas of the local authority and that different levels of taxation could be appropriate for differently tax rated properties.

The response does not make it clear that levels of taxation for second homes and empty homes must be considered together as one would not want to encourage a home to be left empty because the level of taxation would be less.

Question 5 – all of the factors in this section are about the availability of housing. There are no factors relating to the assessment of the housing needs for an area, and if the change in housing availability caused by increases in council tax on second homes would benefit the housing needs of the area. In addition the response does not include the possible harm caused by additional levels of council tax. For example, if the result of increased taxation was a glut of houses for sale causing a fall in prices forcing existing home owners into negative equity thereby stagnating the Arran housing market.

Question 8 – this response already states that local authorities should have flexibility to impose additional council tax on empty properties depending on local circumstances. However, it does not state that levels of empty home taxation must be considered along side second home taxation, and that local authorities should have the flexibility to vary rates across the authority area and across properties with different council tax rates.

Question 21 – the response is confusing several issues many of which are not related to the question. The response does recognise that further assessment is required but there are gaps in the response and there are some implied assumptions that are not supported by evidence. In particular, there is nothing about assessment of housing need and housing supply, and what changes in the housing market that imposing increases in council tax could have. The question asks for the opinion about what changes in taxation might have on local business. There are two ways in which business could be impacted – first is that there is a change in economic activity of the people occupying properties, the second is that there could be changes in the supply of properties for people to live in who work in local businesses. However, until there is a full assessment of the relationship between housing demand, housing supply, and economic activity of property residents it is not possible to make an assessment on the impact that any changes in council tax levels could help support.”

Desired Outcome

“The desired outcome is that the wording of the response to the Scottish Government’s consultation on council tax on second homes is amended to make the wording neutral when referencing the potential effects that higher levels of council tax, and there is reference to all the possible impacts that interference with the housing market could have.

There should also be reference to the housing research that NAC is doing and that should be an integral part of the decision-making process before any decisions are made regarding increases in council tax for second homes.

Other specific changes are:

Question 2 – response changed to ‘yes’ and that it should apply to all people who move away from their main home to take up employment. Local authorities need to support people moving to islands to take up employment and should not penalise anybody moving to an island for work purposes with additional council tax. It should be noted that if the person moving to take up work rented a second home for job purposes they would not be penalised so why should somebody who purchases a home be penalised for taking up employment.

Question 3 –the response should:

- state that if local authorities have the power to increase the council tax for second homeowners there must be evidence that the housing need would be solved by forcing second homeowners to put their homes up for sale.
- recognise that there may be a difference in economic benefit from having a permanent or holiday resident which must be fully assessed so as not create unintended harm to the local economy.
- state that local authorities must have fully assessed the housing supply and demand factors for any area where additional second home tax is being considered, and have evidence that imposing additional tax will help have a positive influence on the housing market;
- state that local authorities should be able to have different levels of council tax supplements for different areas within the local authority.
- state that local authorities should be able to have different levels of additional council tax for different rated properties so that local authorities have the flexibility to promote positive changes in specific areas of the housing stock that are in short supply.

Question 4 – the response should include recommendations that if local authorities are going to impose additional council tax then the rates of taxation should be based on full assessment of local circumstances, and the levels of tax could be different in different geographic area and could be different for properties with different tax ratings. The purpose of this is to give local authorities to use its powers flexibly so as to support the desired response within the housing market whilst not penalising or damaging other aspects of the area’s economy or community.

The response should also make it clear that rates for empty and second homes must be linked and have the same flexibility so that there is no benefit in leaving a property empty.

Question 5 – the list of main factors must include an assessment of the housing needs for an area, so that before imposing council tax increases on second homes there is some assurance that the changes in local housing supply will actually have a positive impact on the assessed housing need. The response must include reference to possible negative effects of falling property prices causing economic hardship for existing homeowners residents, such as negative equity and stagnation of the housing market.

Question 8 - the NAC answer should restate that councils should have total flexibility to impose additional council tax on empty homes depending on locally agreed criteria and circumstances, and that this will include varying tax levels in different geographic area and across different council tax bands.

Question 21 –The question asks for the opinion about what changes in taxation might have on local business. There are two ways in which business could be impacted – first is that there is a change in economic activity of the people occupying properties, the second is that there could be changes in the supply of properties for people to live in who work in local businesses. However, until there is a full assessment of the relationship between housing demand, housing supply, and economic activity of property residents it is not possible to make an assessment on the impact that any changes in council tax levels could help support.

Therefore, the response to this question must start with the assumption that the local authority has assessed the local supply and demand for housing, and that the potential changes caused by imposing increases in council tax will have a positive impact on the local shortage of housing types and will support increases in the overall economic activity in the area.

Before introducing tax changes local authorities must be confident that imposing council tax increases will have a realistic expectation of positive changes in the housing market and increases in overall economic activity.”

The Head of Democratic Services summarised the procedure for considering the call-in request in terms of Standing Orders and referred to the Cabinet decision.

Thereafter, the Members who had requested the call-in were invited to speak. Councillor Billings advised that he would speak to the call-in request, with Councillor T. Ferguson being available to support, if required. Councillor Billings then addressed the Committee in support of the call-in request with further comment being provided by Councillor T Ferguson.

The Chair then invited Councillor Larsen, as the Cabinet Member for Finance, to address the meeting. Councillor Larsen explained the reasoning for the Cabinet decision and referred to an explanatory note from the Head of Service (Finance) provided at Appendix 2 to the report.

Councillor T. Ferguson left the meeting at this point.

The Head of Service (Finance) was also heard in relation to the report presented to Cabinet and on issues raised by the call-in, reference being made to the explanatory note at Appendix 2 to the report.

Councillor T. Ferguson rejoined the meeting at this point.

Members asked questions of Councillors Billings and Larsen and the Head of Service (Finance) and were provided with further information in relation to:-

- the importance of the consultation in relation to any future legislation to be issued to Councils;

- any future Council Tax levels on second and empty homes being determined by the full Council, should additional powers be allocated by the Scottish Government;
- challenges concerning affordable housing availability within the island community of Arran;
- whether evidence-based impact assessments should inform any consultation response;
- the timeframe for submission of the consultation response;
- support for the principle of the Council having financial flexibility to utilise any powers allocated; and
- the requirement for evidence-based modelling around affordable housing needs on Arran should additional powers be assigned.

Councillor Marshall, seconded by Councillor McLean, moved that the Committee agree to accept the terms of the call-in request and refer the matter to the Cabinet for further consideration.

As an amendment Councillor Collier, seconded by Councillor McTiernan, moved that the Committee agree not to support the call-in request and that the previous decision of Cabinet should stand, with the consultation response being submitted to the Scottish Government by the 11 July 2023 deadline.

Thereafter, on a division and a roll call vote, there voted for the amendment, Councillors Bell, Collier and McTiernan (3) and for the motion, Councillors Inglis, Marshall and McLean (3). There being an equality of votes, the Chair exercised his casting vote in terms of Standing Order 19.6, and the amendment was declared carried.

Accordingly, the Committee agreed not to support the call-in request and that the previous decision of Cabinet should stand, with the consultation response being submitted to the Scottish Government by the 11 July 2023 deadline.

The meeting ended at 11.10 a.m.