

**Cheltenham Borough Council
Cabinet – 10th November 2015**

Use of Right to Buy Receipts

Accountable member	Councillor Peter Jeffries, Cabinet Member Housing
Accountable officer	Martin Stacy
Ward(s) affected	All
Key/Significant Decision	Yes
Executive summary	<p>In April 2012 the Government introduced a self-financing model for the HRA, leading to new freedoms and flexibilities over the way Councils were able to invest in their social housing stock, as well as enabling them to deliver new affordable homes and provide enhanced services for their tenants.</p> <p>The Government also allowed Councils to retain their Right to Buy Receipts on the understanding that these receipts must be used to deliver new affordable housing.</p> <p>These Right to Buy Receipts can be used in a number of ways to bring about the delivery of new affordable housing. The Council's preferred approach is to use the receipts for delivering new build on council-owned land, as this option provides the greatest value for money.</p> <p>This option can however be complex and the timing of delivery can be uncertain, which is not ideal given that these receipts have to be spent within strict deadlines. If the deadlines are not met, the receipts must be repaid to the government with interest.</p> <p>It is therefore proposed that the Council opens up another option of using the receipts to purchase homes from the open market, which will then be converted to affordable housing. This will ensure that repayments of receipts to the government can be avoided.</p>
Recommendations	<p><u>Cabinet Resolves:</u></p> <ol style="list-style-type: none">1. To authorise the Head of Property and Asset Management (in consultation with the section 151 Officer), to purchase dwellings that are considered to be suitable for use as affordable housing (in accordance with the parameters as set out within Section 4.5 of this report), subject to a total cap on the consideration paid for the entire portfolio of £1 million .

2. To authorise the Borough Solicitor to negotiate and complete such documents as she deems necessary or desirable to conclude the transactions negotiated by the Head of Property and Asset Management under Resolution 1 above
3. To authorise the section 151 Officer to use the Right to Buy receipts where necessary to fund the acquisition of the properties purchased under Resolution 1 above

Financial implications	As detailed within Sections 3 and 4 of this report. Contact officer: Paul Jones, paul.jones@cheltenham.gov.uk, 01242 775154
Legal implications	The Council has power under Section 9 of the Housing Act 1985 to acquire houses for the purpose of providing housing accommodation. The houses so acquired must then be dealt with in accordance with the provisions of the Act, and may become subject to the Right to Buy. The procedure for acquiring a house in the open market can be time consuming, especially if the property is part of a conveyancing chain. A transaction can prove abortive if one link in the chain fails for any reason. Some properties have a restriction in the title that prevents them from being used for social housing. It would be advisable for title to be obtained at the earliest opportunity to prevent wasted time and costs. Contact officer: Rose Gemmell, rose.gemmell@teWKesbury.gov.uk, 01684 272014
HR implications (including learning and organisational development)	None as a direct result of this report. Contact officer: Richard Hall, richard.hall@cheltenham.gov.uk, 01594 812634
Key risks	See Appendix 1 of this report
Corporate and community plan Implications	This proposal supports our corporate outcome of people living in stronger, safer and healthier communities.
Environmental and climate change implications	Neutral
Property/Asset Implications	The proposal ensures that the right to buy receipts are kept and invested locally; it not only adds to the housing stock but overcomes the possibility of having to hand monies back to central government. Contact officer: David Roberts David Roberts@cheltenham.gov.uk, 01242 264151

1. Background

- 1.1** In April 2012 the Government introduced a self-financing model for the HRA, leading to new freedoms and flexibilities over the way Councils were able to invest in their housing stock and services for their tenants.
- 1.2** The Government also supported Councils' aspirations to deliver more new affordable homes by allowing them to retain their Right to Buy Receipts, provided that these receipts are used to bring about more affordable housing.

2. The Use of Right to Buy Receipts

- 2.1** Right to Buy Receipts can be used to increase the provision of affordable housing in any of the following ways:
 - Building new affordable housing on council-owned land
 - Acquiring new build from a developer or from existing private stock for conversion to social/affordable rent.
 - Acquiring land for future schemes
 - Funding a Registered Provider (other than CBH) to build new affordable housing in the area
- 2.2** The Council's preferred approach to increasing the provision of new affordable housing in Cheltenham is to build affordable homes on council-owned land, as this provides a future revenue stream to the HRA (in terms of rental income) at least cost. As such, this approach provides the Council with the greatest value for money.
- 2.3** Building new homes in this way can however be complex and time consuming. There are therefore a number of reasons why it is prudent for the Council to consider other ways of using its Right to Buy Receipts. These are detailed in Section 3 below.

3. Reasons for the recommendations

- 3.1** Right to Buy Receipts must be spent within 3 years of the receipts becoming available. If the Council fails to spend the receipts by then, it is required to repay the receipts to the government with interest at 4% above the base rate.
- 3.2** Right to Buy Receipts can only be retained if they are used to fund the delivery of new affordable housing in the ratio 100/30. In other words, when using Right to Buy Receipts, additional resources to the tune of 70% of the eligible spend are required from the HRA (or through borrowing against the HRA) to meet the remaining costs. This means that use of the receipts must be used proportionately throughout the build period.
- 3.3** Delivering new build affordable housing is complex. There are a range of issues that can affect the pace of delivery. These include:
 - Negotiating with third parties over rights of access and right to roam issues. This is a particular issue on garage sites, for instance, where finding resolutions to these issues can be long and protracted, leading to the potential for a scheme to either not go ahead or for a scheme redesign to be implemented.
 - Rehousing of tenants on sites where it is proposed that existing homes will be replaced with new homes can sometimes lead to delays if the needs of households cannot be easily met.

- Undertaking relevant approval processes such as Planning, along with the necessary tendering processes all need to be built into the timeframe.
- Some sites may have commercial links which can involve the need to carry out complex commercial negotiations and these too can take time.

3.4 The rate at which Right to Buy Receipts are received, as well as the amount received over any given period is unpredictable (this is illustrated within Appendix 2 of this report). This adds to the complexity in timing their use in accordance with the projected delivery of new build. The result is additional uncertainty over whether the receipts will be spent within the required timeframe.

3.5 There are also a number of other limitations over the way in which the Council is able to use Right to Buy Receipts. These are detailed as follows:

- Receipts cannot be used in combination with grants from the Homes and Communities Agency (HCA). This means that where grants are potentially available, a choice must be made over which funding mechanism makes greatest financial sense on any given site. In the absence of other options for using Right to Buy Receipts, the Council's default position is always likely to be to use the receipts over any potential grant provision, because of the pressures to spend the receipts within the 3 year timeframe. Having an alternative means by which the receipts can be used to deliver new affordable housing will therefore allow the Council greater freedom to consider the use of grants from the HCA as an alternative funding stream, where this is more appropriate.
- Right to Buy Receipts can only be used if the site generates 'additionality'. In other words, where the receipts are used on a site with previous social housing, the receipts can only be used to fund the cost of additional dwellings over and above the previous number of social/affordable homes on the site.
- Right to Buy Receipts cannot be used to acquire new affordable housing on s.106 sites.

4. Acquiring new homes from the Open Market

4.1 In view of these challenges and limitations over how Right to Buy Receipts can be used, it is estimated that up to £220,000 (plus interest) may have to be repaid to the Government by March 2018 unless alternative approaches for increasing the provision of affordable housing are used for the Right to Buy Receipts. This estimate of £220,000 assumes a worst case scenario that other schemes currently in the pipeline do not proceed, but in any event the pressures to spend are set to increase, potentially significantly, from March-June 2016 onwards unless alternative options for spending the Receipts are made available.

4.2 Having considered alternative options open to the Council for the use of these Receipts (see Section 5 below) it is proposed that the Council will use any Right to Buy Receipts, which might otherwise have to be repaid back to the government, to acquire additional homes from the open market. These homes will be converted to affordable housing, and the rents received will provide revenue for the HRA.

4.3 Given the unpredictable nature of delivering new build, it is proposed that up to £1 million of total HRA funds (including Right to Buy Receipts, applying the 100/30 referred to in section 3.2 above) could be used to purchase homes from the open market. This proposal retains the benefit of the receipts in Cheltenham and increases the volume of revenue generating housing stock within the town.

4.4 In the first instance, it is proposed that the Council will purchase one home from the open market, although more may be required during 2016 and beyond.

4.5 In order to ensure that we achieve value for money when pursuing this option the Council will

purchase new homes on the following basis:

- Only 2 or 3 bedroom houses will be purchased. Flats have been discounted on the grounds that it is likely to mean acquiring single dwellings within existing blocks of private flats, and owning just one flat within a block has implications on the cost of management and maintenance of that dwelling and associated complications of taking on a lease with maintenance cost liabilities and service charges.
- The Council will only purchase properties that are of a standard construction and that are preferably either new build or built after 1990 in order to minimise any immediate or ongoing major repair costs.
- Maximum price of £250k for a 3 bed and £190k for a 2 bed, each being £10k lower than the estimated high value property thresholds identified by the National Federation of ALMOs and the Association of Retained Council Housing as the basis of their survey on the potential impact of the Government's high value property disposal policy to support extended right to buy for housing associations.
- A range of operational criteria will be met to ensure that the property purchased is fit for purpose as social/affordable housing.
- Former social housing properties cannot be purchased with Right to Buy Receipts (unless under a Compulsory Purchase Order) and therefore have been discounted.

4.6 Consideration has been given to using the Right to Buy Receipts to purchase long term empty homes as part of our Empty Homes Strategy. However the potential timescales involved in acquiring such properties (via a Compulsory Purchase Order) in combination with the strict timescales by which these receipts must be spent, means that using the receipts in this way would not be appropriate.

5. Alternative options considered

5.1 Acquiring land for a future scheme. This has been rejected on the basis that it would require the Council to identify appropriate sites with planning permission and outbid private developers in a competitive market, or identify sites without planning permission with the associated risks of gaining planning approval.

5.2 Funding a Registered Provider (other than CBH) to build new affordable housing in the area. Given the relatively short timescales to pursue alternative strategies the development of a new build scheme through a private Registered Provider is unlikely to deliver sufficient eligible expenditure to prevent potential loss of receipts. In addition, funding a Registered Provider is less preferable than using the Receipts to increase our own affordable housing stock, because of the additional revenues the latter can later generate to the HRA in rent.

6. Consultation and feedback

6.1 The proposed alternative use of Right to Buy Receipts has been discussed with and has the support of the Joint Programme Group (JPG). This group is made up of senior officers from both the Council and Cheltenham Borough Homes.

7. Performance management –monitoring and review

7.1 JPG will continue to monitor the use of the Right to Buy Receipts against the delivery of new build and, where necessary, will support the acquisition of new properties from the open market, with the final decision resting with the s.151 Officer.

7.2 The decision to purchase homes will be delegated to the s.151 Officer, who is a member of the JPG.

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Appendices	1. Risk Assessment 2. Right to Buy Sales Data
Background information	None

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the Council's Right to Buy Receipts are not spent within the required timeframe of 3 years from their receipt, then the Receipts must be repaid to the Government, with interest.	Pat Pratley	7.10.15	3	4	12	Reduce	Cabinet approves alternative option to spend Receipts on purchasing homes from the open market.	31.3.16	Martin Stacy	
<p>Explanatory notes</p> <p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											