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OXFORD CITY COUNCIL

To: Single Member Decision – Board Member, Housing

Date: 2^{2nd} June 2012

Report of: Executive Director, Regeneration and Housing

Title of Report: RIGHT TO BUY – RETENTION OF RECEIPTS

Summary and Recommendations

Purpose of report: The report seeks permission to enter into an agreement with The Secretary of State for Communities & Local Government which will allow the Authority to retain a proportion of receipts from Right to Buy Sales of council properties for re-investment in new affordable housing.

Key decision: No

Executive lead member: Councillor Scott Seamons

Policy Framework: No

Recommendation(s): That delegated authority be given to the S151 Officer (Head of Finance) to enter into an agreement with the Secretary of State for Communities & Local Government, such agreement being pursuant to Section 11 (6) of the Local Government Act 2003.

Appendix 1: The Right to Buy Agreement
Appendix 2: Guidance Note from CLG relating to the Agreement.
Appendix 3: Risk Register

Background

1. Oxford City Council recently contributed to government consultation on proposed changes to the Right to Buy system, giving a critical response highlighting the negative effects of Right to Buy on our communities and on the availability of social housing in the city. The Council's response also pointed out the hypocrisy of forcing stock-retaining authorities to take on massive debt to free themselves from the necessity for government subsidy, whilst simultaneously requiring those authorities to give up receipts from Right to Buy sales and encouraging such sales through massive public subsidy. Many other stock retaining councils also

participated in the consultation exercise, with the vast majority giving responses that echoed the concerns voiced by OCC.

2. However, despite the overwhelmingly negative feedback, on 2 April 2012 Ministers raised the cap on Right to Buy discounts to £75,000, and confirmed that receipts from the additional sales this would generate would be used to fund replacement stock on a one-for-one basis. At the same time Ministers confirmed that their favoured option of delivering these new homes would be through local authorities retaining receipts to spend in their areas

3. In order for the council to keep these additional receipts it will be necessary for it to enter into an agreement with the Secretary of State for Communities and Local Government. Such an agreement would be made under powers provided by section 11(6) of the Local Government Act 2003 (as inserted by section 174 of the Localism Act 2011).

4. There are a number of conditions which the Agreement places on the council in relation to the retention of these additional receipts.

    (i) They must be used for the provision or acquisition of new affordable housing; they could not be used to buy existing social stock from another social landlord.

    (ii) The receipts must be spent within a rolling three year period starting from the beginning of the 2012/13 financial year.

    (iii) Funding from this source must comprise no more than 30% of the total investment in the new housing, net of any contribution from any other public body, and net of any capital contribution generated by selling HRA assets other than through the Right to Buy (sale of land, or disposal of properties on the open market, for example). This condition raises the question of where the other 70% of funding can be sourced. Whilst there is currently a significant amount of funding set aside for this purpose in the HRA Business Plan, it is possible that in the medium to long-term it might prove necessary to supplement any investment by setting higher (so-called "affordable") rents on council properties, something which members have made clear they do not consider in the best interests of the city and our tenants.

5. There are two ways in which the council could use the additional funding; by investing it in new-build council housing, or by giving grants to other social landlords. Officers anticipate that, given the council's commitment to provision of new-build council housing as part of the Affordable Housing Programme part-funded by the Homes & Communities Agency, and the potential for council ownership and management of properties on the new Barton development that has arisen as a result of the new HRA funding arrangements, there will be ample scope for investing all retained receipts in new council-owned stock in the foreseeable future.

6. Should the Council decide that direct investment in new build council properties is not in principle desirable because of the risks posed by the potential for a high level of Right to Buy applications on those properties, the problem of how to spend the retained receipts might well arise, given the limited number of development sites that are within the council's control. For this reason the option of grant-aiding other social landlords to provide social housing in city should not be ruled out in the first instance. Members may also wish to consider in this context whether or not they might wish to support the development of social rented homes outside the city boundaries on condition that they be made available to Oxford residents via the Choice Based lettings system.

7. It should be noted, however, that council properties built or acquired post 1st April 2012 are excluded from the receipt pooling arrangements (so that the Council would retain the whole receipt from any sale with no restrictions on how that must be spent), and attract "Cost Floor" limitations in the first ten years which would, at least initially, make Right to Buy much less attractive, and this may allay fears that direct investment in new-build properties is a hostage to fortune in terms of Right to Buy applications.

Financial Implications.

8. The summary of proposals includes:

    - Abolish maximum capped discounts and replace with one maximum amount to be applied nationally set at £75k
    - Re-invest additional sales receipts generated through the new policy in new affordable housing after setting aside an amount for debt and an assumed amount of pooled receipt under HRA self-financing settlement has been paid over to the Govt.
    - Allow local authorities to retain additional receipts to invest locally provided these receipts amount to no more than 30% of development costs.
    - Target one-for-one replacement at a national level.
    - Continue the RTB buy back scheme where authorities can offset the cost of buying back RTB properties by up to 50% against pooled receipts.
    - Allow authorities to retain 100% of RTB receipts from new build disposals.
    - Allow administration costs due to increased RTB activity.

How will the re-investment work?

- The guidance states that to maximise borrowing it may be necessary to charge an Affordable Rent (i.e. up to 80% of market rent), but, in the case of new council homes, that is a decision for the authority concerned – i.e. the funding may be used to fund homes at social rents.

- There will be no need to demonstrate one-for-one replacement locally as long as no more than 30% of the scheme costs are financed by additional receipts.
- There will be no requirement to pay off debt with the debt element to be set aside.
- Authorities need to make significant contributions to replacement locally from borrowing headroom, other receipts, revenue contributions or reserves built up for the purpose.

Below is an analysis of how the new RTB system will work for OCC under the one-for-one scenario.

Analysis of RTB Receipts

Projected sales under Self-Financing			**10**
Estimated sales price after discount		**£**	**100,000.00**
Total assumed capital receipt from sales	10*100k	**£**	**1,000,000.00**
Authority proportion	25%*£1m	**£**	**250,000.00**
Govt proportion	75%*£1m	**£**	**750,000.00**
Actual sales			**25**
Estimated sales price after NEW discount		**£**	**80,000.00**
Total assumed capital receipt from sales	25* £80k	**£**	**2,000,000.00**
Attributable debt per property		**£**	**30,000.00**
Attributable debt on additional sales	£30k*(25-10)	**£**	**450,000.00**
Allowable transaction costs per property		**£**	**1,320.00**
Total allowable transaction costs		**£**	**33,000.00**
Total deductible by authority	Total	**£**	**483,000.00**

How much for re-investment?

Total assumed capital receipt from sales	As above on 25	**£**	**2,000,000.00**
Total deductible by authority	on > 10	**-£**	**(483,000.00)**
Govt proportion under Self-financing	On first 10	**-£**	**(750,000.00)**
Authority proportion under Self-financing	On first 10	**-£**	**(250,000.00)**

Remaining for re-investment	Balance	£	**517,000.00**
Total programme if above figure represents 30%	517/0.3*100	£	**1,723,333.33**
DCLG assume £100k/property so re-provision is			**17**
Net loss in HRA properties			**8**

Funding

Total programme if above figure represents 30%	As above	£	**1,723,333.33**
Remaining for re-investment	As above	£	**(517,000.00)**
Total deductible by authority	Not used to redeem debt	£	**(483,000.00)**
Balance to be financed	Total	£	**723,333.33**

9. It is possible that significantly greater numbers of properties will be subject to Right to Buy sales than detailed in the above example, at least in the first few years of the HRA Business Plan period, and that possibility raises the question as to whether or not the council will have sufficient capacity to use the volume of funds generated by retention of receipts within the allotted timescale. This is important, as any unused receipts would have to be paid back to the Secretary of State, with interest payable at 4% above base rate, compounded.

10. The guidance issued by Communities and Local Government makes clear that the funding may only be used where it totals no more than 30% of the cost of the schemes involved, net of contributions from other public bodies (notably, grant provided by the Homes & Communities Agency), and net of any capital investment derived from the sale of other HRA assets, outside of the Right to Buy Scheme.

11. There are two major house-building programmes in the pipeline that will take place over the first 6 years of the HRA BP period – firstly the partially HCA funded Affordable Housing Programme (AHP), and secondly the potential council purchase of the 40% social housing component of the Barton development.

12. In the case of the AHP programme, the estimated total cost of development is £20,920,000, of which £2,420,000 is expected to be provided as HCA grant, and £18,500,000 from HRA revenue sources. The council will therefore be in a position to use up to £5,550,000 of retained Right to Buy funding as a contribution to this programme (£18.5M x 30%). Using the model above as an indicative estimate, generating this amount would require sales in the region of 150 dwellings. The Barton development, which will complete in 2016, will generate 40% social rented housing. Whilst no figures are yet available as to the cost of purchasing those units, it is not unreasonable to suggest a price in the region of

£50,000,000 for 350 units. This would mean that up to £15,000,000 of right to buy retained receipts could be used towards the purchase costs, which would require sales of approximately 450 dwellings to generate.

13. Officers cannot as yet predict with any accuracy the number of successful Right to Buy applications over the next 5 years, but it is obvious from the foregoing that the current development programmes alone do give the council scope to utilise over £20,000,000 of retained receipts during the first five years of the HRA Business Plan period, should that amount actually be generated from successful Right to Buy sales in the region of 600 units, though it should be noted that no contract for the purchase of the Barton dwellings is yet in place.

14. Utilising receipts in this way has the added benefit of freeing up equivalent sums in HRA revenue funding, which could be used for further development, improvements to existing stock, or provision of enhanced levels of service to tenants.

15. Should a situation arise in which the council becomes aware that receipts are likely to be considerably higher than any planned development programme, it is possible to withdraw from the agreement and simply channel the receipts to central government at the point of sale, though officers would consider this to be a last resort and would actively seek ways of encouraging further development either by the council or by Housing Association partners.

Legal Implications

16. The Housing Act 1985 allows secure tenants to buy their homes from their Local Housing Authority at a discount. The Localism Act 2012 abolishes the Housing Revenue Account and allows local authorities to retain receipts to spend in their areas.

17. No changes have been made to the qualifying criteria for Right to Buy. The changes to the financial arrangements as set out in the report are allowed for reasons of the changes to the legislative framework. Any deviations from the Agreement as set out in Appendix 1 should be referred to Law & Governance before finalising.

18. Should the Council decide not to enter into the agreement with the Secretary of State, the net receipt will be transferred to CLG and redistributed for new affordable rented housing.

Equalities Impact

19. The purpose of signing the proposed agreement with central government is to enable the local retention of receipts from Right to Buy sales. The funding will be used in the development of social and other forms of affordable housing in the city of Oxford. Such housing will be made available via the Choice Based Lettings system on the basis of housing

need. The provision of affordable housing by this route will help to ameliorate the negative effects of the Right to Buy on the availability of affordable housing in the city, and will thereby contribute to the well being of those members of the community in the greatest housing need. It is likely to assist in the prevention of homelessness, and in reducing both overcrowding and under-occupation in existing social stock, and as such will not have a deleterious effect on any vulnerable groups in the city

Risk

20. A Risk register may be found at Appendix 3.

Climate Change

21. New council properties will be built to the highest affordable environmental standards, and wherever possible will incorporate energy saving and recycling technology aimed at reducing both carbon emissions and energy costs for tenants. The planning process ensures that issues around drainage, renewable energy, car parking and encouragement of cycle use are addressed in the most effective way possible.

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