

Growth Committee

13 October 2016

Use of Right to Buy Receipts - Reference from 29 September Adults and Children's Committee

Report by the Head of Housing

Purpose

To delegate authority to the Head of Housing to acquire properties on the open market to be included in the HRA Stock, as recommended by the Adults and Children's Committee and Housing Sub-Committee.

Recommendations of the Adults and Children's Committee

To **resolve** that –

1. the Head of Housing in consultation with the Head of Property and the Portfolio Holder for Adults Social Care and Health is authorised to purchase dwellings that are considered to be suitable for use as affordable housing within and outside of the borough; and
2. the South London Legal Partnership (SLLP) is authorised to negotiate and complete such documents as are deemed necessary to conclude the transactions negotiated by the Head of Housing.

Key Points

- A. [The Housing Sub-Committee received a report](#) at its meeting on 13 September on the requirement to repay to the Government Right to Buy (RTB) receipts unless appropriate acquisitions are completed and that the first payment will equate to £0.4m to be repaid to the Government by 31 March 2017.
- B. The proposal set out in that report is for the Council to use those Right to Buy Receipts which might otherwise have to be repaid to the Government to purchase £1.2m of additional homes from the open market. The Sub-Committee noted the need for such homes as there are currently 9226 households on the RBK housing register.
- C. As there is an urgency in progressing this project, the Adults and Children's Committee is recommending the Growth Committee to delegate authority for the required property acquisition as set out in the recommendations above.
- D. A recommendation has also had to be referred from the Adults and Children's Committee to the Treasury Committee (on 6 October) for an addition to the HRA Capital Programme of £1.2m to be approved for the purpose of acquiring properties on the open market for inclusion in HRA stock. The outcome of the Treasury Committee deliberations will be reported verbally at the meeting.
- E. In considering the report, the Housing Sub-Committee noted that, because the Growth Committee alone has 'Asset Management' under the current Committee terms of reference, decisions on even minor Housing site / property acquisitions have to be referred to Growth Committee for approval,. The Sub-Committee therefore recommended that the Adults and Children's Committee request Council (on 18 October) for a change in the terms of reference of the Adults and Children's

Committee and the Growth Committee to allow the former to make decisions on minor Housing site/ property acquisitions.

Context

1. The intention of the Government's Right to Buy policy is to enable more tenants to achieve home ownership and to ensure that the receipts from sales deliver replacement stock on a one for one basis. The Government set out this intention to revise the previous Right to Buy (RTB) scheme within its Housing Strategy, '*Laying the Foundations, A Housing Strategy for England*'. The key drivers are two-fold, firstly, to incentivise local authority and non-charitable housing association tenants to purchase their homes and, secondly, to provide local authorities with the opportunity to use the proceeds from sales to support the provision of additional social housing on a 'one-for-one replacement' basis .
2. The new scheme is fundamentally based on the previous RTB scheme, and gives tenants a 35 per cent discount reduction on the total property value, plus an additional 1 per cent discount for every year above the qualifying period. For flats, the discount is higher at 50 per cent, with a rise of 2 per cent each year. In March 2013, in an attempt to increase RTB take up, the Government announced a reduction in the qualifying period from the current five years to three years. In addition, the maximum discount sum was increased by £25,000, from £75,000 to £100,000 in London, in recognition of London's higher housing costs.
3. Therefore 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.
4. 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 - which means, when using Right to Buy receipts, that 70% of the eligible spend must be funded from alternative capital sources to meet the remaining costs. This means that receipts must be applied proportionately through the build period.
5. The Council has retained a total of £7.7m of 141 (one for one) receipts to the end of 2015/16 of which £5.2m remains unspent. These receipts are time limited with £0.4m falling due for repayment on 31/3/17 if no further expenditure is incurred.
6. RBK entered into a Retention Agreement with Secretary of State for Communities and Local Government in 2012. This enables RBK to retain a proportion of the receipt from each Right to Buy sale, subject to:
 - using the receipt to fund no more than 30% of the cost of the provision of new social housing;
 - doing so within 3 years of the quarter in which the receipt was received.
7. This means that RBK has to find at least 70% match funding to be able to use the receipt. Receipts retained but not appropriately used within 3 years must be repaid to Government with interest at base rate + 4%. Receipts can be returned at quarter received without incurring interest.
8. The requirement to spend or repay retained receipts falls due quarterly:

Table 1: Receipts retained and expenditure requirement

Period Received	Deadline	Receipts Retained & Unspent (£m Per Quarter)	Receipts Retained & Unspent (£m Cumulative)	Required 70% Contribution (£m Cumulative)	Total Spend Required (£m Cumulative)
Q4 2013/14	31-Mar-17	0.4	0.4	1.0	1.4
Q1 2014/15	30-Jun-17	0.6	1.0	2.4	3.4
Q2 2014/15	30-Sep-17	0.4	1.4	3.4	4.8
Q3 2014/15	31-Dec-17	0.3	1.7	4.0	5.7
Q4 2014/15	31-Mar-18	0.9	2.6	6.1	8.7
Q1 2015/16	30-Jun-18	0.8	3.4	8.0	11.4
Q2 2015/16	30-Sep-18	0.4	3.9	9.0	12.9
Q3 2015/16	31-Dec-18	0.6	4.5	10.5	15.0
Q4 2015/16	31-Mar-19	0.7	5.2	12.1	17.3

9. Cumulative expenditure of £9.7m is required by 31 March 2017, towards which RBK has enabled £8.3m to date. Projects in progress are expected to contribute £0.2m towards this target, however if no further expenditure is achieved RBK will be required to repay £0.3m of retained receipts with an interest charge of £49,000.
10. The HRA has very limited scope to fund the required 70% contribution to develop new social housing internally. This is primarily due to the Limit of Indebtedness (Debt Cap) imposed under Self Financing and significant recent investment in the Better Homes Project which has utilised much of the available capital resource.
11. Right to Buy Receipts can be used to increase the provision of affordable housing by:
 - building new affordable housing on council-owned land
 - acquiring new build from a developer or existing private stock for conversion to social/affordable rent
 - funding a Registered Provider to build new affordable housing where the Local Authority has nomination rights.
12. New housing acquired or developed need not lie geographically within the borough provided the council owns or has nomination rights on the units.
13. To the end of 2015/16 RBK has retained a total of £7.7m receipts, requiring a total qualifying expenditure of £25.6m. Expenditure of £8.3m has been achieved to date. In order to spend the remaining £5.2m retained receipts, delivery of new social housing costing a total £17.3m is required, since the retained receipts can fund a maximum 30%.

Alternative Provision and Use of Receipts

- Grants to Third Parties:

14. While the HRA is unlikely to have means to generate the required capital to provide new social housing itself, RBK may make contributions or grants from the retained receipts to enable third parties to develop new social housing for the benefit of the authority.
15. New social housing is defined as additional rented units made available below market rent, and the authority is deemed to benefit if the new social housing is

within its area or by having nominations rights on the units. In this latter case new units need not be geographically within Kingston.

- **Existing Housing Stock:**

16. While Minister's intentions are to encourage an increase in the overall supply of new housing, the regulations do not currently require that this be done solely through new build.
17. The use of retained receipts towards purchase of existing housing stock, provided not already social housing, would meet the requirements of the retention agreement and would have a shorter lead time to delivering units than new build.
18. The team have met several times with Registered Providers as well as inviting them to bid for allocation of available Right to Buy receipts as grant funding. Unfortunately, RP's advised that they were not interested in pursuing this option.

- **Local Authority Development Companies:**

19. In a written ministerial statement on 20 March 2015, Brandon Lewis MP set out Government policy in respect of housing development, requiring that any social or affordable housing developed by a local authority be accounted for within its HRA. This avoids a perceived mechanism to circumvent the Debt Cap and to hold stock that would not be subject to Right to Buy.
20. This would not prevent a Local Authority Development Company from developing stock for private sale, or from holding stock as temporary accommodation for homelessness purposes.

- **Regeneration**

21. Where Right to Buy 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.

Proposal and Options

Acquiring new homes from the Open Market

22. In view of the above challenges and limitations over how Right to Buy receipts can be used, it is estimated that up to £5.1m plus interest of £0.7m may have to be repaid to the Government by 31st March 2019 unless we can find an alternative approach for increasing the provision of affordable housing using the Right to Buy receipts. The above estimate recognises that no projects are formally underway beyond 2016/17, but in any event the pressures to spend are set to increase, unless alternative options for spending the receipts are made available.
23. Whilst continuing to deliver the projects in place for 2016/17, it is proposed that the Council implement a further project to purchase £1.2m of additional homes from the open market to use those Right to Buy Receipts which might otherwise have to be repaid back to the government. These homes will be converted to affordable housing to retain the benefit of the receipts in Kingston, and the rents received will provide revenue for the HRA.
24. A range of operational criteria will be met to ensure that the property purchased is fit for purpose as social/affordable housing.

25. Former social housing properties cannot be purchased with Right to Buy Receipts (unless under a Compulsory Purchase Order) and therefore have been discounted.

Alternative Options considered

26. New build of Affordable Housing units by the Council is deemed the best option in the medium to longer term, it generally takes at least 24 months for a development of approx. 10-20 units to complete the build programme. Smaller developments would take less time but are unlikely to be completed in less than 18 months. While 141 receipts can be applied against costs incurred during the build process and not just on completion, there are no projects currently in development and as a result this option would not be expected to deliver significant qualifying expenditure until late 2017/18 at the earliest.
27. Funding a Registered Provider (RP) to build new affordable housing in the area. Partner RP's continue to have difficulty with the procurement of land in the borough. Providing grants to partner RP's to aid the funding of non HRA land procurement will both spend 141 receipts and deliver affordable housing units. However as above, RP's would require approx. 24 months to complete the build programme of new developments. It would be unlikely that affordable housing completions would be achieved before periods 10, 11, 12. The funding would be conditional on completions in these periods.
28. Award a Grant to Partner Registered Providers to acquire properties on the open market. The RP's would provide the 70% funding and let the properties as Affordable Rent. The Council would then maintain nomination rights to these properties. As detailed in 10 above, several discussions and an invitation to bid with RP's have taken place without success.

Consultations

29. The proposed use of Right to Buy Receipts has been discussed with and has the support of senior officers from the Council. The process for consideration of the report is: Housing Sub-Committee (13 September) , Adults and Children's Committee (29 September), Treasury Committee (6 October) and Growth Committee (13 October)

Timescale

30. Immediate – acquisitions should be completed by March 2017.

Resource Implications

31. A project to acquire £1.2m of properties on the open market would qualify for application of 30% Right to Buy receipts, with the remaining £0.84m to be funded from internal resources including borrowing.
32. The 2016/17 HRA Capital programme is forecast to utilise available resource, and therefore it is likely that borrowing would be required to fund this project. This would result in increased revenue cost through debt charges in the region of £40k per annum, while potentially generating £12k rental income.
33. Further, the available headroom to the Limit on Indebtedness would be reduced to £18.3m. Headroom is not expected to be improved until HRA begins to make repayments on Self-Financing loans commencing 2028/29.

34. Alternatively, were £1.2m of Right to Buy receipts to be repaid to Government on expiry, interest charged would be approximately £170k. If paid through capital resource, then borrowing would be expected to be required in the programme, resulting in an increase in debt charges in the region of £8k per annum.

Legal Implications

35. 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 any relevant subsequent legislation and may become subject to Right to Buy.
36. Section 17 of the Housing Act 1985 allows Councils to acquire land for housing purposes and to dispose of land used for housing purposes to a person or organisation which intends to provide housing accommodation on the land or provide facilities which serve a beneficial purpose in connection with the requirements of persons for whom housing accommodation is provided.
37. The Council has powers under section 24(1) of the Local Government Act 1988 to provide any person with financial assistance for the purposes of, or in connection with, the acquisition, construction, conversion, rehabilitation, improvement, maintenance or management (whether by that person or by another) of any property which is or is intended to be privately let as housing accommodation.
38. Right to buy receipts must be applied in accordance with relevant legislation and guidance and particularly the Local Authorities (Capital Finance and Accounting)(England) Regulations 2003 (as amended) and the terms of any agreement reached under section 11(6) of the Local Government Act 2003 modifying the applicability of the regulations.
39. The 2003 Regulations state “provision of affordable housing means the provision of dwellings to meet the housing needs, as identified by the local authority, of persons on low incomes, whether provided by the authority or a social landlord registered under section 1 of the Housing Act 1996 (the register of social landlords)”.

Risk Assessment

40. Failure to spend the monies on time will require payment to DCLG with interest.
41. A timely decision is needed to enable the team to acquire properties

Equalities Impact Assessment

42. An assessment is not required at this time.

Road Network and Environmental Implications - None

Background documents held by the author of report – Fidelis Linehan, Interim Group Manager Strategic Housing, email: fidelis.linehan@kingston.gov.uk tel 020 8547 6892

- None other than those referred to in this report