

READING BOROUGH COUNCIL

REPORT BY THE DIRECTOR OF ENVIRONMENT AND NEIGHBOURHOOD SERVICES

TO:	HOUSING, NEIGHBOURHOODS AND LEISURE COMMITTEE		
DATE:	5 JULY 2017	AGENDA ITEM:	11
TITLE:	USE OF S106 AND RIGHT TO BUY RECEIPTS TO INCREASE THE PROVISION OF NEW AFFORDABLE HOMES		
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1. PURPOSE AND SUMMARY OF REPORT

- 1.1 Officers have continued to review opportunities to bring forward the development of new Council homes in order to increase the supply of affordable housing and maximise the use of Right to Buy (RTB) 1:1 replacement and S106 receipts.
- 1.2 This report provides an update on the current £26.6m Local Authority New Build (LANB) programme which has to date delivered 63 new units of local authority housing, with schemes on site to deliver another 85 units. The report also details proposals and funding arrangements for the next phase of the programme.
- 1.3 The report seeks spend approval for a budget of circa £20m to deliver phase two of the programme, funded through a combination of borrowing (both Housing Revenue Account and General Fund); Right to Buy receipts; and S106 receipts. It is estimated that this would deliver circa 100 new affordable Council homes depending on cost inflation.

2. RECOMMENDED ACTIONS

- 2.1 That HNL Committee notes the current position regarding site appraisals and funding capacity to support the next phase of the Council's Local Authority New Build (LANB) programme.
- 2.2 That HNL Committee recommends to Policy Committee that spend approval of up to £19.9m is granted to deliver new Council homes on identified sites, and to support the acquisition of market sale properties to provide affordable homes.
- 2.3 That HNL Committee recommends to Policy Committee that it delegates authority to the Director of Environment and Neighbourhoods in consultation with the Lead Members for Housing and Strategic Environment, Planning and Transport, the Director of Finance and the Head of Legal and Democratic Services, to agree which sites to progress within the spend approvals and restrictions set out in the report.
- 2.4 That HNL Committee recommends to Policy Committee that it delegates authority to the Director of Environment and Neighbourhoods in consultation with the Lead Member for Housing, the Director of Finance and the Head of Legal and Democratic Services to enter into contracts with the winning bidders in respect of multi-disciplinary/consultancy services and works to deliver the schemes, as set out in the report.
- 2.5 That HNL committee recommends to Policy Committee that it delegates authority to the Head of Housing and Neighbourhood Services in consultation with the Head of Finance, to approve the purchase of existing properties from the open market to be held within the General Fund for the use of Temporary Accommodation, with a limit of £500,000 per single unit.

3. POLICY CONTEXT/BACKGROUND

Local Authority New Build (LANB) Programme

- 3.1 Phase 1 of the Council's new build housing programme equates to the delivery of 148 new units with a capital spend of £26.6m (including acquisition of a small number of existing residential properties). 63 of the new homes are now completed and tenanted; the remaining 85 units will complete over the next two years.
- 3.2 The sites and acquisitions that have been completed or are in progress are set out in the table below:

Development	Number of units	Type of units	Status
Cedar Court	40	40 x1 bed extra care units	Complete
Acquisitions (open market homes for sale acquired and let through the Housing Revenue Account)	12	5 x 2 bed house 7x 2 bed flats	Complete
Whitley Rise Supported Living Scheme	11	11 x 1 bed accessible flats	Complete
Conwy Close - general needs housing	57	12 x 1-bed flats, 22 x 2-bed flats 9 x 2-bed houses, 6 x 3-bed houses 8 x 4-bed houses	Construction to commence late summer 2017; phased completion autumn 2018 and spring 2019.
Lowfield Rd - modular temporary new build accommodation	28	28 x 2 bed family units	Construction commenced; completion autumn 2017.
Total	148		

3.3 As shown in the table, 28 modular units are under construction at Lowfield Road and will be used for temporary accommodation as part of the wider package of initiatives implemented to meet the Council's statutory duty to house homeless households. Temporary Accommodation is accounted for within the Council's General Fund and therefore the cost of this development is being met via a combination of RTB receipts and General Fund borrowing with no ongoing financial burden on the Council's General Fund.

Right to Buy Receipts

3.4 At the point of self-financing in 2012, new arrangements were introduced regarding the use of RTB receipts. The Council elected to enter into an agreement with central Government to retain a proportion of any RTB receipt in order to develop replacement affordable housing within the administrative area. This means that an element of each RTB receipt (currently estimated at £40K per property) has to be used to fund the development of additional affordable homes - often referred to as 'RTB 1 for 1 replacement'. There are a number of constraints on how this can be spent:

- receipts can only fund up to 30% of development or acquisition costs;
- receipts can only fund rented properties (to be used for permanent or temporary accommodation);
- receipts can't apply where there is other public subsidy and cannot fund the acquisition of public land;
- receipts cannot be transferred to a company wholly owned by a local authority as this was seen by Government as an attempt by some LAs to circumvent the RTB requirement - this has been appealed to no avail;

- receipts must be spent within 3 years of receipt or repaid with a punitive rate of interest charged if this is not achieved.
- RTB receipts cannot be combined with S106 receipts.

3.5 RTB receipts can be passed to Registered Providers (RPs) to fund 30% of a housing development (where there is no other HCA funding being provided) or retained to fund local authority new build schemes. As stated above, receipts can also be used to support the development or acquisition of properties for temporary accommodation - financing rules dictate that these properties are accounted for within the Council's General Fund and therefore the 70% match funding needs to be provided from this account. Delivering or purchasing properties within the General Fund for Temporary Accommodation, alongside the development of homes for permanent use:

- Enables receipts to be used at times when the HRA is close to the debt cap (and HRA borrowing capacity is constrained)
- Enables sites or purchases to progress that would not be viable at social rent levels (within the HRA) as rents can be charged at 90% of Local Housing Allowance for Temporary Accommodation.
- Meets the need to accommodate homeless households pending the offer of a permanent home and to reduce the use of Bed and Breakfast.
- As with acquisitions to the HRA, enables RTB receipts to be used where timescales don't permit allocation to a development - avoiding the return of receipts to Government.

3.6 Funding parameters for both local authority HRAs and Registered Providers have changed over time due to a number of Government announcements and policy changes and this is impacting on councils' and RPs' ability to utilise these receipts. As a result a number of local authorities have had to return RTB receipts to Government - there is no penalty if receipts are returned within the first quarter.

Section 106 Affordable Housing Contributions

3.7 Under current planning policy all new housing developments, which require planning permission, are expected to contribute to the delivery of new affordable housing provision to meet local need. This requirement is subject to the development being viable. Developments of four or fewer units require a commuted sum to be paid. For developments proposing five units or more RBC planning policy requires, in the first instance, for the affordable homes to be provided 'on site' and to be 30% of any development. Where there are exceptional reasons, the provision of surrogate sites or a commuted sum may be considered. On-site contributions or commuted sums are secured via a Section 106 agreement. In relation to commuted sums, receipts paid by the developer are then held by the Council and have to be used to help deliver Affordable Housing within the Borough. This would be through the funding of RBC new build housing or grant funding to a Registered Provider. The use of S106 receipts cannot be combined with the RTB receipts outline above so would need to be allocated to separate developments.

3.8 RBC has been very successful in negotiating onsite delivery of affordable housing contributions, however, in some cases financial contributions have been accepted and are required from smaller scale developments.

4. CURRENT POSITION

Budget Available

4.1 Since the re-launch of the current RTB scheme, RBC has received RTB 1:1 replacement receipts totalling £8.16m (as recorded at the end of April 2017). To date £4.96m of these receipts has been spent on or allocated to the projects listed in paragraph 3.4.

4.2 £3.2m of the receipts are currently not allocated to a particular scheme. These receipts have staggered deadlines for when they need to be spent, up to March 2020. The level of HRA borrowing is capped by Government. However, in order to optimise the use of receipts the match funding for RTB receipts can be a combination of HRA borrowing (delivering properties to be used for permanent accommodation) and General Fund borrowing (delivering units to be used for Temporary Accommodation).

4.3 Additional RTB receipts are received by the Council each quarter and, although RTB sales are slightly reducing, the average total receipt per quarter is £550k. It is anticipated that this figure will broadly continue into the future and, if retained, these receipts will result in an additional £2.2m of receipts per year.

4.4 In summary, the Council has a total of £3.2m of unallocated RTB receipts, and it is projected that a further £2.2m will be received by March 2018 (totalling £5.4m). When match funded this would result in a total development budget of c.£18m (based on RTB covering 30% of development or acquisition costs).

4.5 In addition c.£1.9m of S016 receipts (received) are also allocated for affordable housing development.

4.6 This provides a potential total budget of c.£19,900,000. It is estimated that this would deliver circa 100 new Council homes depending on cost inflation.

LANB Sites

4.7 Feasibility work is being undertaken to assess development potential and deliverability of a number of identified sites owned by the Council. A 'long list' has been produced and a 'shortlist' of potential development sites are being assessed in greater detail.

4.8 Where appropriate feasibility work has been completed, plans are being developed and site investigation works carried out with the expectation of obtaining pre-application Planning views in the next 6-9 months. If deliverable these sites will then have the potential to be built out by the Council, be held for future development (potentially through a joint venture), sold to a Registered Provider or disposed of on the open market.

- 4.9 The progression of a site and allocation of funds to a particular development will depend on the viability and projected costs of each scheme and cannot be confirmed until a detailed development plan has been produced and 3rd party encumbrances, such as access arrangements, have been resolved.
- 4.10 Officers will identify the most efficient process to appoint an appropriate works contractor and multi-disciplinary services consultant to deliver the new homes. This will involve using either an existing available legally compliant framework agreement or holding a competitive tendering exercise; either route will be in compliance with RBC's Contract Procedure Rules and the Public Contract Regulations 2015.
- 4.11 It is also expected that a small programme of purchasing properties, often those within existing RBC (HRA) flatted blocks, will continue. This will expand to include purchasing of properties for temporary accommodation funded via a combination of RTB receipts and General Fund borrowing.
- 4.12 The Housing Service has also identified opportunities for conversion of storage/ancillary spaces in blocks of flats to create a small number of additional flats. These contribute positively to the HRA Business Plan and will also generate contributions to the General Fund through Council Tax and New Homes Bonus.

5 PROPOSAL

- 5.1 It is proposed that initial spend approval of £19,900,000 is agreed for continuation of the LANB programme. This budget will be funded via a combination of sources as broken down below:

Funding	Amount
RTB receipts	£5.4m
S106 receipts	£1.9m
HRA or GF borrowing	Up to £12.6m

- 5.2 This level of funding will not enable all of the available short-list sites to be developed.
- 5.3 Some new homes, including acquisitions, will be funded via the General Fund and the properties let as Temporary Accommodation. These developments will be on General Fund land and subsidised through RTB receipts. The limit set by central Government on rent for temporary accommodation is 90% of Local Housing Allowance (LHA is the maximum amount which Housing Benefit will pay for a given property size) - and rents will therefore be set at this level. This model will have no ongoing financial burden on the Council's General Fund and may provide a small return.
- 5.4 Strict rules and limitations on how funding can be combined will mean that there will be three sub-groups to the LANB programme:
- RTB + HRA funded units

- RTB + GF funded units
- S106 funded units

5.5 A financial appraisal of each development or purchase will be completed and only schemes that are expected to be cost neutral or provide a positive return to either the HRA or the General Fund will be progressed to construction. This means that rental income will cover borrowing costs (interest and repayment costs), management and maintenance costs. Cost avoidance in respect of reduced use of B&B would be an additional benefit and is not included in the appraisal.

5.6 In order to expedite the process of delivering viable sites through to completion, it is recommended that delegation be given to the Director of Environment and Neighbourhoods in consultation with the and Lead Members for Housing and Strategic Environment, Planning and Transport, the Director of Finance and the Head of Legal and Democratic Services to agree which sites to progress within the spend approvals and restrictions set out above.

5.7 It is also recommended that Policy Committee delegates authority to the Director of Environment and Neighbourhoods in consultation with the Lead Member for Housing, the Director of Finance and the Head of Legal and Democratic Services to enter into contracts with the winning bidders in respect of multi-disciplinary/consultancy services and works to deliver the schemes.

5.8 Delegated authority is also requested to the Head of Housing and Neighbourhood Services in consultation with the Head of Finance, to approve the purchase of existing properties from the open market to be held within the General Fund for the use of Temporary Accommodation, limited to a purchase price of £500k or below.

6 CONTRIBUTION TO STRATEGIC AIMS

6.1 The proposals within this report contribute towards the Council's Corporate Plan under the strategic priority 'Providing homes for those in most need'.

7 EQUALITY IMPACT ASSESSMENT

7.1 Not applicable to this report.

8 LEGAL IMPLICATIONS

8.1 Officers will identify the most efficient process to appoint an appropriate works contractor and multi-disciplinary services consultant to deliver the new homes. This will involve using either an existing available legally compliant framework agreement or a holding a competitive tendering exercise; either route needing to be in compliance with RBC's Contract Procedure Rules and the Public Contract Regulations 2015.

- 8.2 Any legal encumbrances for sites will need to be identified at an early stage and any issues that could impede or prevent development be highlighted and where possible resolved as each individual site is progressed.

9 FINANCIAL IMPLICATIONS

- 9.1 Spend approval of £19.9m is requested for an LANB programme to include the development of Council owned sites and the acquisition of properties from the market as detailed in the body of the report.
- 9.2 The decision to proceed with any purchase or development will be supported by a financial modal outlining the short, medium and long term impact of the development on Council finances. Only those that result in a neutral or positive impact will proceed.

10. BACKGROUND PAPERS

- 10.1 Government's Emergency Budget and related announcements
<https://www.gov.uk/government/speeches/council-housing-finance>
- 10.2 Policy Committee Report July 2015.
- 10.3 HNL report November 2015