Part I
Release to Press

Decision to be taken by Strategic Director (Resources)

RIGHT TO BUY: RE-INVESTING RECEIPTS IN NEW AFFORDABLE RENTED HOMES

KEY DECISION

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1 PURPOSE

1.1 To seek urgent approval to enter into an agreement with the Secretary of State that will enable the authority to retain additional Right to Buy (RTB) receipts for investment in new affordable rented homes.

1.2 The reason for urgency is that failure to secure a decision to enter into an agreement with the Secretary of State by 27 June 2012, will hinder the council's ability to retain RTB receipts that have been raised during quarter 1 of the current financial year.

2 RECOMMENDATIONS

2.1 For Stevenage Borough Council to enter into an agreement with the Secretary of State that will enable the authority to retain additional RTB receipts for investment in new affordable rented homes.

2.2 For council officers to develop a new affordable housing monitoring and enabling framework that will outline how the council will effectively use future potential RTB receipts to enable the delivery of new social housing.

3 BACKGROUND

3.1 Up until, and including, 2011/12 capital finance regulations prescribed that 75% of RTB receipts be pooled and paid to the Government and 25% of receipts be retained and used for financing capital expenditure. RTB discounts available to tenants were capped (in Stevenage) to £34,000 per dwelling. As a consequence of increases in house prices in the last decade and the cap on discounts, RTB applications have reduced significantly.

3.2 In March 2012 the Government published a policy paper 'Reinvigorating Right to Buy and One for one Replacement' and statutory instrument (2012 No. 711) which amended the capital finance regulations to allow for the changes set out in the policy paper. The new rules set out in these publications replace the previous capital receipts pooling rules with regard to RTB receipts and increase the RTB discount cap to £75,000.

3.3 The Government’s intention is to enable more tenants to achieve their ambition for home ownership and to ensure that the receipts on every additional home sold under the right to buy (additional to the assumption about RTB sales contained in the self financing settlement) are used to fund its replacement on a one for one basis, with a new home for Affordable Rent (up to 80% of equivalent market rent).

3.4 As net receipts per sale will be lower, because of the increased discounts, more sales will be required to generate sufficient receipts; first to compensate local authorities and the Government for the receipts they would otherwise have received under the previous rules (with the lower volume of sales expected to arise under the previous discount cap) and then to provide resources for new provision.

4 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS

4.1 RTB Receipts – Implications of the new rules

4.1.1 The Government favoured option of delivering new homes on a one for one basis is through local authorities retaining receipts to spend in their areas. The intention is to encourage an increase in the supply of new housing (new build homes are favoured). However this does not exclude receipts being used for buying existing properties for conversion into affordable rent.

4.1.2 Under the capital finance regulations that came into effect on 31 March 2012 the council is required (having deducted certain permissible amounts) to surrender RTB receipts to the Secretary of State. This sum comprises two elements:

- HM Treasury’s share (i.e. the funding HM Treasury was expecting to receive under the new HRA self financing arrangements and had the policy on RTB not changed) and
- funds available to invest in replacement stock (if receipts are sufficiently high).

4.1.3 However the Secretary of State is willing to enter into agreement with individual local authorities wishing to invest in replacement stock to retain receipts above HM Treasury’s share.

4.1.4 In order to benefit from this new provision the council would be required to sign an agreement as seen in appendix 1, under section 11(6) of the Local Government Act 2003 (as inserted by section 174 of the Localism Act 2011).

4.1.5 The agreement is designed to be light touch; there are no conditions on the number of new homes that must be built or acquired, their type, size, location or the rent that must be charged on them. These are decisions for the council to make.

4.1.6 The Secretary of State is prepared to agree that the council can retain any additional RTB receipts, on condition that the authority agrees:

- to use receipts for the provision of affordable rented homes;
- that those receipts will constitute no more than 30% of total investment in such homes (net of any contribution from another public body);
- that if, after three years, any of those receipts are not used as set out above, it will pay the un-used sums – plus interest – to the Secretary of State.

4.1.7 The Government feels that the 30% investment cap is necessary to ensure maximum value for money from RTB receipts and to enable the building of as many new homes as possible. Drawing on evidence from the 2011-2015 Affordable Homes Programme, the Government is satisfied that it should be possible to fund new homes let at Affordable Rent levels (up to 80% of market rents), with no more than 30% of the cost of the new homes needing to come from the RTB receipt (the total pot of money, not each individual sale). For instance if a local authority retains £300,000 in new provision receipts a quarter it will be required to ensure that £1 million is spent on providing social housing.

4.1.8 If the council were to participate in this scheme it will be expected (or the housing association the council was granting funding) to fund the remaining 70% from its own reserves or through borrowing serviced by the anticipated rental income from the new homes built.

4.1.9 The Government's objective is to encourage additional investment in new social housing. It is not therefore permissible to use receipts arising from non-RTB sales towards the local authority's 70% contribution to scheme costs nor use funding already deducted from the RTB receipts to cover the buying back of former council homes.

4.1.10 If an authority can meet the 30% benchmark and still charge social rents, it is free to do so, but charging an Affordable Rent is likely to maximise its investment.

4.1.11 The agreement does not require a local authority to complete the building of any home within three years; rather the authority should have incurred expenditure sufficient that RTB receipts form no more than 30% of it.

4.1.12 Where a local authority chooses to gift land to a partner housing association the value of the land cannot be counted towards the housing association's 70% contribution. This is in line with the grant allocation process managed by the Homes and Communities Agency.

4.1.13 Under the agreement the council may choose not to build itself, but instead grant fund another body. Where this is the case it would be advisable not to pay grant until a scheme has been completed. This will mean that the council will be able to demonstrate clearly to its auditors its contribution did not constitute more than 30% of the total scheme costs.

4.1.14 The main benefit of entering into the agreement is that it gives the council an opportunity to take some control in the provision of new housing to meet local needs. A further subsidiary benefit is that if the new housing is owned by the council it will improve the sustainability of the Housing Revenue Account by allowing overhead costs to be spread over a wider stock (rent) base. However the agreement will require management time to administer a pipeline of new build schemes and monitor use of capital receipts. It is recommended that council officers should develop a new affordable housing monitoring and enabling framework that will outline how the council will effectively use future potential RTB receipts to enable the delivery of new social housing.

4.2 Modelling of Future RTB Receipts

4.2.1 The detail of how the calculation of the Government's share of receipts is calculated is contained in the Local Authority Capital Finance and Accounting (Amendment) Regulations 2012 (SI 2012 No. 711). The formula used is complex, focusing on quarterly (rather than annual) data about RTB receipts, attributable debt, LA Assumed Income, Government Assumed income and money available to contribute to the costs of new provision.

4.2.3 The formula also compares actual sales with the number of sales that were assumed within the self financing settlement. The number of RTB sales projected within the self financing settlement for Stevenage are shown in Table 1.

	2012/13	2013/14	2014/15	2015/16	2016/17
Number of Sales	10.97	12.84	14.39	15.02	15.17

Table 1: RTB Sales included in Self Financing Settlement

4.2.4 Within the settlement there was already an assumption that sales would be greater than the figures projected within the Council's business plan. This works in the council's favour because the self financing debt settlement incorporated an assumption that there would be less net rent income, because of the RTB sales, and therefore Stevenage's debt allocation was lower than it would otherwise have been. The 'Attributable Debt' element of the formula contained in the amended capital finance regulations compensates the HRA for sales above this level.

4.2.5 Officers in conjunction with Sector Housing and Consultancy Services have modelled the apportionment of receipts over 5 years between 2012/13 and 2016/17 based on three scenarios,15, 25 and 30 sales per year.

4.2.6 Although the discount cap has increased to £75,000, the rules for calculating specific discounts are unchanged. These are:

- For houses: 35% of the property's value plus 1% for each year beyond the qualifying period (5 years) up to a maximum of 60%

- For flats: 50% plus 2% for each year beyond the qualifying period (5 years) up to a maximum of 70%

4.2.7 For the purpose of the modelling done for this report it has been assumed that the average discount would be £60,000. For the calculation of 'attributable debt' (the component retained within the HRA and available to repay debt or finance capital expenditure) officers have assumed the dwellings sold have the characteristics of an average Stevenage council dwelling. In practice the attributable debt for specific dwellings will depend on their individual archetype and bed size. The results are set out in Table 2 below.

	15 sales per year £	25 sales per year £	30 Sales per year £
Total RTB Receipts	5,519,145	9,198,575	11,038,290
To the Council			
Transaction Costs	97,500	162,500	195,000
Attributable debt	218,768	1,610,912	2,306,984
Local Authority Assumed Income	1,510,977	1,604,300	1,604,300
Buy Back Allowance	0	0	0
To the Government			
Government Assumed Income	3,623,847	3,847,669	3,847,669
To the Council or the Government			
Money available for replacement homes	**68,052**	**1,973,194**	**3,084,338**

Note – any use of buy back allowance would be deducted from the money available for new provision (limited to 6.5% of new provision receipts).

Table 2: Apportionment of RTB Receipts (five years 2012/13 to 2016/17)

4.2.8 For 30 sales per annum over 5 years with a £60,000 discount equates to £3.084m available for replacement homes.

4.2.9 It is clear that the lower the discount, the more beneficial it will be to Stevenage, with a £50k discount (instead of the currently assumed £60k) generating £12.6m of receipts over 5 years. When calculating the money available for replacement homes the results are extremely sensitive to the amount of discount given, and the number of RTB sales.

4.2.10 It is recommended that the council enters into the agreement with the Secretary of State as this will allow the council to retain the receipts for the quarter ending on 30 June 2012. Failure to enter into the agreement by 27 June 2012, will mean that all receipts received during quarter one will be immediately passed onto the Homes and Communities Agency (HCA) or the Greater London Authority for investment.

5 IMPLICATIONS

5.1 Financial Implications

5.1.1 Expenditure on New Provision

5.1.2 The local authority must ensure that sufficient amounts are spent on social housing such that the retained amounts constitute no more than 30% of the amount spent. If an authority has failed to ensure that a sufficient amount has been spent on providing social housing by the end of the equivalent quarter three years on, it is a compulsory requirement for part or all of the outstanding amount to be repaid to the Government.

5.1.3 Where a local authority is required to repay receipts to the Government, interest will be payable and charged at 4% above the base rate compounded with three monthly rests i.e. at the end of each three monthly period interest will start to accrue interest.

5.1.4 The Government has set a rate of interest high enough to encourage local authorities to invest more in replacement stock. The rate is specifically designed to discourage local authorities from retaining receipts until such time they are required to surrender them. Any interest returned to the Government will be used to support the provision of new affordable rented homes.

5.1.5 Authorities have the option of repaying retained receipts early (and therefore incur less interest) if they decide that they would not be able to incur sufficient investment within the time period.

5.1.6 Receipts passed to the Secretary of State will be given to the Homes and Communities Agency (HCA) to administer. There is nothing stopping a local authority that has entered into agreement with the Government from having access to funding from the HCA as well.

5.1.7 The council has three years within which to use the receipts (from the quarter they are received) but as outlined previously they must make up no more than 30% of the total development costs. In the case of the sales scenarios highlighted earlier in Table 2, and assuming the council signed the agreement with the Government to retain the new provision element of receipts, the levels of expenditure shown in Table 3 would be required to avoid making repayments to the Government:

Required Cumulative Expenditure	15 sales per year £	25 sales per year £	30 Sales per year £
2012-13	0	0	0
2013-14	0	0	0
2014-15	0	0	0
2015-16	226,840	1,634,007	2,337,587
2016-17	226,840	3,038,143	4,463,437
2017-18	226,840	4,267,513	6,433,107
2018-19	226,840	5,420,247	8,345,187
2019-20	226,840	6,577,313	10,281,127

Table 3: Required Cumulative Development Expenditure

5.1.8 At 15 sales there would be new provision receipts over the first 5 years totalling £68,052. In fact this entire amount would be attributable to the first year. From year 2 the increases to the council's Assumed Income and Government Assumed Income elements (specified within the statutory instrument) would use up the available receipts leaving nothing for new provision. These amounts represent 30% of the required expenditure (within three years) if repayments to the government are to be avoided. So, by 2015/16 £226,840 of development expenditure would be needed (£68,052 divided by 30%).

5.1.9 At 30 sales per year new provision receipts over 5 years would total £3,084,338. This would necessitate total expenditure on development costs of £10,281,127 by 2019/20 profiled as set out in Table 3 above. Where the level of required development expenditure is greater than the council would envisage practical or desirable (in the context of local circumstances) the council can pay the un-required part of new provision receipts to the government prior to the due date for the quarterly return for the period in which the RTB sales take place and thereby avoid any interest payment on that element.

5.2 Maximising Retained Receipts

5.2.1 The in-year timing of RTB sales can have a material impact on the value of RTB receipts retained locally. The optimum results, for councils that enter into an agreement with the Government to use new provision money locally, is achieved by maximising the proportion of RTB sales that take place earlier in the year i.e. preferably in quarter 1 or quarter 2. Therefore the council needs to implement systems to monitor and, as far as possible, manage this process.

5.3 Pooling Requirements

5.3.1 Any new council homes built will be excluded from the pooling regulations relating to RTB sales; this includes any new homes built or acquired using receipts covered by these agreements. This means that, if these replacement homes were subsequently sold under the RTB Scheme, the authority would be able to retain the whole receipt (provided it is spent on affordable housing, regeneration, or paying down housing debt).

6 Legal Implications

6.1 The Secretary of State can terminate the agreement at any time, but would expect to do so only in extreme circumstances (i.e. where there is not evidence of any enablement activity). The effect of termination would mean that the authority involved could from that point, no longer retain any receipts but would still have the three years from the start of the agreement to invest the receipts it had already retained (or have to return them).

6.2 Equally local authorities are able to terminate their agreements either by voluntarily returning receipts or by requesting the Secretary of State to terminate the contract as outlined above.

6.3 If the council was minded to use RTB receipts in the form of grant to partner housing associations the authority may have to have regard to state aid considerations and existing corporate contract standing orders.

7 Equalities and Diversity Implications

7.1 An impact assessment of the Government's RTB policy has been undertaken by the Department of Communities and Local Government.

7.2 There is no negative impact of entering into the proposed agreement with the Secretary of State. However as part of the development of a new affordable housing monitoring and enabling framework there will be the requirement for an equalities impact assessment to be undertaken to ensure a neutral or positive impact.

8 Risk Implications

As a result of the increase in the RTB discount cap to £75,000, it is anticipated that there will be a significant increase in the number of RTB applications. Failure to participate in the Government's scheme will affect the council's ability to replace homes lost through the RTB. This in turn will affect the long term sustainability of the council's HRA business plan.

It is estimated that 30 sales per annum over the next five years could lead to an accumulative £1.25 million loss in net rental income. This loss of income could be partly offset through the delivery of newly built council homes that have a higher net present value than the homes lost through the RTB. Failure to replace these homes may mean that further efficiency savings will need to be identified to help balance the

HRA in the future. In response to this risk officers are undertaking further analysis to fully appreciate the impact on the council's HRA Medium Term Financial Strategy.

BACKGROUND PAPERS

- RTB Receipts – Implications of New Rules – – June 2012 - Sector Treasury Services.
- Reinvigorating Right to Buy and One for One Replacement – Impact Assessment – March 2012 - Department of Communities and Local Government.
- Reinvigorating Right to Buy (RTB): Retainment of receipts for replacement housing – Information for Local Authority Finance Officers – May 2012 – Department of Communities and Local Government.

APPENDICES

- Appendix 1: RTB Agreement – Section 11 (6) of the Local Government Act 2003