

## EXETER CITY COUNCIL

EXECUTIVE  
19 JUNE 2012

### RETAINING RIGHT TO BUY RECEIPTS TO REINVEST IN ADDITIONAL HOUSING

#### 1. PURPOSE OF REPORT

- 1.1 That the terms of the Right to Buy (RTB) Agreement produced by the Department of Communities and Local Government (CLG) under Section 11(6) of the Local Government Act 2003 - to enable local authorities to retain any additional RTB receipts generated as a result of the increased maximum RTB discount in order to fund the provision of replacement affordable homes in their district - be noted by Members;
- 1.2 To seek approval for the Assistant Director of Finance to be authorised to enter into the Agreement with the CLG on behalf of the Council and that the additional RTB receipts generated be utilised to help fund the Council's proposed House-building Programme up to 30% of the value of the total costs;
- 1.3 That, subsequently, should it be identified that sufficient retained RTB receipts will not be spent before they have to otherwise be returned to the DCLG, a report will be submitted to Executive setting out their alternative use, as permitted under the agreement. Permitted alternative uses include; the acquisition of existing homes on the open market or social housing provided through grants to housing associations.

#### 2. SUMMARY

- 2.1 It is proposed that the Council enters into a standard agreement with the CLG to retain additional RTB receipts received as a result of the recent increase in the maximum RTB discount, to help fund the provision of replacement affordable homes in their District. This is subject to the retained receipts being spent within 3 years of receipt, otherwise they must be returned to the CLG after 3 years, with interest.
- 2.2 It is also proposed that, should it be subsequently identified that sufficient retained RTB receipts will not be spent - before they have to otherwise be returned to the CLG - consideration be given at that time to alternative uses for the receipts allowed under the agreement.
- 2.3 The Council has to enter into the agreement with the CLG by 27th June 2012, otherwise it will not be able to retain any additional RTB receipts generated from 1<sup>st</sup> April 2012 until the agreement is signed.

#### 3. BACKGROUND

- 3.1 On 2 April 2012, the Government raised the maximum discount given to sitting tenants under the Right to Buy (RTB) to a flat rate of £75,000. Previously the maximum discount was £30,000 for the South West of England. The Government also confirmed that RTB receipts from any additional sales that this change generates would be used to fund replacement stock on a "one-for-one" basis, nationally.
- 3.2 Following a consultation exercise by the Department of Communities and Local Government (CLG) on the detail of the arrangements, the CLG has announced that the Government's favoured option for delivering these new homes would be through local authorities retaining

receipts to spend in their areas, subject to individual local authorities entering into an agreement with the CLG on their use.

- 3.3 A consultation exercise on the wording of the proposed agreement was undertaken by the CLG in April 2012, with a very short response time, to which the Acting Assistant Director of Housing and Contracts provided an officer response on behalf of the Council. The final details have now been issued by the CLG and stock-retained local authorities, like ECC, are being invited to enter into agreements with the CLG to retain these additional RTB receipts for use to replace rented homes in their District.
- 3.4 If a local authority does not enter into an agreement with the CLG, 100% of their additional RTB receipts (after deducting an amount based on the notional debt attributed to the properties sold and an allowance for administration) must be passed over to the Government, which will be redistributed by the Homes and Communities Agency (HCA) for use anywhere in the country. Details of this re-distribution methodology have not yet been provided by the CLG.

#### 4.0 THE CLG AGREEMENT

- 4.1 A copy of the standard CLG Agreement that the Council is invited to sign is attached as Appendix 1.
- 4.2 There is no scope for amendment to the standard CLG Agreement. In summary, the agreement states that the Secretary of State agrees to:
- Allow the Council to retain additional RTB receipts to fund the provision of replacement **rented** housing stock (with the Council being able to decide how much of the additional RTB receipts it retains); and
  - Give the Council three years (from commencement of the agreement) to invest those receipts before asking for the money to be returned to the CLG.
- 4.3 It should be noted that the Government's original intention was to only give local authorities *two years* to spend the additional receipts. The Council's officer response to the short consultation exercise undertaken by the CLG expressed concern at this short timescale, as did many responses from local authorities and the Association of Retained Council Housing (ARCH), which has resulted in an additional year being given to spend the receipts.
- 4.4 The Government and local authorities had previously forecast the amount of income it would generate from Right to Buy sales prior to the maximum RTB discount being introduced. This income will be preserved, so that both parties will receive their assumed receipts from RTB sales, providing sufficient sales take place.

For this Council, the assumed number of RTB sales and assumed income was as follows:

|         |         | ECC            | DCLG           |
|---------|---------|----------------|----------------|
|         |         | Assumed income | Assumed income |
| 2012/13 | 6 sales | £124k          | £298k          |
| 2013/14 | 7 sales | £146k          | £338k          |
| 2014/15 | 8 sales | £163k          | £371k          |

Receipts from RTB sales (less allowable deductions) will therefore be shared in proportion to the assumed income levels. For 2012/13 net receipts will be shared 29% (ECC) and 71% (DCLG). Once the assumed income levels have been exceeded the remaining

receipts will be available for replacement homes, subject to any deductions for the Buy Back allowance.

- 4.5 Under the revised RTB scheme, local authorities have also retained the ability to Buy Back former council properties. Local authorities will be allowed to fund up to 50% of the cost of re-purchasing a former council home, up to a maximum of 6.5% of any additional net receipts each quarter until the 50% cost of re-purchasing has been reached each quarter until the 50% costs of repurchase have been reached.
- 4.6 Under the CLG's agreement, the Council would have to agree that RTB receipts will not make up more than 30% of total spend on replacement stock (including fees), and to return any unused receipts to the Secretary of State with interest.
- 4.7 The agreement does not require the Council to *complete* the building of any home within three years; rather, that the Council should have incurred expenditure sufficient that Right to Buy receipts form no more than 30% of it (including fees). Where retained receipts exceed 30%, the Council must return the additional receipts (i.e. the receipt above 30%) to the Secretary of State with interest.
- 4.8 The CLG states that its main aim has been to make the process as "light touch" as possible, with minimal inspection or interference in the Council's business activities. It states that "agreements are therefore concerned solely with the flow of money in from RTB receipts and out in investment in replacement stock".
- 4.9 Under the terms of the agreement it is possible for the Council to deliver replacement affordable homes in a manner of ways including; newly built council homes, the acquisition of existing homes or social housing provided through local authority grants to housing associations.
- 4.10 The CLG states that the 30% cap is necessary to ensure that it gets maximum value for money from the RTB receipts and enable the building of as many new homes as possible. The Council (or a registered provider it grant funds to) will be expected to fund the remaining 70% from its own reserves (or if a Housing Association is given grant through borrowing serviced by the anticipated rental income from the new homes built). The CLG says that it has considered historic data, which confirms that 30% is a realistic and achievable proportion.
- 4.11 It is not permissible for the Council to use capital receipts arising from non-RTB sales towards the Council's 70% contribution towards development costs.

#### ***How does this work in practice?***

- 4.13 Each quarter, the Council must report to the CLG the *cumulative sum* it has *retained* for replacement stock and the *cumulative amount* it has *spent* on replacement stock. There is no requirement to return receipts in the first three years of the agreement, but from Quarter 1 of 2015/16, the Council will have to compare:
  - the total amount spent on replacement stock from the start of the agreement to the end of each quarter; with
  - the total amount it has retained from Right to Buy receipts in the corresponding quarter, three years earlier.
- 4.14 Where the latter amount is 30% or less than the former amount, no further action is necessary. Where the latter amount is more than 30%, the surplus amount (i.e. the amount above 30%) must be surrendered to the Secretary of State. The retained amounts will be

reduced subsequently by the amount surrendered and interest paid. A worked-example of how the arrangement will operate in practice - provided by the CLG – is attached as Appendix 2.

- 4.15 The Council would be free to return any RTB receipts to the CLG whenever it wishes within the three-year reference period if, for example, the Council recognises that it would otherwise be compelled to return receipts after three years and therefore wants to reduce the amount of interest it must pay by paying receipts back early.
- 4.16 The Council would have to pay interest to the CLG on any unspent RTB receipts returned to the CLG at 4% above the base rate. This interest rate is very high; the CLG has stated that this is deliberate to discourage local authorities from retaining receipts until such time that they are required to surrender them (with local authorities earning interest themselves in the meantime).
- 4.17 The Secretary of State can terminate an agreement at any time, but the CLG says that this is only expected in extreme circumstances (for example, where there was absolutely no evidence that a local authority was commencing activity). The effect of termination would mean that an authority 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).
- 4.18 Equally, the Council can terminate an agreement either by voluntarily returning all future receipts (and paying back what it had already retained) or by requesting the Secretary of State to terminate as set out above.
- 4.19 Agreements must be signed by 27th June 2012. Agreements signed after this date will not be able to retain RTB receipts from previous quarters.

## **5. IMPLICATIONS FOR EXETER CITY COUNCIL**

- 5.1 It is currently difficult to assess the likely additional RTB receipts that the Council will receive as a result of the recent RTB changes, above the amount assumed by the Government prior to the changes. However, there has certainly been a lot of interest from this Council's tenants as a result of the increase in RTB discount. Since the revised scheme was launched we have received 111 general enquiries and 24 applications. Historically, around half of all RTB applications result in actual sales.
- 5.2. It is inevitable that this high rate of applications will reduce, once the initial surge of interest wanes. However, it is likely that the increased maximum discount will result in an ongoing increase in the number of RTB applications and resultant sales for the foreseeable future, compared to both recent years and the Government's pre-RTB change sales estimates. Therefore, it is likely that additional RTB receipts *will* be generated, which the Council could use for the provision of replacement Council homes, if it enters into the required agreement with the CLG. Therefore, rather than lose this funding to other parts of the country, it is proposed that the Council does enter into the agreement with the CLG to replace the additional Council homes sold under the RTB in this District.
- 5.3 As members will be aware, following a period of around 25 years without building any new affordable homes, the Council did deliver a modest Council House-building Programme of 21 new rented homes. In preparation of any potential new funding by the Council's development team have identified sites which could deliver a further 69 affordable homes. The development team are continually working to identify other potential sites or schemes to assist the Council deliver more affordable properties

- 5.4 As a contingency, should it be identified that sufficient retained RTB receipts will not be spent before they have to otherwise be returned to the CLG, they could be spent in one of the other ways set out in 4.9 above. If this is necessary, their alternate use would need to be agreed by the Executive at the appropriate time.

## **6 LEGAL AND GOVERNANCE IMPLICATIONS:**

Section 11(6) of the Local Government Act 2003.

## **7 RISK MANAGEMENT**

- 7.1 The main risk to the Council is the possibility of having to return additional RTB receipts to the CLG, that may have been expected and accounted for within development appraisals, together with interest at an interest rate higher than the Council would have achieved on deposit – resulting in an overall loss to the Council. This could occur for one of two main reasons;

(a) If it is not possible to incur the expenditure on the House-building Programme before the 3 years period elapses; or

(b) If the total retained receipts are so much (due to a high increased demand for the RTB), that they exceed 30% of expenditure for the whole House-building Programme.

- 7.2 This risk will be mitigated by the Housing and Finance Directorates monitoring the accumulation and use of any additional RTB receipts and the progress with the House-building Programme, and ensuring that robust development appraisals are undertaken. The report also sets out alternative ways that any potential under-use of receipts could be utilised.

- 7.3 This risk will also be added to the Corporate Risk Register.

## **8. RECOMMENDED:**

- 8.1 That the terms of the RTB Agreement produced by the Department of Communities and Local Government (CLG) under Section 11(6) of the Local Government Act 2003 - to enable local authorities to retain any additional Right to Buy (RTB) receipts generated as a result of the increased maximum RTB discount in order to fund the provision of replacement Council homes in their district – are noted by Members;

- 8.2 That approval is given for the Assistant Director of Finance to be authorised to enter into the Standard Agreement with the CLG on behalf of the Council and that the additional RTB receipts generated be utilised to help fund the Council's proposed House-building Programme;

- 8.3 That, subsequently, should it be identified that sufficient retained RTB receipts will not be spent before they have to otherwise be returned to the DCLG, a report will be submitted to Executive setting out their alternative use, as permitted under the agreement. Permitted alternative uses include; the acquisition of existing homes on the open market or social housing provided through grants to housing associations.

ASSISTANT DIRECTOR HOUSING AND CONTRACTS

**Local Government (Access to Information) Act 1985 (as amended)**

**Background papers used in compiling this report: None**

