

HIGH PEAK BOROUGH COUNCIL

Report to Corporate Select Committee

13 February 2017

TITLE:	Right to Buy Receipts – Update Report
EXECUTIVE COUNCILLOR:	Councillor McCabe – Executive Portfolio Holder Housing
CONTACT OFFICER:	Pranali Parikh – Regeneration Manager
WARDS INVOLVED:	Non-Specific

Appendix 1: Schedule of RTB receipts

Appendix 2: Process chart for RTB grant applications

Appendix 3: Assessment criteria

1. Reason for the Report

1.1 To update the Committee on progress on the use of Right to Buy receipts.

2. Recommendation

2.1 That the report be noted.

3. Executive Summary

3.1 In 2012, the government allowed councils to enter into an agreement to retain Right to Buy receipts in order to build new affordable homes. As properties are being continuously sold through the Right to Buy (RTB) programme, receipts are continually accruing and the budget is increasing. Since 2012, 90 properties have been purchased by tenants under Right to Buy resulting in the Council receiving £1,095,808 as of December 2016. Each receipt has to be spent within a 3 year time period or will be reclaimed, with interest, by central government.

3.2 Approval was given in January 2016 to enable officers to develop a Right to Buy Grant scheme using the Right to Buy receipts. This grant scheme allows the Council to work with registered housing providers (RPs) to offer up to 30% funding towards the provision of affordable housing throughout the Borough. A

sum of £58,665 has been paid to Peaks and Plains Housing Trust to purchase a property for affordable rent on the Octavia Gardens development in Chapel-en-le-Frith.

- 3.3 To date one bid is being considered in principle for the contribution of £300,000 for delivering 10 affordable homes on a site in Bridgemont. This offer is subject to:
- Successful planning approval
 - A due diligence evaluation
 - An assessment of the development appraisal by independent consultants
 - Land assembly confirmation
 - Acceptance and signing of formal grant agreement
- 3.4 A project team led by the regeneration team and consisting of officers from planning policy, housing, development control, finance, property and legal teams, has explored a range of options and initiatives in order to use the RTB money most efficiently and on appropriate projects to deliver affordable housing. These activities are set out below.
- a. All RPs have been contacted through emails and phone calls. One to one meetings have taken place to explore various options on how best the Council can work in partnership with the RPs to achieve the objectives of this grants scheme.
 - b. A list of properties available on the open market and located in areas of existing social housing where RPs are active, is being considered for purchase by the RPs. This initiative has the potential to deliver a 'quick win' and is being positively considered by some of the RPs.
 - c. The direct purchase of suitable properties available on the open market using RTB grant funding with HRA capital investment making up the remaining 70%. The cost of capital would need to be recovered by future years rental income over a suitable period of time in order to be an affordable option to the HRA. There is a risk attached to this with the current annual rent reduction and possible continuing impact on income receipts.
 - d. RPs have been asked to consider enhancing the affordable housing provision on sites with residential development already approved and in the process of being delivered. Whilst developers may be providing sufficient affordable housing through approved Section 106 agreements, it might be financially advantageous to them to offer more for sale to RPs at an early stage in the development. This initiative has been well received by RPs and it is anticipated that applications through this route may be received in the next few weeks.
 - e. To utilise the RTB grant to make up the shortfall of affordable housing, site owners and developers have been approached where an approved Section 106 agreement is varied through the planning process or, on sites where it might be difficult to meet the required amount of affordable housing because of abnormal development costs. On receiving positive

response, RPs are being introduced to these developers.

- f. Officers are liaising with RPs over possible use of RTB grants on private/speculative sites or, sites allocated in Local Plan.
- g. Small Council owned sites where affordable housing may be appropriate are being considered for development in partnership with RPs. An independent valuation of such sites will be required to ensure 'value for money' criteria is met in doing this.
- h. Discussions have taken place with Peak District National Park Authority (PDNPA) for taking forward affordable housing schemes in the Peak Park and as identified as part of the Rural Housing Needs Survey.
- i. As part of the Council's wider Accelerated Housing Delivery Programme as approved by the Executive in September 2016 consultants are being procured to prepare masterplans, appraisals, valuations and delivery mechanism for the large Council owned sites with residential allocation in the Local Plan. This project will consider the use of RTB money for delivering additional affordable housing.
- j. Officers have approached other councils to learn what measures they have put in place for the use of RTB money. A summary of these findings is being prepared to review the RTB grants scheme.
- k. Representations have been made to government through MP Andrew Bingham to the planning minister and Department of Communities and Local Government (DCLG) for increasing flexibility around the criteria for the use of RTB money. Some of the suggestions include:
 - 1. To relax the limit restricting RTB contribution to only 30% of the cost of a new house
 - 2. Flexible use of RTB. For example, use of RTB for highways improvements or other site enabling works
 - 3. Creation of a small site access fund to open up constrained smaller sites (perhaps managed by Local Enterprise Partnerships LEP)
 - 4. Fast track Compulsory Purchase Order (CPO) procedure to enable site assembly with HCA support through back-to-back fundingFollowing this, discussions are on-going with officers from DCLG.

3.5 All above mentioned actions are being explored actively and every effort has been made to ensure the appropriate and timely use of RTB money. It is worth noting that once a solution is found through the above mentioned actions, a series of steps will need to be taken to process the applications, carry out due diligence and prepare relevant legal documents together to ensure value for money and compliance with Council's policies and procedures.

3.6 Despite the above mentioned initiatives, the Council has been unable to spend all of the receipts that expired by 31 Dec 2016. Under the terms of the Grant Agreement, the Council will pay back the remaining RTB receipt totalling £35,961 including interest incurred.

3.6 A further £133,793 of the Right to Buy budget must be spent by 31st March

2017. The total capital spend must be £445,977 with a registered provider funding £312,184. As of now, no viable scheme has come forward with a firm proposal. Considering the timescales involved, in getting a scheme to a stage when it is ready to draw down money, it is unlikely that this money will be spent by March 2017. The monies will need to be returned to central government with an accrued interest payment of £18,942, making a total payable of £152,735.

- 3.7 The pay back of the receipt does not threaten the delivery of the overall project. However, it highlights the need to continue to work closely with RPs to explore all possible options of allocating the RTB budget.

4. **How this report links to Corporate Priorities**

- 4.1 Will support in the delivery of the corporate aim to 'support economic development and regeneration'.
- 4.2 Will support the achievement of the priority outcome of 'good quality social housing provision'

5. **Options and Analysis**

- 5.1 **Option 1** –To keep exploring all possible initiatives to secure RTB spend on the provision of affordable housing across the borough as set out in 3.4 above. **Recommended**
- 5.2 **Option 2** – To do nothing in securing RTB spend. Any unspent funds will need to be paid back to central government with an accrued interest. **Not Recommended.**

6. **Implications**

- 6.1 Community Safety - (Crime and Disorder Act 1998)
There are no specific implications within this report.
- 6.2 Workforce
There are no specific implications within this report.
- 6.3 Equality and Diversity/Equality Impact Assessment
This report has been prepared in accordance with the Councils Diversity and Equalities policies.
- 6.4 Financial Considerations
As of the 31st Dec 2016 there is £1,095,808 in Right to Buy receipts available to spend. Under the terms of the Grant Agreement, the Council will pay back the remaining RTB receipt totalling £35,961 including interest incurred.

The next tranche of funding totalling £133,793 is required to be spent by 31st March 2017 with the remaining funding to be spent in phases until December 2019 (see table in 7.2). Failure by the

Council to spend the grant monies within the timeframe will result in repayment of the funds to central Government with accrued interest.

6.5 Legal

The Council has powers under the Housing Acts in relating to the provision of affordable housing. A power of general competence is also available under section 1 of the Localism Act 2011, the exercise of which is subject to any prohibitions or restrictions that may exist.

Right to buy receipts must be applied in accordance with relevant legislation and guidance and particularly the Local Authority (Capital Finance and Accounting) (England) Regulations 2003 (as amended) and the terms of any agreement reached under the Local Government Act 2003 modifying the applicability of the regulations.

Prior to an award being made, and in order that correct procedures are followed, consideration will be given to the Council's procurement options, state aid and general due diligence.

The Council's own legal team will be responsible for preparing any formal grant agreements.

6.6 Sustainability

Properties built with Right to Buy funding would meet the appropriate HCA design standards and would be compliant with building regulations.

6.7 Internal and External Consultation

Currently there has only been internal consultation between services involved.

6.8 Risk Assessment

The next tranche of funding totalling £133,793 is required to be spent by 31st March 2017. There is a high risk that this money will not be spent in time due to the lack of any current viable application. The project team is exploring a range of initiatives to ensure that some viable schemes are developed for future spend.

A key risk posed by the high number of property sales through the Right to Buy route is that the Council is losing good quality affordable properties from its housing stock which if not being replaced through the grant scheme, creates a problem for the future of being left with high maintenance properties and not enough affordable homes.

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Web Links and Background Papers	Location	Contact details
Options for the use of Right to Buy receipts	Democratic Services	Pranali Parikh
Progress report of the use of Right to Buy receipts	Democratic Services	Pranali Parikh

Appendix 1 - Schedule of RTB receipts

Spent By	RTB Receipt	Capital Spend Required	Required Spend Remaining
	£	£	£
Mar-17	133,793	445,977	445,977
Sep-17	12,223	40,743	40,743
Dec-17	128,871	429,569	429,569
Sep-18	123,282	410,941	410,941
Dec-18	164,126	547,088	547,088
Mar-19	13,642	45,472	45,472
Jun-19	19,495	64,983	64,983
Sep-19	291,279	970,930	970,930
Dec-19	209,097	696,992	696,992
Total	1,095,808	3,652,694	3,652,694

Interest payment	Payment to Government if not spent
£	£
18,942	152,735
1,713	13,936
17,973	146,843
16,933	140,215
22,428	186,554
1,855	15,496
2,637	22,131
39,387	330,666
28,274	237,372
150,141	1,245,950

Appendix 2: Process chart for RTB grant applications

Right To Buy Receipts - Process Chart				
Task	Scope	Lead Officer	Timescales	Approvals/sign off
Receive bid(s) from RP and undertake initial assessment	Assess bid as submitted on the E of I form against the initial selection criteria (see appendix 1) and available online. Request any clarification or missing information.	JB	Within 2 weeks of receipt of bid	PP
	Assess bid against eligibility criteria (appendix 2) to make sure the scheme is eligible for funding.	JB with input from MF and legal	Within 2 week of receipt of bid	Finance
	Check any planning pre-app advice to establish principle of development.	JB with input from DC	Within 2 weeks of receipt of bid	PP
SUCCESSFUL	UNSUCCESSFUL 	JB to Inform RP of outcome		
				
Advise RP of outcome	Inform applicant if initial bid acceptable and next steps and approximate timescale	JB	Within 2 weeks of receipt of bid	PP
				
Write committee report	Prepare committee report for IED approval. This report seeks 'in principle' approval of the bid subject to conditions on; detailed and due diligence assessment by consultants, planning approval and acceptance of formal grant agreement.	JB with input from Project Team and consultation with legal, finance, property, planning and housing strategy teams.	5 week period	Draft report will require approval by PP and at Director level and portfolio member for housing plus relevant ward members before formal issue of report to Councillor McCabe as portfolio holder.
SUCCESSFUL	UNSUCCESSFUL 	JB to Inform RP of outcome		
				
Inform RP of outcome and request detailed application	Inform RP of outcome and if successful request that the RP complete the Full Application Form produced by Thomas Lister (see appendix 3). RP are also requested at this point, to liaise with TL on the completion of the form.	JB to inform RP and send form. TL to act as lead liaison with RP	1 week from formal approval	
Receive Due Diligence Assessment Report from TL	TL to prepare and submit a Due Diligence assessment report (see appendix 4) with recommendations for the Council.	JB and project team to consider recommendations.	Timescale driven by RP and TL. Acceptable timescales would be up to 4 weeks.	Project Team to make a recommendation to the Growth Board and Transformation Board in consultation with the portfolio holder.
Report for Growth Board and Transformation Board and portfolio holder	JB to prepare report	JB with PP approval	1 week	Growth Board/Transformation Board/Portfolio holder to approve report.
SUCCESSFUL	UNSUCCESSFUL 	JB to Inform RP of outcome		
				
Prepare Grant agreement	TL to prepare technical input into grant agreement such as outputs, expenditure and grant claim dates.	TL		Finance and Legal GB & TB
	Legal to prepare formal grant agreement including technical input from TL and liaison with HP as required.	Legal, TL & Finance		Finance and Legal GB & TB
Issue grant agreement	Formal grant agreement signed by Council and RP.	Legal	4 weeks for preparation and formal sign off of grant agreement	Legal GB & TB
Issue grant agreement to project team	Issue grant agreement to all project team so that any relevant items can be noted by the relevant officer. I.e. projected grant spend - finance.	JB	As soon as possible after formal sign off.	GB & TB
				
Payment of grant	Release grant payment against expenditure claims	Finance/AS	As soon as possible	Finance/AS
Monitor project	Monitor project against outcomes, dates and spend against grant agreement	JB, Finance	Ongoing and progress on each scheme reported every 6 - 8 weeks to project team/transformation	Project Team GB & TB

Appendix 3: Assessment criteria

Initial Assessment Criteria - Allocation of Right to Buy receipts

1. Firm, deliverable sites – Ownership and Planning

A positive weighting will be given to applicants that can demonstrate ownership or strong acquisition discussions and have planning permission secured or positive pre-application discussions with the councils planning team. Sites will be assessed for deliverability - are there any constraints to development i.e. flood risk, access or land contamination etc.

Method: Information provided by applicant.

Assessment: Against 3 criteria – planning, ownership and constraints.

Planning - Allocated in Local Plan/ pre-application discussions started/ outline approval/ full planning permission obtained.

Ownership - No control over land or discussions with the owner/ limited control through ransom strip or option arrangement/ ownership of site.

Deliverability - What are the constraints and how resolvable are they.

2. Delivery timescales

A positive weighting will be given to applicants that can enter into contract with main build contractors as soon as possible from award of grant. Applicants will be required to produce a delivery plan, which will form part of the grant condition agreement.

Method: Information and verification from applicant and monitored through formal grant condition agreement.

Assessment: Short (within 3 years)/ medium (within 3-5 years)/ long term (within 5-10 years).

3. Strategic fit

The applicant will need to demonstrate how their proposed scheme will complement the Council's corporate priorities. This includes how the scheme contributes to the Council's housing aims.

Method: Information provided by applicant.

Assessment: Strong support/ average support/ poor support.

4. Direct impact/ community benefit

An application will be considered favourably in respect of the impact it will have on the number of dwellings provided.

Method: Sum of Council tax income generated/New homes bonus using user approved multiplier tool.

Assessment: The greater increase in new annual income = more positive weighting.

5. Value for Money

The VFM for each application will be assessed against level of funding

requested (bearing in mind that the maximum grant that can be legally allocated is 30% of gross development costs) and the outcomes achieved. Each application will be required to submit a detailed financial appraisal at a later stage of the process.

Method: % grant rate (grant requested against gross development cost); allocation of grant spend against per unit outcome.

Assessment: Lower grant rate and lower cost per home = more positive weighting.

6. Equalities

Provision of housing for older people and other vulnerable groups eg. people with disabilities.

Method: Information provided by applicant to demonstrate how the scheme will meet equalities or any other groups positively identified by the Council.

Assessment: Schemes that include specifically designed and accessible accommodation will have a more positive weighting.

Criteria 1 – Ownership	Site in ownership of applicant	Limited control over site through ransom strips or option arrangements		No discussions or control over land	Total Score
	8	4		2	
Criteria 1 - Planning	Full & current planning permission secured	Outline & current planning permission secured	Pre –app discussion started & principle of development established	Site allocated in Local plan	
	8	6	4	2	
Criteria 1 – Constraints to development	No constraints	Identified constraints and how easy to resolve			
	8	6 – 2 (dependent upon number of constraints identified)			
Score Total criteria 1					

If scheme is not compliant with local plan policies then do not proceed with bid assessment and inform RP to withdraw bid.

Criteria 2 – Timescales	Short within 3 years	Medium 3 – years	Long 5 – 10 years	Total Score
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	8	6	4	
Score Total criteria 2				

Criteria 3 – Strategic fit	Strong support	Average support	Poor Support	Total Score
	6	4	2	
Score Total criteria 3				

Criteria 4 – impact and community benefit	> 20k pa	15 – 20k pa	10 – 14K pa	< 10k pa	Total Score
	4	3	2	1	
Score Total criteria 4					

Criteria 5 – VFM	< 15% grant rate	15 – 22%	23 – 30%	Total Score
	4	3	2	
Score total criteria 5				

Criteria 6 – Equalities	Wheel chair adapted acc	Wheel chair accessible acc	Lifetime homes	No provision	Total Score
	8	6	4	2	
Score total criteria 6					

Scheme Total score =

Note:

Required: Successful applicants will be required to submit a full and detailed development appraisal, for further evaluation and due diligence assessment.

Required: Successful applicants will be required to enter into a grant agreement (which will include nomination agreement and protocols as required) with the Council.