

REPORT TO CABINET

22 January 2020

Subject:	Use of outstanding 1-4-1 Right To Buy Receipts for new build opportunities and acquisitions.
Presenting Cabinet Member:	Councillor Joanne Hadley - Cabinet Member for Homes
Director:	Director - Housing and Communities – Alan Caddick
Contribution towards Vision 2030:	
Key Decision:	Yes
Cabinet Member Approval and Date:	Cllr J Hadley 19 December 2019
Director Approval:	Alan Caddick
Reason for Urgency:	Urgency provisions do not apply
Exempt Information Ref:	Exemption provisions do not apply
Ward Councillor (s) Consulted (if applicable):	This is a boroughwide initiative
Scrutiny Consultation Considered?	Scrutiny has not been consulted
Contact Officer(s):	Philip Deery Business Manager, Asset Management and Maintenance 0121 569 5087 Rob Woodall Senior Accountant, Finance 0121 569 2302

DECISION RECOMMENDATIONS

That Cabinet:

To approve an amendment to the Scheme of Delegations to Officers (Executive powers) for the Director – Housing and Communities and the Executive Director – Resources as follows:-

Use/expenditure of outstanding 1-4-1 Right To Buy Receipts

1. enter into formal negotiations with owners of land and property that provide an opportunity to increase the availability of council housing in the borough through the acquisition of land for future housing development, purchase of existing residential property/accommodation, other property suitable of conversion to residential accommodation or other land or property acquisition that provides an opportunity to increase the council housing stock/provision (“Suitable Assets”); and
2. subject to the satisfactory determination of a value for money evaluation and negotiations, as necessary, in relation to all Suitable Assets, to complete the acquisition/purchase of any Suitable Assets to a maximum value of £1,000,000 per transaction.
3. all acquisitions made pursuant to (i) and (ii) above shall be funded using 1-4-1 receipts (30%) and HRA (70%) approved budgets.

1 PURPOSE OF THE REPORT

- 1.1 This report seeks approval to authorise the Director Housing and Communities and the Executive Director – Resources the authority to acquire land and property with the support of 1-4-1 Right to Buy (RTB) receipts in order to increase the availability of council housing in the borough.

2 IMPLICATION FOR VISION 2030

- 2.1 The acquisition of land and properties will enable the council to fulfil its ambition to provide homes to meet a full range of housing needs in attractive neighbourhoods.

3 BACKGROUND AND MAIN CONSIDERATIONS

- 3.1 In its Changing the Housing Landscape in Sandwell Cabinet Report (Key Decision Ref. No. C043 – October 2014) the Council embarked on a strategic plan to retain the current level of Council stock provision by safeguarding against the impacts of the Right to Buy (RTB).
- 3.2 Sales under the RTB have accounted for the loss of 1,071 homes in the last four financial years.
- 3.3 To counter these losses, since June 2016, 238 Council homes have been completed (largely houses) covering 8 sites. Looking ahead, a further 332 homes have been approved for construction, involving ten sites and a further 7 schemes are awaiting approval, that will see an additional 86 Council homes constructed.
- 3.4 In parallel with the construction of new properties, the council is obliged to consider re-purchasing former RTB properties owing to the “Right of First Refusal” (RoFR) obligation which came into legislation in 2005. After this date, owners of former RTB properties wishing to sell their home within the first 10 years of exercising the RTB must first offer the former landlord, or local council, the opportunity to purchase.
- 3.5 Over the last four years we have considered over 300 requests from owners subject to RoFR and of those we have purchased 92.
- 3.6 In the main the reason we elect not to proceed is typically in cases where the property purchase is not deemed to provide value for money, however there have also been cases where a purchase is complicated by factors outside of current policy such as owners requesting to remain in residence and becoming council tenants on completion. There are also occasions when owners simply do not wish to sell to the council but are legally obliged to offer RoFR.
- 3.7 This activity is funded through the HRA capital investment programme which has been constrained to some extent by the ‘debt cap’ put in place by the government when self-financing was introduced in 2012. The rules stated the ‘debt cap’ must not be breached.
- 3.8 Because of this cap, funding was sought from Homes England to supplement our HRA funding and resulted in Sandwell establishing one of the largest self-build programmes in the country. £9.755m of funding has been secured from Homes England to date.

- 3.9 In 2014 the council signed up to the government incentive for local authorities to recycle a proportion of the RTB receipts. (see Proposals to Retain Additional Right to Buy Receipts for New Council Housing - Key Decision Ref. No. SR235). This incentive is also referred to as 1-4-1 funding.
- 3.10 From this date the funds generated through RTB sales can contribute up to a maximum of 30% of the expenditure of the new property and the replacement can either be new build or existing stock. However, the 1-4-1 funding and Homes England funding cannot both be used on the same scheme.
- 3.11 The council have up to three years to use the 1-4-1 funding, with any unused receipts required to be returned to the Secretary of State with interest calculated on a daily basis at a rate of 4% above base rate.
- 3.12 In October 2018, the government announced that the debt cap would be lifted, allowing HRA's more freedom to borrow and increase its capital and new build programmes.
- 3.13 While the main focus of the stock replacements is targeted at building new properties on council owned land, properties can also be purchased off plan. Officers recognised a potential risk with the delivery of off-plan purchases due to some developments not commencing as anticipated and this increased concerns about the three-year expenditure requirement for the funds already held.
- 3.14 To avoid this in the short term, we have looked at other ways to utilise the receipts and have increased our acquisitions of existing properties currently available on the open market. Within the current Scheme of Delegations, Directors have authority to acquire land and property, however this is limited to a value of £250,000 per transaction.
- 3.15 This has successfully avoided the need to repay funds to government however we have reviewed projections of RTB sales for the next 3 years and anticipate increasing levels of sales.
- 3.16 There are currently 3 approved sites in the new build programme for which 1-4-1 funding has been allocated. These are:
- 3.16.1 Churchvale – 20 dwellings with an estimated start date of April 2020
 - 3.16.2 Brittonia – 10 dwellings with an estimated start date of April 2020
 - 3.16.3 Old Hibiscus (Alfred Gunn) – 16 dwellings with an estimate start date of January 2020

- 3.17 These sites alone are not sufficient to absorb all the funding already available for the next 3 years. Details of required spend and sites identified to date is shown at Appendix A.
- 3.18 Therefore the risk remains that we will not be able to utilise the receipts we currently hold and will have to repay amounts to government including interest at 4% above base.
- 3.19 To put this into context, during Quarter 4 of 2016/17, receipts were retained totalling £0.810m. Adding a further 70% HRA funding means this requires spend of £2.7m during Quarter 4 of 2019/20 at the very latest. If this spend target isn't met in its entirety, then interest would be payable totalling £122k (each £100k repaid equates to £15k in interest).
- 3.20 It is clear we need to make changes to our approach to increasing the councils housing stock and have a range of options available, that can be implemented quickly where required, to avoid the risk of losing the 1-4-1 receipts and being required to pay interest on that funding back to government.
- 3.21 Going forward all major new build schemes will be subject to reports to cabinet, however it is impractical to put forward every opportunity to purchase land, smaller new build development sites and individual properties. It is highly likely the timescales set out in our current governance arrangements for cabinet reports will result in missed opportunities. It is also not recommended that matter of urgency reports be used as an alternative and a more pragmatic approach would be to give authority for the Directors to act quickly in situations where Suitable Assets are identified.
- 3.22 As an example, officers have been presented with an opportunity to purchase 2 separate small scale new build developments. Collectively these would provide 5 new build homes however in both cases the purchase price would exceed the £250,000 limit currently in place. A cabinet report would take up to 8 weeks to gain approval to proceed to formal negotiation and at that point the seller may well have secured a deal with a third party.
- 3.23 It is recommended that the new delegation includes a financial limit of £1,000,000 per transaction to enable Directors the opportunity to respond quickly to suitable opportunities to purchase land and properties.

- 3.24 It is also recommended that the delegation be used to help resolve cases of acute need, particularly cases related to prevention of homelessness, overcrowding and disability. In many instances addressing these needs also enables the council to avoid associated costs imposed on other services, such as Adult Social Care and Children's Services as well as costs to NHS and other partner organisations.
- 3.25 To be clear, this is not a proposal to alter the processes and procedures currently in place to resolve cases of acute need and we will continue to apply tried and tested solutions wherever possible. However, there have been a small number of cases that have proved particularly difficult to resolve and the opportunity to acquire properties could provide a cost-effective solution to help resolve these cases in future.
- 3.26 While it is not practical to list every case we are likely to be presented with, the following provides typical examples where we would consider purchasing could be the most appropriate solution:
- 3.26.1 relieve a specific housing need such as homelessness, overcrowding or a property has had, or is suitable for, significant disabled adaptations which would meet the needs of an identified applicant with disabilities which cannot be resolved by other housing options within a reasonable time.
- 3.26.2 alleviate a demonstrable scarcity of supply as identified from the housing register, local 'bidding' data sourced from local void properties and the housing needs assessment.
- 3.26.3 enhance or deliver a regeneration opportunity where ownership would aid the design of a potential development scheme and will allow maximisation of development opportunities, to deliver a greater number of affordable homes.
- 3.26.4 resolve leasehold issues where a flat is a former Council property in a block of flats owned by the Council and acquiring the property purchase could help mitigate the impact of non-recovery of charges under Section 20 of the Landlord and Tenant Act 1985, (as amended by the Commonhold and Leasehold Reform Act 2002) such as the cost of managing, maintaining, repairing and insuring the block of flats.
- 3.27 Going forward officers will adopt a single process for consideration of purchasing land or property and in each case the opportunity will be assessed on factors such as location, condition and value for money.

- 3.28 As part of the process our Housing Solutions team will also assess the housing need in every case. For land purchases there will be an assessment of demand that will help shape the planned development opportunity. For individual properties there will be an assessment of the responses to our marketing of similar properties. For purchases designed to resolve specific cases of acute need the team will document how the proposal fits with our current Housing Allocations policy and how the purchase provides the most appropriate solution.
- 3.29 In every case the owners, and tenants where applicable, will be asked to sign a declaration of interest to clearly identify where conflicts of interest could influence the purchase.
- 3.30 Any officer identified with a potential conflict of interest in a particular purchase will be excluded from involvement in that particular case and, where necessary to mitigate that risk, an external agent will be appointed to provide an independent valuation of the property.
- 3.31 For properties and land purchased on the open market the purchase price will be negotiated to reflect their market value. For auction opportunities the officers assigned to attend will be set an upper limit for bidding purposes prior to the auction commencing. Bids will only be made on properties that have been fully assessed prior to auction and deemed to provide value for money if acquired for no more than the agreed bidding limit.
- 3.32 All properties to be acquired through private treaty agreement.

4 THE CURRENT POSITION

- 4.1 Two separate delegations are currently being utilised. The first is specific to the purchase of former RTB properties under the Buy Back Provisions, the second is the delegated authority for the Acquisition and Disposal of Council-Owned Land and Buildings.

5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

- 5.1 Not Applicable.

6 ALTERNATIVE OPTIONS

- 6.1 As at 31 December 2019 the council held circa £13m in 1-4-1 RTB receipts. In order to utilise this funding the council must provide circa £30m from HRA budgets. There are insufficient new development opportunities in the short to medium term to expend this level of funding therefore there is a risk that we will have to repay these funds to government including interest at 4% above base. The current estimate of interest payable should none of the 1-4-1 funding be spent is circa £2m giving a total repayment of £15m.

7 STRATEGIC RESOURCE IMPLICATIONS

- 7.1 On the 18th October 2017, Cabinet approved (minute number 167/17) investment totalling £85m for the 4 year period 2018/19 until 2021/22 for New Build Housing within the HRA. Added to the £13m of available RTB receipts, this gives potential investment of £98m available to increase the councils housing stock.

8 LEGAL AND GOVERNANCE CONSIDERATIONS

- 8.1 Each potential acquisition will be subject to a delegated authority report signed by the Director Housing and Communities and Executive Director – Resources.
- 8.2 Negotiation of terms and conditions for each acquisition will be carried out by Strategic Assets and Land – Regeneration and Growth Directorate.

9 EQUALITY IMPACT ASSESSMENT

- 9.1 There are no Equality Impact Assessment issues needed to be considered as part of this report.

10 DATA PROTECTION IMPACT ASSESSMENT

- 10.1 There are no data protection issues needed to be considered as part of this report.

11 CRIME AND DISORDER AND RISK ASSESSMENT

- 11.1 There are no crime and disorder issues needed to be considered as part of this report.

12 SUSTAINABILITY OF PROPOSALS

- 12.1 The council has committed to the Government's 1-4-1 RTB receipts initiative which sets out a 3 year timescale for utilising RTB receipts. This initiative will be reassessed as part of the regular update of HRA capital expenditure reviews.

13 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

- 13.1 This initiative will help residents whose cases have proved particularly difficult to resolve through existing processes. In many instances addressing these needs also enables the council to avoid associated costs imposed on other services, such as Adult Social Care and Children's Services as well as costs to NHS and other partner organisations.

14 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

- 14.1 This initiative will help increase the availability of Council housing in the borough.

15 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 15.1 There are two separate processes that have been developed to consider property purchases and this proposal will streamline these into one.
- 15.2 There have been opportunities to acquire land for new developments but some of the more attractive opportunities have been lost as we do not have authority in place to act quickly. This proposal will minimise that risk going forward.
- 15.3 Failure to utilise the 1-4-1 RTB receipts requires the council to repay any unused funds plus interest accrued over 3 years at a rate 4% plus Bank of England base rate.
- 15.4 Therefore it is recommended that cabinet authorise the Director for Housing and Communities and Executive Director – Resources to acquire suitable assets outlined in this report.

16 BACKGROUND PAPERS

- 16.1 Changing the Housing Landscape in Sandwell Cabinet Report (Key Decision Ref. No. C043 – October 2014)

16.2 Proposals to Retain Additional Right to Buy Receipts for New Council Housing - Key Decision Ref. No. SR235

16.3 Council's Constitution (Part 3) - Scheme of Delegation

17 **APPENDICES:**

17.1 Appendix A – Forecast expenditure against 1-4-1 receipts 1st January 2020 to 30th September 2022

Alan Caddick
Director Housing and Communities

Appendix A – Forecast expenditure against 1-4-1 receipts 1st January 2020 to 30th September 2022

Quarter	1-4-1 Receipts to be spent	Target Spend (1-4-1 plus HRA)	Potential Interest payable	Total Payable
Qtr 4 - 2019/2020	£ 810,000	£ 2,700,000	£ 121,500	£ 931,500
Qtr 1 - 2020/2021	£ 750,000	£ 2,500,000	£ 112,500	£ 862,500
Qtr 2 - 2020/2021	£ 1,470,000	£ 4,900,000	£ 220,500	£ 1,690,500
Qtr 3 - 2020/2021	£ 1,290,000	£ 4,300,000	£ 193,500	£ 1,483,500
Qtr 4 - 2020/2021	£ 815,100	£ 2,717,000	£ 122,265	£ 937,365
Qtr 1 - 2021/2022	£ 945,300	£ 3,151,000	£ 141,795	£ 1,087,095
Qtr 2 - 2021/2022	£ 1,064,400	£ 3,548,000	£ 159,660	£ 1,224,060
Qtr 3 - 2021/2022	£ 1,540,200	£ 5,134,000	£ 231,030	£ 1,771,230
Qtr 4 - 2021/2022	£ 1,503,000	£ 5,010,000	£ 225,450	£ 1,728,450
Qtr 1 - 2022/2023	£ 1,212,600	£ 4,042,000	£ 181,890	£ 1,394,490
Qtr 2 - 2022/2023	£ 1,807,500	£ 6,025,000	£ 271,125	£ 2,078,625
<u>Total budget</u>	£ 13,208,100	£ 44,027,000	£ 1,981,215	£ 15,189,315