

# **Report to the Council Housebuilding Cabinet Committee**



**Report reference:** CHB-002-2013/14  
**Date of meeting:** 10 July 2013

**Epping Forest  
District Council**

**Portfolio:** Housing – Cllr David Stallan  
**Subject:** Funding the Council Housebuilding Programme  
**Responsible Officer:** Alan Hall, Director of Housing (01992 564004)  
**Democratic Services Officer:** Jackie Leither (01992 564756)

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## **Recommendations:**

- (1) That the following sources of funding be utilised, in addition to the loan provisions received from the Public Works Loan Board, to provide the required subsidies for the Council Housebuilding Programme:
  - (a) Capital receipts from additional Right to Buy (RTB) sales, that must be utilised for new housebuilding (in accordance with the Council's agreement with the Department of Communities and Local Government (CLG));
  - (b) All current and future financial contributions received by the Council from developers to fund affordable housing, through Section 106 Agreements, in lieu of the on-site provision of affordable housing;
  - (c) Capital receipts from the sale of HRA land or buildings, where the Cabinet has specifically agreed that they should be used to help fund the Council Housebuilding Programme (including the capital receipts already allocated by the Cabinet to the Housebuilding Programme from the sale of Leader Lodge, North Weald and land at Millfield, High Ongar);
  - (d) Any grant received from the Homes and Communities Agency (HCA) in the future, to fund the Housebuilding Programme; and
  - (e) Any other external funding sources (e.g. the Harlow Growth Area Fund);
- (2) That the Cabinet Committee authorises the use and provisional level of subsidy required for proposed developments, through the signing-off of their financial appraisals, which shall include details of the estimated level of subsidy required;
- (3) That, once the Cabinet Committee has authorised the use and provisional level of subsidy required for individual developments and/or development packages, the Director of Housing be authorised to allocate funding from the sources listed in (1) above to individual developments and/or development packages – utilising the most appropriate source of funding for the development(s), having regard to the time limits within which they must be utilised - up to and in excess of the provisional level approved by the Cabinet Committee, once tenders to undertake the works have been received from contractors, subject to:
  - (a) The amount allocated being no more than 15% of the level provisionally approved by the Cabinet Committee;

- (b) Sufficient funds being available at the time of allocation; and**
- (c) The Cabinet Committee receiving a report to its next meeting on the amount of subsidy allocated, and its source of funding;**
- (4) That the Cabinet Committee receives a standard report at each meeting, setting out the current position with regard to funding from the sources listed in (1) above, showing the availability, use and commitments to date; and**
- (5) That, if the sources of funding listed in (1) above are exhausted during the course of the Housebuilding Programme, a report be submitted to a future meeting of the Cabinet on the possible sale of some of the potential development sites earmarked for the Programme, with or without planning permission, to generate capital receipts to provide a form of cross-subsidy to continue with the Housebuilding Programme.**

#### **Executive Summary:**

Through its Terms of Reference, the Cabinet Committee has delegated authority to use various of sources of funding (detailed in the report) in order to develop individual sites within the Council's Housebuilding Programme. The total potential amount of funding available from these sources to subsidise the proposed developments in order to make them viable is around £3.3m (although some of this funding may not come to fruition), of which around £995,000 is currently available.

The report considers the general approach to be taken to the utilisation of these sources of funding, in order to have sufficient capital resources available to meet the cost of works and fees for the construction of the properties.

#### **Reasons for Proposed Decision:**

It is important to identify and quantify the potential sources of funding for the Housebuilding Programme, and to have an agreed approach to their utilisation.

#### **Other Options for Action:**

The main options are:

- (a) Not to utilise all or any of the identified potential sources of funding, or to only use some of the funding available from various sources – however, this may result in insufficient funding being available to provide the required levels of funding.
- (b) Not to authorise the Director of Housing to utilise the most appropriate source of funding for the development(s), and to reserve approval to the Cabinet Committee – however, this could result in delays, which could result in time limits within which the use of the funding must be utilised not being met; furthermore, it is likely that sources of funding for the various developments may subsequently need to be switched, in order to meet all time limits and to ensure the most appropriate utilisation of resources.
- (c) Not to authorise the Director of Housing to allocate funding in excess of the provisional level approved by the Cabinet Committee (and reserve the allocation of an excess funding to the Cabinet Committee), or to amend the maximum amount that can be allocated above the level approved by the Cabinet Committee, or to amend the provisos to the authority given – however, if tenders received are higher than expected, it is likely to take some time to arrange a Cabinet Committee meeting to approve any additional required funding, which could delay the commencement on site. It is felt that the proposed maximum level above the authorised amount is reasonable, bearing in mind the proposed caveats to the use of the authority.

(d) Not to agree the submission of a report to a future meeting of the Cabinet, if necessary, on the possible sale of some of the potential development sites earmarked for the Programme in order to fund other developments in the Programme – however, the Cabinet has previously recognised that such an approach may be necessary, and it is suggested that if the other identified sources of funding are exhausted, it would be appropriate for the Cabinet to consider this option.

## **Introduction**

1. As part of its Terms of Reference, the Cabinet Committee has delegated authority to use various sources of funding to develop individual sites within the Council's Housebuilding Programme. Each proposed development will have a financial appraisal produced by East Thames, the Council's Development Agent, which will be approved by the Cabinet Committee. The financial appraisal will assess the viability of the development and identify the estimated level of capital resources required.

2. In simple terms, a scheme is considered viable if the costs of construction (and land acquisition, although this does not apply to the Housebuilding Programme) can be recouped from the rents that are received over a reasonable number of years, after taking into account the ongoing costs of management, maintenance and the interest payable on the loan used to meet the original construction costs.

3. The approach proposed for the Council's Housebuilding Programme is that the loan costs should be repayable within a period of 30 years, which is a generally-accepted, prudent and common timeframe for affordable housing developments. However, for many of the Council's developments, this will not be possible - for the following reasons:

- Since the rents for affordable rented housing are lower than market rents, the rental income over a 30-year period may not be sufficient to repay the development's loan costs; and
- All of the Council's potential development sites are very small, some only comprising one or two properties. Furthermore, since many of the sites are currently garage sites, a number have relatively long access roads and most require demolition works, which add to the cost. Therefore, the unit costs of construction for the Council's Housebuilding Programme are relatively high.

4. Where the development does not break even within 30 years, one option would be to simply extend the financial appraisal period – i.e. allow the development to take longer to break even. However, this is not considered to be a prudent approach to take to the programme and, in any event, some developments may never break even.

5. To enable developments to break even within a 30-year period, some form of subsidy is often required, to meet some of the construction costs. The need to provide subsidy is quite common for affordable housing developments; subsidies are normally provided either by developers (on large Section 106 sites), or through grant from the Homes and Communities Agency (HCA), for which the Council is not currently eligible.

6. Subsidies for the Council's Programme can come from a number of sources, and this report considers the various funding sources available to the Council, and proposes a strategic approach to the selection and use of these funding sources to ensure that all developments are viable, bearing in mind that the Cabinet has determined that no funding should be provided by the General Fund to subsidise the Housebuilding Programme.

7. Approval has been delegated to the Cabinet Committee, through its Terms of Reference, to use the sources of funding referred to in this report to develop individual sites within the Council's Housebuilding Programme.

### **Loan provision**

8. The primary source of funding for the construction costs will be from the loans the Council has obtained from the Public Works Loans Board. Although most of these loans were required to fund the one-off debt settlement to the Government under the self-financing regime in April 2012, sufficient headroom and capacity has been built into the HRA Financial Plan to fund the majority of the Housebuilding Programme.

### **Capital receipts from Right to Buy sales – “One-for-One Replacement” Agreement with the CLG**

9. When the Government increased the maximum Right to Buy (RTB) discount to £75,000 from April 2012, it agreed that capital receipts from additional sales as a result of the increased discount could be used to fund one new affordable home for every one sold, subject to local authorities entering into a formal agreement with the Department of Communities and Local Government (CLG).

10. The CLG has determined that the definition of “additional RTB sales” is those RTB sales above the number that the CLG assumed for each local authority when it was assessing each council's debt settlement under the HRA self-financing arrangements. For this Council, the numbers of sales assumed by the CLG are as follows (compared to the actual number of sales for previous years):

<u>CLG's Assumed Sales</u>	<u>EFDC Actual Sales</u>
2012/13 - 9	2009/10 - 8
2013/14 - 10	2010/11 - 9
2014/15 - 11	2011/12 - 7

11. Following consideration and approval by the Cabinet, the Council has entered into the required agreement with the CLG. However, there are two important requirements of the agreement to note:

- The “additional RTB capital receipts” must be spent within 3 years of the date of receipt, otherwise they must be returned to the CLG, with interest; and
- No more than 30% of a property's development costs can be met from these receipts.

12. Although there was a small surge of additional RTB applications in April 2012, when the increased RTB discount was introduced, they have now dropped to an average of around 5 per month. In 2012/13, there were 13 RTB sales completed, compared to the CLG's previous estimate of 9 RTB sales. Therefore, there were 4 additional RTB sales applicable under the CLG Agreement; the total amount available to the Housebuilding Programme from these sales (after deducting administration allowances) is around £240,000, an average of £60,000 per sale. In the first two months of the current financial year (April and May), there had already been 12 RTB sales, which is already in excess of the CLG's previous estimate of 10 sales for the whole of 2013/14.

13. Since the receipts must be spent within 3 years, it is suggested that they are generally the first source of subsidy used for the Housebuilding Programme.

## **Financial contributions from Section 106 Agreements**

14. The Council's main planning policy objective for the provision of affordable housing within the District is to ensure developers provide affordable housing on-site when they develop private sites (usually 40% of the total number of properties). However, in exceptional circumstances, it is sometimes agreed that on-site affordable housing would be inappropriate.

15. In such circumstances, the Council expects the developer to provide a financial contribution in lieu of on-site provision, to fund the provision of affordable housing elsewhere in the District. Unless it makes the development unviable, the required financial contribution is equivalent to the amount of subsidy that the developer would have had to provide if the affordable housing was provided on-site, and is secured by a Section 106 Agreement. Often, the Section 106 Agreement includes a requirement that the receipt must be used within a specified period, usually 5–10 years.

16. Currently, the Council has received financial contributions from Section 106 Agreements totalling £668,000 from 3 developments to fund affordable housing, which have not yet been spent or allocated (so that they could be reserved and used for the Council's Housebuilding Programme).

17. In addition, the Council has signed 7 further Section 106 Agreements for developments, which require developers to provide further financial contributions to fund affordable housing totalling around £1.813million, which the Council will receive when/if specific development triggers are activated (e.g. start on site, practical completion).

18. Therefore, potentially, the Council can expect to receive around £2.5million from signed Section 106 Agreements to fund affordable housing within the District, although it should be noted that some of these developments may not come to fruition within the foreseeable future, or even at all. Furthermore, under the Growth and Infrastructure Act 2013, developers can apply to re-negotiate financial contributions required by signed Section 106 Agreements, if they consider that they make the development unviable.

19. In the past, the Council has given financial contributions from such Section 106 Agreements to housing associations to help fund the development of affordable housing. This is because, to date, they have been the only providers of new affordable housing in the District. However, since the Council is now developing new affordable housing itself, and most of the Council's Preferred Housing Association Partners already have access to grant funding from the Homes and Communities Agency - which the Council does not - it is suggested that this source of funding should be used by the Council in order to provide a significant source of funding for its Housebuilding Programme.

## **Grant from the Homes and Communities Agency (HCA)**

20. Grant from the HCA for affordable housing, nationally, has reduced significantly over recent years, but is still available to both housing associations and local authorities and currently averages around £22,000 per property, although the average for rented housing will be higher. There has been some doubt about whether HCA grant would continue to be available beyond 2015, but the Government's Comprehensive Spending Review (CSR) announced on 26 June 2013 committed over £3billion additional capital investment to deliver a further 165,000 new affordable homes over the 3-year period from April 2015 - although the Government has stated that the average grant is expected to reduce to around £18,000 per property.

21. However, under current arrangements, in order to be eligible for HCA grant, providers must both be an Investment Partner of the HCA and have a contract with the HCA (following a bidding process held couple of years ago). At present, the Council meets neither of these requirements, so cannot access HCA grant.

22. However, this is the reason for requiring East Thames, as the Council's Development Agent, to seek HCA Investment Partner on behalf of the Council – which East Thames will do, later in the year. If Investment Partner status is achieved, it will enable the Council to bid for HCA funding in the future, which could be a useful source of funding.

23. However, it should also be noted that, at the Chartered Institute of Housing's Annual Conference the day after the Government's CSR was announced, the Housing Minister told delegates that developing landlords bidding for the HCA funding from 2015 would be expected to enter into "something for something" deals - where they would have to find efficiencies; agree to the rents for an increased number of vacant properties for which social rents had previously been charged to be re-let at affordable rents; and dispose of more vacant properties on the open market; all in order to minimise the amount of HCA grant required. Clearly, this is something about which the Council will need to understand more, carefully consider, and discuss expectations with the HCA, if it is successful in achieving Investment Partner status and considering a bid for HCA funding from 2015.

### **Other external funding sources**

24. Occasionally, there may be opportunities to access other external sources of funding. For example, the Council was successful in securing £160,000 funding from the Harlow Growth Area Fund, through a bidding process. This funding will provide an external subsidy of £90,000 for the proposed development at the former Red Cross Hall site in Roundhills, Waltham Abbey to meet the estimated cost of flood mitigation works. The remaining £70,000 was received by Hastoe Housing Association for its development on former Council-owned land at Millfield, High Ongar (see below), which increased the amount Hastoe was able to pay the Council for the land by the same amount.

### **Sales of HRA land**

25. The Cabinet has already agreed that the capital receipts from the following two sales of HRA land and buildings can be used, in full, to provide a source of funding for the Housebuilding Programme:

**Leader Lodge, North Weald** (former Homeless Hostel Manager's accommodation) – This is expected to be sold in the near future for the sum of £515,000, plus an overage payment of £85,000 for each additional property built on the site by the developer

**Millfield, High Ongar** - £87,000 has already been received from Hastoe HA for the purchase of the Council's land at Millfield, High Ongar, for the development of four straw bales houses.

26. Finally, if all of the above forms of subsidy are exhausted, the Council could sell some of its development sites intended for the Housebuilding Programme (either with or without planning permission), and use the capital receipt to cross-subsidise developments on other sites. Such a course of action would have to be agreed by the full Cabinet and, of course, the disadvantage of such an approach, is that the Council would lose sites from its Housebuilding Programme, which should be avoided if possible.

### **Conclusion and prioritisation of the use of funding sources**

27. The Council is in the fortunate position of having a range of funding sources available to provide the required subsidies for its Housebuilding Programme, to supplement the resources available from its PWLB loans. Moreover, the resources available now and potentially in the future are significant, amounting to around £3.32million, as summarised in the table below:

	<b>Available Now (£000s)</b>	<b>Potential Future Funding (£000s)</b>	<b>Total (£000s)</b>
Additional RTB Receipts	240	(U/K)	240 (min)
Section 106 Contributions	668	1,851	2,481
HCA Grant	Nil	(U/K)	(U/K)
HRA Land Sales	87	515 (min)	602 (min)
<b>Totals</b>	<b>995</b>	<b>2,366</b>	<b>3,323</b>

28. Since the Council's initial Housebuilding Programme comprises around 120 homes over 6 years, the currently-identified funding amounts to an average of £27,700 per property. However, it is emphasised that, as explained earlier, some of the financial contributions from signed Section 106 Contributions may well not come to fruition. Although, on the other hand, it should also be noted that there are likely to be further RTB receipts and Section 106 contributions that become available over the next 6 years, that cannot yet be quantified. It is therefore recommended that Section 106 contributions that are negotiated in the future are also allocated and used for the Council Housebuilding Programme for the foreseeable future.

29. It is important to note that some of the funding sources have strict time limits within which they must be used. Generally, capital receipts from additional RTB sales should be utilised first, followed by Section 106 contributions that have time limits. If HCA Grant is obtained in the future, its use will also have timescales within which the grant must be utilised.

30. It will be noted from the agenda item to be considered by the Cabinet Committee later in the meeting, regarding the proposed developments for inclusion within Package (Year) 1, that the estimated required subsidy for the first 25 properties within the proposed Package (Year) 1 is £425,000, which amounts to an average of £17,000 per property. If a similar level of subsidy was required for a similar number of properties in Year 2 (which would total 50 homes over 2 years), it could be funded from the remaining £570,000 that is already available now – although a similar level of subsidy in Year 3 would require some of the expected S106 contributions and land and RTB receipts to have been received.

31. If the average subsidy figure for Package (Year) 1 is applied to the whole initial proposed Housebuilding Programme of 120 new homes, the total subsidy requirement would be £2.04million, which is less than the total amount expected from S106 contributions and land sales, and does not take account of any additional RTB sales receipts (or HCA grant).

32. Each financial appraisal considered by the Cabinet Committee for proposed developments will quantify the estimated amount of subsidy required. Therefore, it is suggested that, once the Cabinet Committee has authorised the use and provisional level of subsidy required for individual developments and/or development packages, the Director of Housing be authorised to utilise the most appropriate source of funding for the development(s), having regard to the time limits within which they must be utilised.

33. Once developments have received planning permission, they will be brought together into development packages, for which tenders will be invited from contractors to undertake the works. At this stage, it is possible that the lowest tender received is higher than expected, which would require a greater level of subsidy than the level provisionally authorised by the Cabinet Committee. In such circumstances, it is likely to take some time to arrange a Cabinet Committee meeting in order to approve any additional required funding, which could delay the commencement on site.

34. It is therefore proposed that the Director of Housing be authorised to allocate funding to individual developments and/or development packages, by up to 15% more than the provisional level approved by the Cabinet Committee, provided that sufficient funds are available and a

report is submitted to the Cabinet Committee's next meeting on the amount of subsidy allocated, and its source of funding.

35. It is also proposed that the Cabinet Committee receives a standard report at each meeting, setting out the current position with regard to available funding from each of these sources and showing the use and commitments to date.

### **Resource Implications:**

In addition to the resources available to the Housebuilding Programme within the HRA Financial Plan from the loan provisions from the Public Works Loan Board, the total potential amount of funding available from other sources to subsidise developments in order to make them viable is around £3.32m (although some of this funding may not come to fruition), of which around £995,000 is currently available.

### **Legal and Governance Implications:**

The Leader of Council has determined clear Terms of Reference for the Cabinet Committee, which have also been reported to the full Council.

The use of the sources of funding are permitted under the Town and Country Planning Act 1990, the Housing Act 1985 and Local Government and Housing Act 1989.

### **Safer, Cleaner and Greener Implications:**

The availability of the various sources of identified funding ensure that the Council's new properties can be built to a standard that makes them both safe and environmentally friendly.

### **Consultation Undertaken:**

East Thames, the Council's Development Agent, has been consulted on the contents of this report, and their comments have been taken into account.

### **Background Papers:**

None.

### **Impact Assessments:**

#### **Risk Management**

The main identified risks are as follows:

(a) Some of the sources of funding available to the Housebuilding Programme (e.g. capital receipts from additional RTB sales and Section 106 contributions) may not be spent within the applicable time limits – This risk will be mitigated through the careful monitoring of the availability and use of the funding sources by both officers and the Cabinet Committee.

(b) The financial appraisals produced for individual developments may be incorrect – This risk is mitigated by the fact that East Thames has extensive experience of developing affordable housing, and uses proprietary software for financial appraisals. The financial appraisals will also be checked by the Housebuilding Project Team, which includes Council Finance Officers.

It should also be noted that Pellings, East Thames' principal building consultants, will also be producing, maintaining and monitoring risk registers for both individual developments and the Housebuilding Programme as a whole, which will be regularly reported to the Cabinet Committee.



Equality and Diversity:

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? N/A

What equality implications were identified through the Equality Impact Assessment process?

N/A

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?

N/A