

SLOUGH BOROUGH COUNCIL

REPORT TO: Cabinet **DATE:** 18th May 2020

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WARD(S): All

PORTFOLIO: Housing & Community Safety - Cllr Mohammed Nazir

PART I **KEY DECISION**

COUNCIL HOUSING 'BUY-BACKS'

1.1 The purpose of the report is to update Cabinet on progress in delivering the recommendations identified by the Council's internal auditors, RSM, in their September 2019 report. In particular the report seeks Cabinet approval to delegate the acquisition of the 'buy-backs' of former council housing purchased by tenants under the Right-to-Buy to the Council's Section 151 Officer in consultation with the Service Lead for Housing Development & Contracts.

2 Recommendation(s)/Proposed Action

The Cabinet is requested to resolve that the recommendations set out in section 5 of this report be approved.

3. The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan

3a. Slough Joint Wellbeing Strategy Priorities

This report sets out the opportunity for the Council to exercise its statutory right of first refusal to acquire Council properties, previously purchased by tenants under the Right-to-Buy scheme, at market value, or to nominate other parties who should have the right to do so, should the property become available for sale within 10 years. Whilst this will not increase housing supply it will provide additional affordable housing stock for the Council, or parties nominated by the Council, so that the Council can meet its Housing and Wellbeing duties and priorities.

3b Five Year Plan Outcomes

It is well established that having a stable, attractive home has a significant impact on a person's health and wellbeing. Through the buy-back process, the availability of additional Council homes will contribute to Slough being an attractive place where people choose to live, work and visit.

4 Other Implications

(a) Financial

The report highlights an annual average of eight properties with a historical cost of £2,030,000. There was a reliance on use of right-to-buy receipts to enable the cost of purchase to be viable.

The table below illustrates the ability of Slough Living Rent (SLR) and Social Rent, with or without the support of right-to-buy receipts, that are able to generate sufficient income for the buy-back at a market price that would be a viable purchase for the Council.

Income Generated to Fund Purchase	Maximum Purchase price		
	1 Bed	2 Bed	3 Bed
Purchase SLR - With RTB funding	£220,000	£290,000	£325,000
Purchase and rent at SLR - Without RTB	£150,000	£205,000	£230,000
Social Rent - With RTB/Grant funding	£130,000	£200,000	£220,000
Social Rent - Without RTB/Grant Funding	£90,000	£140,000	£155,000

In a market place where property prices have escalated and these increases are set to continue as the borough thrives and many see opportunity for investment, the impact is that Slough's property values are set to continue to rise. The table above is an indicator of the purchase price that the Council would identify as its limits to purchase buy-backs. The table shows that buy-backs are becoming unaffordable.

(b) Risk Management

Recommendation from section 2 above	Risks/Threats/ Opportunities	Current Controls	Using the Risk Management Matrix Score the risk	Future Controls
The Cabinet are requested to accept the recommendations set out in section 5 of the following and identified as recommendations 5a to 5h	The RSM Audit report on the buy-back of Council Houses identified '1' High and '8' Medium Risks and concluded there were no assurances that the controls were suitably designed or consistently	The RSM report identified that purchases were approved below levels identified in the Financial Procedure Rules. The report identified there was a process followed. It did	9 Critical impact. Low probability	The Housing Development & Contracts Service have taken a lead in addressing the key findings of the report, through implementing new processes, business case and appraisal

	applied. Action was required to strengthen the control framework.	not reflect the changes which have occurred in the Council. There was a lack of strategy to align buy-backs to the Council's objectives.		alongside creating a development strategy that aligns its to corporate objectives. The reliance on and viability of buy-backs due to escalating market values is diminishing
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(c) Human Rights Act and Other Legal Implications

There are no Human Rights Act Implications in relation to the recommendations in this report given there are no current residents adversely impacted by the proposed scheme.

Under Section 156A of the Housing Act 1985 there is a mandatory requirement for every conveyance of the freehold or grant of a lease under the Right-to-Buy to contain a covenant which is binding on the Secure Tenant and every successor in title. That covenant is to the effect that until the end of the period of ten years beginning with the date of the conveyance or grant there shall be no disposal, which is not an exempted disposal, unless prescribed conditions have been met.

The Housing (Right of First Refusal) (England) Regulations 2005 set out the conditions for the purposes of Section 156A of the Housing Act 1985. These conditions are to the effect that before a sale of a house or flat bought under the Right-to-Buy can take place, notice must be served upon the Council offering the Council the opportunity to either purchase the property or to nominate another person, being a private registered social housing provider or other party to whom the Council may have sold the freehold reversion in the case of a flat, to accept the offer. The offer must generally be accepted by the Council, or a nomination made, within 8 weeks and the purchase completed within 12 weeks thereafter, otherwise the former Secure Tenant is free to sell elsewhere and has one year to complete such sale before being required to recommence the notice procedure.

Under part 3.5 of the Council's Constitution acquisition of property for the rationalisation of the Council's property portfolio, or for facilitation of development initiatives within the approved policy and Financial framework and budgets, is a Cabinet function and Level 1 and Level 2 Officers have delegated authority to acquire leasehold property for services of the Directorate up to a limit of £250,000.

(d) Equalities Impact Assessment

It is anticipated that the tenants for the homes will come from the waiting list maintained by the Council and therefore will meet the Council's Equalities Policy.

(f) Property

The acquisition of 'Council Buy-Backs' will be based on a Business Case that will set out if there is a strategic asset or commercial rationale such as land assembly for future site redevelopment. The key factor, if purchasing at market value is to ensure we acquire an asset not a liability to the Housing Revenue Account. If the Slough Living Rent is not able to fund the cost of borrowing, management maintenance and compliance, it means that other tenants are in effect subsidising that occupant's rent and taking resources which we can utilise to provide new housing.

5 Supporting Information

The Council's auditor RSM's cycle of audit reviews included the review of Council Buy-Backs. The purpose was to ensure the appropriate processes, controls and approval mechanisms are in place for the buying back of properties.

The situation arises as the 'Right-to-Buy' (RTB) allowed individuals to purchase their Council homes at a discount. In January 2005 legislation changes require any owners intending to sell their RTB home within 10 years of their purchase must offer the Council the first right of refusal.

The Council previously had a limited development programme and used buy-backs to increase the supply of affordable homes. An additional factor was to utilise the RTB receipts within the 3 year timescale set by central government, otherwise to return the funding with penalties.

Whilst buy-backs were opportune when the SBC development program was modest and the program timings didn't match government requirements for using RTB receipts, we have moved forward significantly since the completion of the report in September 2019. We now have a large pipeline of development underway and are therefore not under the same pressure and have alternative options to utilise development funding. We can be more selective as to which buy-backs to purchase.

The RSM report (provided as background paper) highlighted a number of key findings. The report identified the following key issues which have resulted in **eight** medium and **one** high priority management actions. A summary of which is outlined below with accompanying recommendations for cabinet agreement for resolution.

(a) Approval of Buy-Backs (High): As per the Council's Constitution, the acquisition of leasehold interests up to £250,000 requires Chief Executive and Director authorisation, whilst acquisitions exceeding this threshold require Cabinet approval. Despite this, we found that the approval for the purchase of buy-back properties both within and above the threshold amount had been granted.

The recommendation to Cabinet is to agree to delegate the acquisition of property for the sole purpose of providing affordable housing that is above

£250,000 to the section 151 Officer in consultation with the Service Lead for Housing Development & Contracts **(High)**

(b) Buy-Back Strategy (Medium): there was no overarching strategy in place to align the buy-backs process with the Council's strategic objectives.

The recommendation to Cabinet is to:

- i. Agree that the basis of a framework for accepting or rejecting the acquisition of a buy-back is based on a business case presented to the Section 151 Officer and Service Lead for Housing Development & Contracts for approval.
- ii. The process for approval will require confirmation that the property meets the current housing need and demand from the Housing List.
- iii. The process will then identify if the cost of acquisition exceeds the income generated from the management, maintenance and funding of the property; or in exceptional cases on the basis that the strategic opportunity merits purchase.
- iv. That if the Council does not seek to purchase, the Cabinet delegate to the Lead for Housing Development & Contracts to nominate another person, being a private registered social housing provider or other party to whom the Council may have sold the freehold reversion in the case of a flat, to accept the offer.
- v. The principles of the i & ii above are recognised as strategic objectives and criteria for investment to be adopted within the Asset Management Strategy, Development Strategy and the Housing Revenue Account (HRA) Business Plan 2017-2047.

(c) Procedural Documentation (Medium): There is a 'Buy-Back Application Procedure' in place at the Council, which has been developed by the Leasehold Team. This document includes the 11-steps to be followed from receipt of a buy-back offer to the legal proceedings to complete the purchase, however does not capture the entire end-to-end process including remedial works.

The recommendation: the Cabinet note that RSM recommended action is to be included within the Development Strategy.

(d) Receiving Buy-Back Offers (Medium): A progression spreadsheet is used to record the dates on which key milestones such as receipt of offer, acknowledgement letter and bid to seller, occur. Without a complete record of properties, assessment cannot be made on the efficiency of the buy-back process so as to monitor statutory or internal timescales are met.

The recommendation is that the performance in compliance to statutory and internal timescales is monitored and forms part of the Housing (People) Services key performance information regularly reported to Scrutiny Committee.

(e) Department Communication (Medium):

The Council's Asset Management, Property Services, Finance and Performance and Legal teams are contacted by the Leasehold Services Team to complete various tasks to complete buy-back purchases. These tasks include, valuing potential properties, performing rent appraisals and conducting the conveyancing amongst others. Only after this is the RMI / Voids Team contacted to undertake any remedial work, upon receipt of keys. The audit found variance between estimated costs, as per the Property Services evaluation and actual RMI costs.

The recommendation to the Cabinet is to accept the recommendation set out in **'(b) i, ii, iii and iv'** above where the key findings are addressed.

(f) Decision-Making Process (Medium):

In order to make buy-back decisions, key information is gathered relating to the property including a profit calculation spreadsheet, property valuation and remedial cost report. It was identified that only the market value was presented to the approver rather than the property value, taking account of remedial work required to bring the property back to an appropriate standard. As a result of this, there is a risk that decision-makers are not provided with sufficient material to approve potential purchases

The recommendation to Cabinet is to accept the recommendations set out in '(b) i, ii, iii and iv' where the key findings are addressed.

(g) Financial Appraisal (Medium): A profit calculation spreadsheet is used to provide a forecasted financial analysis of buy-back proposals that was using outdated assumptions, the Finance Team were not engaged in review buy-back financial assumptions.

The recommendation to the Cabinet is to accept the recommendations set out in '(b) i, ii, iii and iv' where the key findings are addressed.

(h) Buy-Back Reporting (Medium): the financial appraisal buy-backs information is presented monthly to Housing (People) Services via a Performance Table document which includes a key performance indicator (KPI) scorecard. Although the number of buy-back applications and completed buy-backs are reported, the auditors found that no process performance related data such as timeliness, is mentioned to allow for the review of efficiency. Furthermore, there is currently no information shared with the Corporate Management Team (CMT) and so, there is no scope for decisions to be considered by individuals making strategic decisions within Council Leadership.

The recommendation to the Cabinet is to accept the recommendations set out in '(b) i, ii, iii and iv' where the key findings are addressed as the business case is presented to a strategic lead; the Section 151 Officer and to the Service Lead for Housing Development & Contracts.

6 **Comments of Other Committees**

No other committees have been consulted to-date,

7 **Conclusion**

The Cabinet are requested to approve the procedures for exercising the Council's statutory Right-of-first-Refusal on houses and flats set out in sub-paragraphs (a) to (h) of paragraph 5 of this Report.

8 **Background Papers**

1. RSM Internal Audit Report - 'Council Buy Backs'