

## BABERGH DISTRICT COUNCIL

<b>TO:</b> Cabinet	<b>REPORT NUMBER:</b> BCa/22/26
<b>FROM:</b> Councillor David Busby, Cabinet Member for Finance, Assets and Investments	<b>DATE OF MEETING:</b> 3 October 2022
<b>OFFICER:</b> Melissa Evans, Director, Corporate Resources	<b>KEY DECISION REF NO.</b> CAB369

### EXEMPTION OF RIGHT TO BUY RECEIPTS FOR NEW COUNCIL HOUSING FROM POOLING

#### 1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to present the option to exclude receipts under Right to Buy relating to new council homes built or acquired since July 2008 from pooling regulations.

#### 2. OPTIONS CONSIDERED

- 2.1 There are no other available options.

#### 3. RECOMMENDATIONS

- 3.1 That application for exemption from pooling for all Right to Buy receipts from the sale of existing council homes built or acquired since July 2008 and homes built or acquired by the Council going forwards is approved.

#### REASON FOR DECISION

Exemption from pooling for the sale of these homes would mean that the Council retains more flexibility in how it uses these capital receipts and can apply them to any Housing Revenue Account (HRA) capital expenditure or to repay debt without time restrictions.

#### 4. KEY INFORMATION

##### Background

- 4.1 Under the current regulations the Council has to “pool” Right to Buy receipts and must use a proportion of the retained receipts to finance eligible new build and acquired affordable and social housing. This can be up to 40% of the cost but must be spent within 5 years of the receipt.
- 4.2 It is current Government policy that any new council homes built since July 2008 are eligible for exclusion from the provisions in these pooling regulations.
- 4.3 This means that, if these replacement homes were subsequently sold under the Right to Buy, the council would be able to retain the whole receipt with no conditions or time constraints. Receipts from sales of properties built or acquired since July 2008 can

be spent on any eligible capital purpose - affordable housing, regeneration projects or repaying HRA debt.

- 4.4 There is one exception to this. Where homes sold were built with social housing grant, the balance of the initial grant will be returned to the Homes England to be reinvested to enable more affordable rented homes to be built.
- 4.5 Councils can apply retrospectively for an exemption from pooling for all HRA dwellings acquired or built after 22 July 2008. Properties that have already been sold, and that meet the criteria can also be issued with retrospective agreements.
- 4.6 Applications can be made for dwellings that have been acquired or built after 22 July 2008 that are already in the housing stock and developments in progress.
- 4.7 An Agreement would be made under powers provided by section 11(6) of the Local Government Act 2003 permitting the council to retain the full capital receipt on any subsequent sale of excluded properties. Applications to enter into s11(6) Agreements can be made at any time.

### **Types of properties eligible for exemption**

- 4.8 DLUHC will assess each application against the principle of supporting the provision of additional local authority housing. Most applications are likely to be one of the following:
  - **New build schemes started since 22 July 2008.** The start of a scheme is the date when the building contractor takes possession of the site or property and when both the councils and the builder have signed the building contract.
  - **Remodelling schemes started since 22 July 2008.** Remodelling is the adaptation of existing structures and includes conversion of 'difficult to let' properties, or the creation of sheltered housing to meet the needs of elderly people, combining adjacent units to provide larger accommodation to meet the needs of extra-care housing, or to provide self-contained units in multi-occupied accommodation. It does not include simple refurbishment to replace like for like or intended to cover the addition of an extra room to an existing property.
  - **Properties purchased or otherwise newly acquired since 22 July 2008.** Properties that immediately before acquisition were not held by the council.
  - Properties are eligible if supported by grant from Homes England or supported by the council's own resources including schemes for which a Homes England bid was unsuccessful.

### **The Council's position**

- 4.9 As at 31 March 2022 205 properties in Babergh have been identified as eligible for exemption from pooling, having been built or acquired since July 2008.
- 4.10 Of these, there has been one sale of a shared ownership property where the receipt was subject to pooling. If the Council applies for the exemption, this receipt could be moved from the pooled receipts, which are subject to the conditions outlined in 4.1, to general HRA capital receipts to be used for any HRA capital expenditure or to repay HRA debt, without time constraints.

- 4.11 The way that the pooling system works means that it is not possible to determine what the impact of retrospective applications to DLUHC would be. It is also not possible to predict the level of capital receipts that the exemption could apply to in the future as this is dependent on the number of applicable properties sold, their value and the Right to Buy discount applied.

### **Advantages & disadvantages of the exemption**

- 4.12 The result of applying for the exemption would be additional flexibility in how the capital receipts could be used. This is summarised in the table below.

<b>Current position: pooled retained receipts</b>	<b>With exemption applied: outside of pooling regulations</b>
Requirement to use the receipt within 5 years or pay back to Government	No time limit for the use of the receipt
Can be used for replacement dwellings only.	Can be used for any HRA capital expenditure or to repay debt. This includes planned maintenance, refurbishment and retrofit.
Use limited to 40% of the cost of replacement dwellings.	These receipts could be used towards financing the remaining 60% of replacement dwellings, helping to ensure that these are spent within the 5-year time limit.

- 4.13 There are no disadvantages to applying for the exemption for the Council's homes. The receipts could still be used in the same way as they are currently after the exemption is applied, but the Council would have the flexibility to use the receipts differently to provide the optimum financing strategy for the HRA capital programme.

## **5. LINKS TO CORPORATE PLAN**

- 5.1 Ensuring that the Council makes best use of its resources is what underpins the ability to achieve the priorities set out in the Corporate Plan. Specific links are to financially sustainable Councils and managing our corporate and housing assets effectively.

## **6. FINANCIAL IMPLICATIONS**

These are detailed in the report.

## **7. LEGAL IMPLICATIONS**

- 7.1 There are no specific legal implications.

## 8. RISK MANAGEMENT

- 8.1 This report is most closely linked with the Council's Corporate / Significant Business Risk No. 4 – We may be unable to respond in a timely and effective way to financial demands. Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
The application for exemption is refused	2 (unlikely)	1 (minimal)	Continue to use capital receipts as they are currently.

## 9. CONSULTATIONS

- 9.1 No consultations have taken place or are required for this report.

## 10. EQUALITY ANALYSIS

- 10.1 An equality analysis has not been completed because there is no action to be taken on service delivery as a result of this report.

## 11. ENVIRONMENTAL IMPLICATIONS

- 11.1 Additional flexibility around the use of these receipts could help the Council meet its objectives for retrofit schemes for its housing stock.

## 12. BACKGROUND DOCUMENTS

- 12.1 None

## 13. REPORT AUTHORS

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