

FINANCIAL DETAILS AND LEGAL INFORMATION OF PROPOSED DISPOSAL OF HRA LAND: CROMWELL ROAD, STANMORE WINCHESTER

This Appendix 3A (which is a revised version of Exempt Appendix 3 originally included with CAB2305) sets out information on various financial and legal rules concerning the transaction.

Some information remains treated as exempt information, and this is set out in Exempt Appendix 3B.

1 **Pooling**

1.1 Under the Local Authorities (Capital Finance and Accounting)(England) Regulations 2003 (SI 2003/3146 as amended), receipts from disposals of housing land (including empty sites and dwelling houses) are subject to “pooling” rules. Under these rules, a proportion of the capital receipt received must be paid to Government.

1.2 In summary, the pooling requirements state that:-

- Where the Council derives a capital receipt from disposing of housing land on or after 1 April 2004, it must use that receipt to pay to the Secretary of State the “Specified Amount”. The Specified Amount must be paid (“pooled”) by a set date after the receipt is received. (Regulation 12(1)).
- The Specified Amount is generally 75% of the capital receipt for a dwelling, and 50% for the disposal of any other interest in housing land (Regulation 12 (4)).
- The amount which must be pooled in this way (75%/50% as above) is reduced by (Regulation 14(1)):-
 - a) The amount used to cover administrative costs of and incidental to the disposal;
 - b) Any costs incurred in the previous three years to improve the land;
 - c) An amount, determined by the Council, up to the value of its available capital allowance at the time the specified amount is calculated (NB this element of reduction is not available where the receipt is from a right to buy disposal, or where the land is sold to a person for occupation as their only or principal home, although none of these apply in this case) – Regulation 14(2)
- The available capital allowance (i.e. the ceiling of the reduction under (c) above) is primarily composed (for the purposes of this case) of (Regulation 16):-

- a) The costs of expenditure incurred by the Council (to facilitate the disposal) on obtaining planning permission, preparing the land for disposal, obtaining rights needed or releases of restrictive covenants;
- b) The amount of contributions which the Council has resolved to make, or decided to make towards projects [affordable housing and regeneration], by constructing dwellings itself, gifting land (free or at less than open market value), making a grant or subsidy, [or giving consideration for a benefit received by the Council] - Regulation 16(1)(c)

Essentially, the capital allowance can be “topped up” periodically by further resolutions of the Council to spend on affordable housing or regeneration (as defined in Regulation 17). It is expected to be a rolling total, and resolutions to increase the allowance can be made at any time. The available capital allowance is reduced as and when it is used to offset capital receipts which would otherwise have to be pooled under the Regulations.

- Affordable Housing is defined in Regulation 17 as being the provision of dwellings to meet the housing needs, as identified by the local authority, of persons on low incomes, whether provided by the authority or a private registered provider of social housing.
- Regeneration Projects are defined in Regulation 18 as being projects to carry out works or activities on land where the land is vacant/under-used, etc., and the works are carried out to secure the land being brought back into effective use.
- Non-money receipts which take the form of housing nomination rights (rights granted to an authority to nominate the occupants of a dwelling (through rent or sale), or to specify that only people of a particular description may occupy a dwelling) will not generate a pooling requirement because they are treated as having a nil value (Regulation 22(3) refers).

1.3 Applying the rules to this case, therefore, the proposal is to dispose of housing land (vacant land and two dwellings) for the amount set out in Exempt Appendix 3B (an amount below the market value, also set out in Exempt Appendix 3B). This will therefore be a capital receipt to which the pooling requirements will apply. The rate to be pooled will be 75% for the two dwellings, and 50% for the vacant land. If the dwellings were to be demolished, the poolable element would therefore as set out in the Exempt Appendix 3B. If they were not demolished, the receipt would have to be allocated between the land and buildings, and the 75%/50% applied to these figures.

1.4 This amount can be reduced by the administrative costs of disposing the land, and an amount up to the available capital allowance at the time the pooling is due.

1.5 As explained above the rules allow that, if relevant resolutions have been made to make contributions to affordable housing or regeneration projects to bring the capital allowance to a sufficiently high figure, the poolable element could thereby be reduced to zero (in which case the receipt would then have to be spent on those affordable housing/regeneration projects). The Council approved capital programme (CAB2297, February 2012) includes an amount of £1m for Re-

investment in Stock Condition which is to be funded by capital receipts from disposals that are earmarked to be spent on affordable housing. It is proposed that this capital receipt is applied for these purposes.

- 1.6 Accordingly, the capital receipt from this disposal can be retained by the Council (and no element pooled therefore) provided the receipt is applied for the Re-investment in Stock Condition item of the Capital Programme.

2 Impact on HRA

- 2.1 Demolishing the two dwellings at the front of the site will result in the Council's Housing Revenue Account (HRA) losing a total of over £8,300.00 per annum income, once repairs and voids have been accounted for. For the HRA 30 year business plan projections to be properly compensated for this loss, it would require an annual payment of this sum or a capital receipt in the order of £163,000.00 (30 year net present value calculation).

3 State Aid

- 3.1 If Members agree with the resolution to dispose of the land to Radian Housing Association at the undervalue disposal price identified in the Exempt Appendix 3B, the Head of Strategic Housing will ensure the proposal comes within the terms of the DCLG guidance on EU procedures for State Aid to RSLs. Construction costs are similar to other benchmarked costs with capital costs being met by a combination of Homes and Communities Agency grant funding, loan funded by rent and the RSL's own reserves. Furthermore, the involvement of the Homes and Communities Agency in grant aiding these projects provides further safeguards as set out in the DCLG guidance

4 Secretary of State Consent

- 4.1 As the land is housing land, consent of the Secretary of State to the disposal is required under Section 32 of the Housing Act 1985. As the disposal is at an undervalue, consent under Section 25 of the local Government Act 1988 is also required.
- 4.2 The General Consent under Section 25 of the Local Government Act 1988 for the Disposal of Land to Registered Providers 2010 allows the Council to dispose of land to a Register Provider for development as housing accommodation, provided that:-
- 4.2.1 Any houses on the site are demolished;
- 4.2.2 The disposal must be by way of a freehold transfer or lease of 99 years or more;
- 4.2.3 The disposal document requires that the development is completed within three years;
- 4.2.4 The housing is let on a periodic tenancy or shared ownership lease (or other specified purposes not relevant to this transaction);
- 4.2.5 The Council has no entitlement to manage or maintain the new dwellings

- 4.3 The proposed disposal meets these criteria. Provided consent is deemed to have been given by complying with these conditions, no further consent is required under the Housing Act.
- 4.4 There is a limit of financial assistance under this consent of £10m per financial year. The aid on this proposal would need to be set against this limit.

RECOMMENDATIONS:

1. That the Disposal Price set out in the Exempt Appendix to the report, be approved.
2. That it be resolved that the capital receipt from the disposal be applied fully to the Housing Revenue Account – Re-investment in Stock Condition, for affordable housing and that this sum be therefore treated as being within the Council's capital allowance under Regulation 16(1)(c) of the Local Authorities (Capital Finance and Accounting)(England) Regulations 2003 (as amended).
3. That £63,000 be reallocated within the Capital Programme from Affordable Housing/Regeneration to HRA Re-investment in Stock Condition to ensure the HRA Business Plan is properly compensated for lost income resulting from the disposal.