

CABINET (HOUSING) COMMITTEE

1 February 2012

REINVIGORATING THE RIGHT TO BUY: GOVERNMENT CONSULTATION

REPORT OF HEAD OF LANDLORD SERVICES

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RECENT REFERENCES:

None

EXECUTIVE SUMMARY:

The Government is consulting councils and other interested parties about its proposals to encourage the Right to Buy, while ensuring that proceeds from additional sales are used to provide additional housing units through new building.

The consultation period ends on 2 February 2012 and it is expected that any changes to current rules will be made with effect from April 2012.

RECOMMENDATIONS:

That the Head of Landlord Services be authorised to respond directly to the consultation paper as set out in Section 7 of the Report.

## CABINET (HOUSING) COMMITTEE

6 DECEMBER 2011

### REINVIGORATING THE RIGHT TO BUY: GOVERNMENT CONSULTATION

#### REPORT OF HEAD OF LANDLORD SERVICES

#### 1 Introduction

- 1.1 The Government is consulting councils and other interested parties about its proposals to encourage the Right to Buy, while ensuring that proceeds from additional sales are used to provide additional housing units through new building.
- 1.2 The consultation period ends on 2 February 2012, and it is expected that any changes to current rules will be made with effect from April 2012.

#### 2 Changes Being Considered

- 2.1 Currently, Right to Buy sales have a maximum amount of discount of £38,000. The proposals suggest an increase of this limit, to a cap of £50,000, with tenants being entitled to discount on a sliding scale according to the length of their tenancy, from a minimum of 34% from the market price up to a maximum of 60% for a house or 70% for a flat. For Winchester the actual amount of discount is nearly always the amount of the cap, which is currently £38,000, and given current market values, it is likely that in most cases the discount would be the higher £50,000 cap if the proposals were to be introduced.
- 2.2 From April, although the Housing Subsidy system is ending, receipts from Right to Buy sales which would have been expected under existing Right to Buy rules will still have to be pooled, with only 25% being retained locally.
- 2.3 Various options are under discussion with regard to additional sales resulting from the new rules, including the option for additional sale receipts to still be pooled, and then given out as grants to finance new development, or alternatively receipts being retained by councils to finance their own new-build projects directly. Replacement of the Housing Subsidy system by HRA self-financing will involve taking on additional debt - for Winchester this amounts to more than £30,000 per property. Part of the sale proceeds from additional sales would have to cover repayment of the debt taken on for the particular unit sold. This ensures the long-term viability of the Housing Revenue Account, which would otherwise be jeopardised by the loss of future revenue resulting from additional sales.

- 2.4 All tenants who qualify for the Right to Buy are entitled to have their homes valued at no direct cost to themselves, and with no obligation to proceed with a purchase. High house prices in the Winchester district, the cap on the discount and tightened criteria for mortgage lending mean that only a minority of applicants (approximately one third, over the past three years) are able to proceed with a purchase. An increase in the discount from £38,000 to £50,000 would probably have little impact on affordability for most would-be Right to Buy applicants in the Winchester district.
- 2.5 Allowances are being considered to allow additional administrative and transaction costs to be offset against amounts otherwise payable to central Government, but these may not allow for the full impact of such costs.
- 2.6 The consultation also examines the help and advice available to tenants considering the Right to Buy, and how this might be improved by Councils or other agencies.

### 3 Changes That Will Not Be Made

- 3.1 Government has considered changes to a number of the rules affecting the Right to Buy, but has confirmed the following will remain unchanged:
- a) The minimum qualifying period for a tenant will remain at 5 years.
  - b) Any discount will be repayable for a resale within 5 years, and any sale and leaseback arrangement will continue to trigger repayment of the discount.
  - c) The present taper for discount repayment, and adjustment reflecting any increase in value, will continue as at present.
  - d) The right of first refusal on a sale within the first 10 years will continue as at present for all stock, urban and rural (before 2005 this applied only to certain rural properties)
  - e) Properties designated or particularly suitable for the elderly, or within sheltered schemes, and hostels for the homeless, will be excluded from the Right to Buy, as at present.
- 3.2 In addition, the Government have indicated that they do not intend to change the “cost floor” rules under Section 131 of the Housing Act 1985. These prevent the sale price (after discount) being below the costs which the Council has incurred in building/maintaining the property. Given the nature of the Council’s stock and the market values involved, this is not an issue in Winchester, so the proposal to not change this has no impact in the District for its existing stock. It could

however be relevant for any new build and so the proposal not to change this should be supported.

#### 4 The Winchester Context- Tenant Perspective

- 4.1 Property prices in the Winchester district are high by national standards. In April 2011, the average value for the council's stock was £178,000 per property.
- 4.2 Under existing rules, a tenant would be able to buy such a property for £140,000. (In fact the average net receipt per property sold in the 3 years to March 2011 was £146,000). In the current mortgage market, typically a 10% deposit would be required, i.e. £14,000. A mortgage of £126,000 repaid over 25 years, would involve monthly repayments of around £700 at typical current interest rates of 4.4%. This compares with an average rent of just below £400 per month.
- 4.3 With the recommended alternative of the same sliding scale for the discount, but capped at £50,000, most sales would be at £50,000 below market value. The average £178,000 property would be sold at £128,000. A 10% deposit of £12,800 would leave a mortgage of £115,200; monthly cost over 25 years at 4.4% would be £640.
- 4.4 If future rent increases average 5% per annum, the monthly average of £390 would reach £640 in around 10 years, and £700 in around 12 years.
- 4.5 In the context of most potential Right to Buy applicants struggling to find a typical 10% deposit, the £12,000 reduction in cost would still leave a substantial deposit to be raised, and monthly payments above rents for the first decade of home ownership. Older applicants would not be able to spread repayments over as long as 25 years, although the eventual prospect of theoretically no housing costs at the end of the mortgage term, against a continuing rent obligation, might still prove attractive for some.

#### 5 The Winchester Context - Council Perspective

- 5.1 Right to Buy sales in recent years have been at a very low level, typically fewer than five sales per year. The average receipt figures used to support the consultation is £145,800 for Winchester, based on 14 sales completed between April 2008 and March 2011. The self-financing settlement assumes 21 sales over 3 years from April 2012.
- 5.2 The consultation therefore is about the treatment of receipts from additional sales beyond those 21 (and further assumptions made in the settlement for later years).
- 5.3 The first call on sale receipts from additional sales would be the repayment of associated debt from the self-financing settlement,

approximately £31,000 per unit, and administrative and transactions costs from the sale.

- 5.4 Assumptions are based on limited recent data. A reduction in the average net receipt per property sold of a few thousand pounds, whether as a result of changes in the discount rules, or the general state of the housing market and ability of applicants to obtain mortgage finance, could have a significant effect on the actual amount available to fund replacement housing.
- 5.5 Increases in discounts allowed for the Right to Buy, coupled with ongoing above-inflation rent increases, are likely to stimulate a significant increase in enquiries about the Right to Buy, particularly immediately following the changes and national publicity about them. However the availability of mortgage finance at attractive interest rates and not requiring large deposits will continue to be a barrier to actual sale completions. Significant resources may be required within Landlord Services, Estates and Legal departments to manage abortive applications.

## 6 Funding the Construction of Replacement Units

- 6.1 The Government's overall objective is that for sales beyond those expected under existing discount rules and built into the Housing Revenue Account Self Finance settlement (to replace the existing Housing Subsidy system), for each additional unit sold, a replacement should be built. Management of the financing of such a replacement is a key part of the consultation.
- 6.2 The Self-Financing settlement involves the assumption of a large amount of debt for Councils. This is calculated according to expected future rental and service charge income, and allowable costs, according to the Government's existing rules for Housing Subsidy. For Winchester, rents are relatively high, but costs, based on the relative need for investment, are low, and the overall debt assumed per property exceeds £30,000. This debt must be redeemed on the sale of any additional property before consideration can be given to a replacement. Furthermore, the Government does not envisage the use of a single standard figure for any property sale, but the use of a complex model to be provided by them, that will adjust the amount according to various factors such as the age and type of property sold.
- 6.3 The sale of a large house would involve a higher sale receipt, but also the redemption of a large amount of debt, than the sale of a small flat. On the other hand, the Government does not necessarily envisage the construction of a direct like-for-like replacement. A large house could eventually be replaced by a small flat- or vice-versa. Buybacks of properties previously sold under the Right to Buy would count within the rules for one-for-one replacement.

#### 6.4 With regard to the handling of sales receipts:

- At one extreme, the Government may require the pooling of all additional sales receipts, after allowing for transaction costs and the redemption of any remaining debt (arising from Self-Financing- over £30,000 in the case of Winchester) connected to the unit sold. The Council would then have to bid for a grant from the Homes and Communities Agency. The timescales for this process are unclear, and grants made might cover a proportion of construction costs, but not land, and the Government would expect private sector borrowing to meet any cost shortfall, supported by future rents set under the affordable rents regime – i.e. at up to 80% of market rents. Under this model, rules for the distribution of grant might be set to achieve replacement of sold properties at the national, but not necessarily the local level, and might not fully meet specific local needs.
- The other model on offer would allow receipts from additional receipts, beyond those expected with existing discounts, to be held locally, and spent directly by Councils on qualifying projects, i.e. replacement homes, after covering transaction costs and the redemption of the debt assumed under Self-Financing for the unit sold. This would probably allow the most flexibility for Councils. Funds could be used directly to support, or add to, the new-build programme envisaged for the Council under the Housing Revenue Account Business Plan (CAB 2288 refers) or used to fund new-build projects by partner Housing Associations within the district.
- The local model is probably the best suited to Winchester's circumstances, and is indicated as the Council's preferred option in the proposed response to the consultation.

#### 7 Proposed Consultation Responses

Questions refer to Annex F of the Government's consultation document entitled "Reinvigorating the Right to Buy and One for One Replacement".

*Q1: We would welcome views on the proposals for caps, discount rates and eligibility*

- a) The Council would welcome an increase from £38,000 to £50,000 in the discount limit. This should leave sufficient resources from each additional sale to cover the attributable debt for any property sold and leave a reasonable amount to finance the construction of a replacement property.
- b) Existing eligibility rules are an adequate protection to prevent abuse

Q2: *Do you agree that information currently provided to prospective Right to Buy purchasers is sufficient? If not, what else should be included?*

We consider existing information to be sufficient

Q3: *Are there further steps which could be taken to ensure that tenants who purchase under Right to Buy know about and understand the implications of home ownership, including their obligations on becoming a leaseholder?*

Information supplied to potential purchasers, including leaseholders, is probably adequate, but the Council's resources in this area are limited and signposting could be supplied to information available from independent agencies, e.g. CAB.

Q4: *We would welcome evidenced assessments of the impact on rural affordable housing of the proposed changes to Right to Buy discounts.*

Although a significant amount of rural affordable housing was sold in the early stages of the Right to Buy, high house prices especially in rural parts of the district have led to very few sales in recent years, and a small increase in the maximum discount would probably have little impact.

Q5: *We would welcome your views on the proposals that a part of the Right to Buy receipts should be used to pay down the housing debt supportable from the lost income from these additional sales*

Compensation to the Housing Revenue Account for future net income from additional sales is a key requirement for the future sustainability of the HRA. By allowing for the repayment of debt out of sale proceeds, this should allow for such lost income adequately.

Q6: *What proportion of Right to Buy applications are subsequently withdrawn in your area?*

In 2010-11 there were 18 RTB applications, but only three sales were completed.

Q7: *What costs are incurred in managing aborted applications?*

Property valuation and administrative costs amount to around £550 per application. This increases to around £1,000 when a tenant indicates an intention to proceed and the Council's Legal team become involved.

Q8: *What sources of funding have you used for improvement works in your area?*

The Council's Housing Revenue Account Business Plan includes funding for estate improvements and disabled adaptations.

Q9: *We would welcome views on the proposed approach to projected receipts.*

The Council favours an approach based on the retention of receipts from additional sales being held locally, and spent according to locally-determined needs. There is a concern about a nationally administered system that would provide less flexibility and lead to unnecessary delays, with new projects being held up by red tape and potential disputes between local authorities and national agencies.

Q10: *We would welcome any information councils can provide on the use of Buyback properties. We would also welcome views on this proposal.*

Under the Subsidy system, the Council has not been able to buy back properties, and has usually referred buy-back opportunities on to local housing associations. However, new funding arrangements may allow the Council to pursue this option in future and allowing buy-backs to be used to replace properties sold under the Right to Buy would allow for further flexibility.

Q11: *Do you have any comments on the proposal to not amend section 131 of the Housing Act 1985*

Currently the restriction in net selling price, which prevents the sale of a property below its historical cost has no impact in the Winchester context. However, the Council does welcome the suggestion to continue the status quo as such protection would be required for any newly-built properties in the future.

Q12: *We would welcome views on the calculation of allowable deductions*



With limited resources, the calculation should be as simple as possible, not a new industry to replace Housing Subsidy

*Q13: Which model for delivery of replacement housing do you consider the most appropriate, and why?*

The Council would prefer a local model, which would be most suitable for determining the provision of replacement housing according to local needs. The Housing Revenue Account Business Plan already envisages a Council new build programme, and the provision of replacement homes for those sold under the Right to Buy could be managed alongside that. The second preference would be for some central direction or agreement short of full national control in determining local outcomes.

*Q14: How can housing associations and councils be further encouraged to use receipts from Preserved Right to Buy sales to support provision of replacement homes?*

The availability of resources is the key here, provided the Council has the financial freedoms to direct receipts to new build schemes. The ability to retain more than just average build costs and to allow some provision for land acquisition where necessary could also support provision of replacement homes.

*Q15: If there are any exceptions where administration and debt costs cannot be covered, please provide details.*

Average sale prices in Winchester should be adequate to cover such costs and this is unlikely to arise.

*Q16: Based on your experience, are you able to provide any evidence on the likely percentage of Right to Buy purchasers on Housing Benefit?*

Very few RTB purchasers are in receipt of Housing Benefit in our experience. Although enquiries are occasionally received from tenants in receipt of Housing Benefit, few if any proceed to purchase the property.

OTHER CONSIDERATIONS:8 SUSTAINABLE COMMUNITY STRATEGY AND CHANGE PLANS  
(RELEVANCE TO):

8.1 Relevant to the priorities set out in the Active Communities Change Plan.

9 RESOURCE IMPLICATIONS:

9.1 Whilst the proposals are subject to consultation, they could have a significant impact on HRA resources if implemented. The fact that the proposals include provision to cover debt taken on for each property is important.

9.2 If a maximum cap on discounts is imposed, then the potential impact on Council resources is not likely to be significant.

10 TACT COMMENT

10.1 Due to the unavailability of the current TACT Chair, it has not been possible to consult TACT on this report or seek a response prior to the meeting.

BACKGROUND PAPERS

“Reinvigorating the Right to Buy and One for One Replacement” – DCLG  
December 2012

APPENDICES

None