

**South Lakeland District Council**  
**Council**  
**Tuesday, 14 December 2021**  
**Affordable Housing Delivery Options**

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**Portfolio:** Housing Portfolio Holder  
**Report from:** Director of Customer and Commercial Services  
**Report Author:** Julie Jackson – Principal Specialist People  
**Wards:** (All Wards);  
**Forward Plan:** Key/Budget and Policy Framework Decision included in the Forward Plan as published on 12 October 2021

**Links to Council Plan Priorities:** The proposal will seek to assist the Council in the delivery of more affordable homes through the use of the Right to Buy replacement scheme monies.

Working across boundaries – delivery of affordable homes will seek to contribute towards the Council’s Housing and communities target to deliver 320 homes every year across the District.

Delivering a balanced community – the proposal will seek to assist in meeting Housing and communities targets to deliver 477 affordable homes for rent and 588 affordable homes to buy between 2020 to 2025.

A fairer South Lakeland – N/A

Addressing the climate emergency – potential for energy efficient new affordable homes.

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**1.0 Expected Outcome and Measures of Success**

1.1 This proposal will mean that funds may be able to be used to increase the delivery of affordable housing in the District as well as ensuring that new homes are energy efficient contributing towards the Council’s Climate Change ambitions set out in the Climate Change Policy 2020. This will be through potential land acquisition and grant funding to Registered Providers with deliverable schemes subject to further investigations outlined within this report under 3.0. This will assist in meeting housing needs of communities, working across boundaries and delivering balanced communities through the increased supply of affordable housing.

**2.0 Recommendation**

**2.1 It is recommended that Council:-**

- (1) Approve the change of policy (Appendix 1) from the provision of loans to the provision of affordable housing grants for Registered Providers, for a Right to Buy Replacement scheme; and**
- (2) Approve the change of use from the provision of loans to include the acquisition of land for the delivery of affordable housing;**
- (3) Approve the amendment to the Capital Programme to change the use from loans to affordable housing grants for Registered Providers including the budget allocated for the acquisition of land.**

**(4) That Council approves the consequential amendments to the constitution arising from the above.**

**3.0 Background and Proposals**

- 3.1 The 2021-2025 Council Plan takes forward the Council's longstanding target of delivering 1000 homes for rent between 2024 and 2025. The South Lakeland District Council Housing Strategy 2016 to 2025 contains an action to consider alternative methods of delivery of affordable housing to meet the Council's affordable housing targets for affordable rent and affordable sale homes. Action A3 of the Strategy Action Plan was "to consider options to establish a mechanism to help with land identification, acquisition and assembly; coupled with on-lending for new affordable housing delivery". Members may recall a decision made by Cabinet 28 November 2018 to approve the commencement of an affordable housing loan facility for the sum of up to £6m previously agreed by Cabinet in December 2017. This was to allow South Lakes Housing and other Registered Providers to draw down monies supporting the development of new affordable homes. Subsequent to this and despite work being carried out to agree terms, there has been a number of issues that renders the proposed loans scheme unworkable.
- 3.2 An alternative approach is now required to ensure funds in the Right to Buy Replacement Fund are applied to the delivery of affordable housing. While there are strict guidelines in respect of Councils using Right to Buy receipts on replacement stock or pooling the receipts to Government, these guidelines do not apply to preserved Right to Buy receipts following transfer of properties to a Registered Provider.
- 3.3 Cabinet gave in principle approval subject to Council approval at the meeting of 10 November 2021 to use the Right to Buy replacement receipts for the provision of grants to Registered Providers and land acquisition subject to further investigations. Further investigations have been undertaken following the receipt of legal advice to ensure that proposals meet the new criteria that has been introduced in July 2021. Further clarification has therefore been received from the Department of Levelling Up, Housing and Communities (DLUHC) to determine the potential uses of these funds. This follows major changes to the Right to Buy pooling system that took effect from 1 April 2021 and further investigation was needed to determine whether the new requirements apply to the Council's preserved Right to Buy receipts.

Outcome of investigation into use of Right to Buy replacement receipts

- 3.4 Contact was made with DLUHC following Cabinet to follow up on the use of the preserved Right to Buy receipts that the Council has received. Under guidelines from 2012 rather than being subject to pooling arrangements (where funds are pooled by Government and used to fund affordable homes programmes normally through Homes England), the preserved Right to Buy receipts were exempted from this as they are not Housing Revenue Account receipts. The Housing Revenue Account was closed in 2012 following the housing stock transfer to South Lakes Housing. The new guidelines from July 2021 do not seem to have a similar exemption. It has now been confirmed that the Council's preserved Right to Buy receipts are exempt from the new guidance and pooling arrangements and the proposals outlined in this report can go ahead subject to Council approval.
- 3.5 Affordable Housing Grants to Registered Providers
- 3.5.1 As referenced in the report to 10 November 2021 Cabinet, the Council already has a Policy to provide affordable housing grants to Registered Providers through the Affordable Housing Grants, Empty Homes and Renovation Grant fund. Grant

applications are submitted by the Council's preferred development partners for consideration and are assessed against two measures:

Firstly, the project addresses community needs, and

Secondly, the project needs to provide good value for money and deliverability.

Current legal advice indicates that it may be possible to use this Policy and adapt it to meet the Council's ambitions for affordable housing delivery, together with addressing energy efficiency standards in new homes. Appendix 1 sets out the proposed revisions that need to be made for a Right to Buy Replacement Affordable Housing Grants Policy setting out high level requirements that Registered Providers will need to take into account when applying for grants under this scheme. A comprehensive grant agreement will be required.

- 3.5.2 The approval process previously agreed by Cabinet for affordable housing grants under the Affordable Housing, Empty Homes and Renovation Grants budget is that grants under £100,000 can be agreed by Administrative Decision and grants £100,000 and over need Cabinet approval. Consequential amendments to the constitution will need to be considered as part of this process should we proceed. Approval for necessary amendments to the Council's Constitution for grant approvals using the delegations proposed are sought.
- 3.5.3 Early discussions with Registered Providers indicate that there are potential schemes where grants could be used effectively to increase affordable housing provision, and to ensure new schemes have high energy efficient standards to benefit residents and reduce fuel poverty.
- 3.5.4 As referenced in the report to Cabinet 10 November 2021, further clarification has been sought as to whether new guidance published July 2021 applies to the Council's preserved Right to Buy receipts. Ex Council tenants who transferred to South Lakes Housing in 2012 have a preserved Right to Buy affording them the opportunity to purchase their home at a discount. New tenants post transfer have the Right to Acquire which means that these tenants can still purchase their home if they meet the necessary criteria but at a much lower discount than the preserved Right to Buy.
- 3.5.5 Following the stock transfer in 2012, the Council no longer has any housing stock other than the homeless hostel at Town View Fields and temporary accommodation at Grange over Sands. Therefore, Right to Buy only occurs for those ex-Council tenants who have this preserved right.
- 3.5.6 There is a difference between preserved Right to Buy receipts as opposed to retained Right to Buy receipts. Retained Right to Buy receipts are those receipts arising from April 2012 when the Government increased the caps on the discounts available under the Right to Buy, with a commitment that the additional money this would raise would be spent on new affordable homes to rent. The regulations require that these additional receipts be surrendered to Central Government, however agreements can be entered into with the Secretary of State to allow local authorities to retain these receipts and invest them in social housing for rent. There are additional rules regarding how these monies can be spent.
- 3.5.7 Purchase of land

Approval is sought to use the Right to Buy Replacement Fund monies to purchase land that can then be later developed by the new Unitary Council that arises from the Local Government Reorganisation process, or by a Registered Provider should the Council decide to sell, for example, for less than best consideration, in order to enable new affordable homes. This would be consistent with the Council's Housing Strategy's Action A3 referred to in 3.1 above that specifically references the acquisition of land and assembly.

3.5.8 There could be other sites that could present an opportunity to the Council to purchase for the provision of affordable housing and these options will be explored further.

#### 4.0 Appendices Attached to this Report

Appendix No.	Name of Appendix
1	Draft Right to Buy Replacement Scheme Affordable Housing Grant Policy
A	Draft Right to Buy Replacement Scheme Affordable Housing Grant Policy – Potential Uses
2	Health and Sustainability Impact Assessment

#### 5.0 Consultation

5.1 Consultation with Registered Providers and other parties to assess the deliverability of these proposals.

#### 6.0 Alternative Options

6.1 Members could decide to not pursue any proposals for use of the Right to Buy Replacement Fund at this time, however, this is not recommended as the opportunity to use these funds to meet the needs in South Lakeland could be lost.

#### 7.0 Implications

##### Financial, Resources and Procurement

7.1.1 There is currently £3m in the capital programme KRT10 for the provision of loans from RTB receipts for 2021/22. A further £3m is to be included within the capital programme for 2022/23 based on current and assumed future levels of receipts from sales.

7.1.2 The Council currently holds £5.47m of capital receipts from RTB sales, of which £5.105m was received before 1 April 2021 and receipts relate to sales between 1 April 2012 (when the previous rules on RTB capital receipts came into effect) and before 1 April 2021 (when the revised rules for RTB capital receipts come into effect). These capital receipts all related to sales under the preserved Right to Buy (RTB) that applies to tenants of housing associations who retain their Right to Buy when their home is transferred to a housing association from a local authority. These preserved RTB receipts were specifically excluded from the 2012 rules for pooling of RTB receipts.

7.1.3 Council on 30 March 2021 agreed to earmark a total of £1.571m of the RTB receipts for contingency and guarantees relating to the Cross-a-Moor roundabout to facilitate the provision of affordable homes leaving a maximum of £3.898m that can be committed to other projects before 31 March 2022. Clarification has been received from DLUHC to confirm that all the Council's preserved RTB receipts relating to 2021/22 can be committed once received in April 2022.

7.1.4 There will need to be a change to the capital programme to change the use of the monies from loans to the proposals set out in this report for grants and land acquisitions.

7.1.5 It is envisaged that, dependent on the LGR timescales, there may need to be additional approvals for commitment of funds. This can only be resolved when the final Structural Changes Order and related determinations are received..

7.1.6 It is proposed that for individual schemes, delegated authority be given.

7.1.7 There are resource implications in respect of the legal work required to complete the necessary grant agreements and in relation to purchase of land.

## Human Resources

7.2 N/A

## Legal

7.3.1 A Council decision is required to repurpose the monies from loan to grant and this is part of the recommendations.

7.3.2 Legal advice has been sought on the proposals contained within this report. Legal and finance colleagues have received clarification from Department of Levelling Up, Housing and Communities regarding the criteria and conditions on use of the Council's preserved Right to Buy receipts. It has been confirmed that the new guidelines of July 2021 do not apply to the Council's preserved Right to Buy receipts.

7.3.2 The Constitution may also be required to be amended to accommodate the changes required for decision making regarding the approval of grants and land acquisition/disposal.

7.3.4 There will be a requirement for grant agreements to be in place for any successful grant applications. Legal Services will assist the Service in drafting these.

7.3.5 Legal work will be required in respect of the purchase of any potential land for the conveyancing work.

7.3.6 There are resource implications to ensure that the legal work is progressed at pace alongside existing and other new commitments including LGR. This is set out under the Finance section at 7.1.

7.3.7 Subsidy Control advice will be required as part of these proposals.

7.3.8 The Implications of any proposals relative to Local Government Reorganisation will be continually reviewed.

## Health and Sustainability Impact Assessment

7.4 Have you completed a Health and Sustainability Impact Assessment? Yes (attached at Appendix 2)

7.5 Summary of Health and Sustainability Impacts

		Positive	Neutral	Negative	Unknown
<b>Environment and Health</b>	Greenhouse gases emissions		Y		
	Air Quality		Y		
	Biodiversity		Y		
	Impacts of Climate Change	Y			
	Reduced or zero requirement for energy, building space, materials or travel				
	Active Travel		Y		
<b>Economy and Culture</b>	Inclusive and sustainable development	Y			
	Jobs and levels of pay		Y		
	Healthier high streets		Y		

		Positive	Neutral	Negative	Unknown
	Culture, creativity and heritage		Y		
<b>Housing and Communities</b>	Standard of housing	Y			
	Access to housing	Y			
	Crime		Y		
	Social connectedness		Y		
<b>Environment and Health</b>	Greenhouse gases emissions				
	Air Quality				
	Biodiversity				
	Impacts of Climate Change				
	Reduced or zero requirement for energy, building space, materials or travel				
	Active Travel				
<b>Economy and Culture</b>	Inclusive and sustainable development				
	Jobs and levels of pay				
	Healthier high streets				
	Culture, creativity and heritage				
<b>Housing and Communities</b>	Standard of housing				
	Access to housing				
	Crime				
	Social connectedness				

### Equality and Diversity

7.6 Have you completed an Equality Impact Analysis? No

7.7 If you have not completed an Impact Analysis, please explain your reasons: contained within Equality Impact Assessment for the South Lakeland Housing Strategy 2016-2025

7.8 Summary of Equality and Diversity impacts

Please indicate: P = Positive impact; 0 = Neutral; N = Negative; Enter "X"						
<b>Age</b>	P	X	0		N	
<b>Disability</b>	P	X	0		N	
<b>Gender reassignment (transgender)</b>	P		0		N	X

<b>Marriage &amp; civil partnership</b>	<b>P</b>		<b>0</b>		<b>N</b>	<b>X</b>
<b>Pregnancy &amp; maternity</b>	<b>P</b>		<b>0</b>		<b>N</b>	<b>X</b>
<b>Race/ethnicity</b>	<b>P</b>		<b>0</b>		<b>N</b>	<b>X</b>
<b>Religion or belief</b>	<b>P</b>		<b>0</b>		<b>N</b>	<b>X</b>
<b>Sex/gender</b>	<b>P</b>		<b>0</b>		<b>N</b>	<b>X</b>
<b>Sexual orientation</b>	<b>P</b>		<b>0</b>		<b>N</b>	<b>X</b>
<b>Armed forces families</b>	<b>P</b>	<b>X</b>	<b>0</b>		<b>N</b>	
<b>Rurality</b>	<b>P</b>	<b>X</b>	<b>0</b>		<b>N</b>	
<b>Socio-economic disadvantage</b>	<b>P</b>	<b>X</b>	<b>0</b>		<b>N</b>	

<b>Risk Management</b>	<b>Consequence</b>	<b>Controls required</b>
There is a risk that expenditure of funds may be restricted in future by the LGR process.	The schemes may not go ahead and resources could be reallocated elsewhere.	Create commitment to expenditure through the approval of the grants
There is a risk that Registered Providers may not choose to apply for funds to support the affordable housing delivery.	Schemes may not go ahead.	Engagement with Registered Providers to gain commitment.
There is a risk that the land could be sold to alternative buyer.	Ability to ensure land is used for affordable housing may be limited to planning policy only rather than 100% affordable schemes.	Progress with the purchase of the land.

### Contact Officers

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### Background Documents Available

<b>Name of Background document</b>	<b>Where it is available</b>
South Lakeland District Council Housing Strategy 2016 - 2025	South Lakeland District Council <a href="#">web-site</a> .

### Tracking Information

<b>Signed off by</b>	<b>Date sent</b>	<b>Date Signed off</b>
Section 151 Officer	18.11.21	02.12.2021
Monitoring Officer	18.11.21	02/12/2021
CMT	21.10.21	21.10.21

<b>Circulated to</b>	<b>Date sent</b>
Lead Specialist	18.11.21
Human Resources Lead Specialist	N/A
Communications Team	N/A
Leader	23.11.21
Committee Chairman	N/A

<b>Circulated to</b>	<b>Date sent</b>
Portfolio Holder	23.11.21
Ward Councillor(s)	N/A
Committee	N/A
Executive (Cabinet)	7.12.21
Council	14.12.21