SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO:	Leader and Cabinet	8 July 2010
AUTHOR/S:	Senior Management Team	

CAPITAL RECEIPTS POOLING (EQUITY SHARE)

Purpose

1. To consider options for managing the shortfall in resources caused by the requirement to repurchase properties disposed of under equity share leases entered into prior to 2006.

2. This is a key decision because
   - it is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates.
   - it is not in accordance with the revenue budget, capital programme or borrowing limits approved by the Council, subject to normal virement rules.
   - it is in conflict with a policy, plan or strategy approved by the Council or a committee of the Council.
   - it raises new issues of policy, or is made in the course of developing proposals to amend the policy framework, or is a decision taken under powers delegated by the Council to amend an aspect of the policy framework.
   - it increases financial commitments (revenue and / or capital) in future years above existing budgetary approvals.
   - it requires the acquisition or disposal of any land or interest in land with a value in excess of Level 4 (£120,000).

Recommendations and Reasons

3. That Council be recommended to:

   (a) Seek a direction from the Secretary of State (under section 74 of the Local Government and Housing Act 1989) that the Council's residual interest in properties disposed of under pre-2006 equity share leases be removed from the Housing Revenue Account, and

   (b) Approve an increase to the 2010/11 Capital Programme of £1,000,000 for the re-purchase of equity share properties funded from

      (i) Capital receipts (up to 100% assuming the direction is granted) or
      (ii) The balance from an increase in the Council's borrowing limits.

   This will provide for the funding of the Council's obligations under pre-2006 equity share leases.

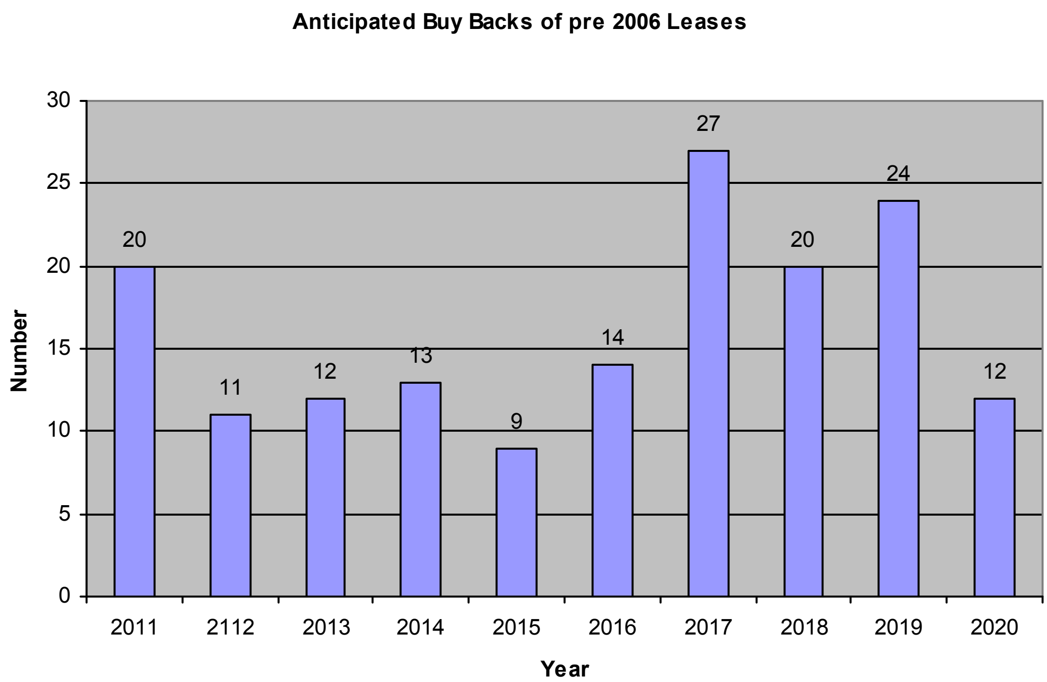
Background

4. Since 2004 the Council has been required to remit up to 75% of the proceeds from the sale of any units of its housing rental stock to the Government under a pooling

regime whereby the proceeds are redistributed to local authorities taking into account their housing needs.

5. As acknowledged by the Department for Communities and Local Government, this has inadvertently presented the Council with a funding issue in regard to equity share leases entered into prior to 2006. Under these leases the leaseholder, or their estate, has the right to require the Council to repurchase the equity share on demand at a current valuation.

6. There are 162 equity share leaseholders with pre 2006 leases spread fairly evenly across 28 of the 44 sheltered housing schemes. Based on demographic modelling and sales data, the Council is anticipating the following pattern of buy backs.



7. The Council's Capital Programme has provided £1 million for the re-purchase of these properties in 2010/11 with no provision beyond the end of the financial year. The resale of these properties will only provide a partial funding route as the net proceeds are subject to pooling; no other resources have been identified to provide a funding route for the shortfall.

8. Buy back costs are on average £86,000 per property based on 2009/10 figures (75% of full market cost of around £115K). In 2009/10 there were 21 buy backs with a total cost of £1,750,750. Income from the sales of new equity share leases over the last three years 2007/08 to 2009/10 (71 properties) has averaged £2.2M per year. After pooling the useable receipt based on a 25% retention is around £550,000 pa (the actual figure will vary from this).

Options and Considerations

9. A range of options to bridge the funding gap above have been identified:

(a) Negotiation with the Department for Communities and Local Government (CLG) to remove the requirement to "pool" the receipts from resale of these properties. Under this option, the Council could fund any re-purchase by reselling the properties to new leaseholders. The formal route for such a course of action would be to seek a direction from the Secretary of State to this effect. Effectively the Council would then transfer these properties to the General Fund where they would not be subject to the pooling regime.

(b) On request for surrender of the lease, ownership of the equity share property would be transferred to a housing association. The housing association would then buy back the property from the leaseholder or their estate as required by the lease and sell the property on again using the capital receipt to fund the purchase of the property. The housing association would be free from the requirement to pool the receipt and in this way the scheme becomes self-funding and would mitigate the financial risk currently faced by the Council. Such an option would also require the direction of the Secretary of State and would entail the Council disposing of its freehold interest in the properties for no consideration.

(c) Identify additional resources within the HRA or capital programme or

(d) Borrow to finance the shortfall

10. It should be noted that if the proposals for Housing Revenue Account reform are implemented the requirement to "pool" receipts would cease removing the funding shortfall at a stroke, provided the properties are subsequently re-sold.

11. Discussions with CLG officials have indicated an understanding of the Council's dilemma and a willingness to seek a solution. The Council has been invited to request a direction from the Secretary of State (under section 74 of the Local Government and Housing Act 1989) that the Council's residual interest in properties disposed of under pre-2006 equity share leases be removed from the Housing Revenue Account.

12. Such a request appears to be without precedent and may not be approved so alternatives to bridging the funding gap need to be considered.

13. Discussions with 2 housing associations have identified a willingness to enter into the arrangement described above on a purely goodwill basis. Such a scheme will be difficult to manage and will impose additional costs on the association and the Council. CLG officials have not indicated strong support for this option.

14. If neither of these options is achievable, based on previous years' experience the Council could have a funding requirement for a further £1 million in 2010/11 with an ongoing liability of up to £2 million in later years. This additional sum is outside the Council's budget framework and, as a fallback, Cabinet is recommended to request Council to make provision for this sum in the 2010/11 Capital Programme. The funding options are:

(a) To utilise HRA underspends in 2009/10 together with additional capital receipts and savings in the capital programme could bridge the gap in the current year, but only at the expense of existing programmes, or

(b) Increase the Council's credit limits and borrow to fund the shortfall. The financing costs of this debt, of up to £60,000 per annum, would fall on the HRA. In reality, in the short term, it is unlikely the Council would actually borrow to fund the 2010/11 funding gap.

15. Funding for liabilities arising in future years will be considered as part of the 2011/12 budget round.

Implications

16. The report deals with the financial and legal implications of meeting the Council's obligations under equity share leases entered into before 2006

17.

Financial	As described above
Legal	As described above
Staffing	No new implications identified
Risk Management	This issue is identified as a key strategic risk (Str11). The report proposes a number of mitigation options to address the risks facing the Council
Equal Opportunities	No new implications identified
Climate Change	No new implications identified

Consultations

18. Department for Communities and Local Government, 2 housing associations, Leader and Housing Portfolio Holder, Corporate Manager (Affordable Homes), Acting Legal and Democratic Services Manager and Head of Accountancy.

Effect on Strategic Aims

19. A failure to address the funding shortfall will seriously weaken the capacity of the Council to meet its commitments and therefore, the achievement of its strategic aims.

Conclusions / Summary

20. The Council's capital programme assumes a resolution to the funding gap resulting from the requirement to purchase and then pool capital receipts arising from any resale of equity share properties during 2010/11.

21. A direction from the Secretary of State to remove these properties from the HRA will achieve this objective but the Council needs to identify an alternative funding route if this direction is not forthcoming.

Background Papers: the following background papers were used in the preparation of this report:

None that are publically available

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