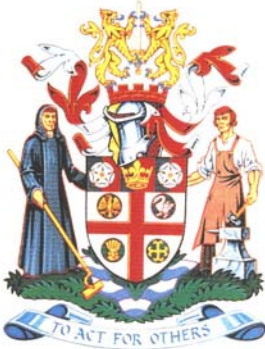


Selby District Council



Agenda

Meeting: **Executive**
Date: **9 May 2013**
Time: **4pm**
Venue: **Committee Room**
To: Councillor Mark Crane, Councillor Mrs Gillian Ivey, Councillor Cliff Lunn, Councillor John Mackman and Councillor Chris Metcalfe

1. Apologies for absence

2. Minutes

The Executive is asked to approve the minutes of the meeting held on 4 April 2013. Pages 3 to 5.

3. Disclosures of Interest

A copy of the Register of Interest for each Selby District Councillor is available for inspection at www.selby.gov.uk.

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

4. Executive Appointments to Outside Bodies

Report E/12/71 asks the Executive to consider its appointments to Outside Bodies for the 2013/14 municipal year. Pages 6 to 8 attached.

5. Neighbourhood Plans

Report E/12/72 asks the Executive to consider the Council's duty to provide support to local communities to draw up neighbourhood plans. Pages 9 to 16 attached.

6. Right to Buy Scheme

Report E/12/73 asks the Executive to consider the Government's enhanced Right to Buy (RTB) scheme and the arrangements for 'one-for-one' replacement homes. Pages 17 to 35 attached.

J Lund
Deputy Chief Executive

Dates of next meetings
16 May 2013 Executive Briefing
6 June 2013 Executive

Enquiries relating to this agenda, please contact Glenn Shelley on:

Tel: 01757 292007

Fax: 01757 292020

Email: gshelley@selby.gov.uk

Selby District Council



Minutes

Executive

Venue:	Committee Room, Civic Centre, Selby
Date:	4 April 2013
Present:	Councillor M Crane (Chair), Mrs G Ivey, J Mackman and C Metcalfe
Officers present:	Chief Executive, Deputy Chief Executive, Director of Business Services, Policy Officer and Democratic Services Manager.
Also Present:	
Public:	0
Press:	0

NOTE: Only minute numbers 108, 109 and 110 are subject to call-in arrangements. The deadline for call-in is 5pm on 16 April 2013. Decisions not called in may be implemented on 17 April 2013.

105. Apologies for Absence

Apologies were received from Councillor Lunn.

106. Minutes

The minutes of the meeting on 7 March 2013 were submitted and agreed as a correct record and signed by the Chair.

107. Disclosure of Interest

None were received at this point in the meeting.

108. Selby District Council Tenancy Policy

Councillor Ivey presented a further report on the draft Tenancy Policy. She outlined that as a key part of the Policy, the Council would introduce fixed term tenancies for new Council tenants. This approach allowed the Council to make best use of its housing stock.

The Policy Officer responded to questions regarding the resources associated with implementing the Tenancy Policy and issues regarding secure tenancies.

The Executive discussed the Tenancy Policy and in particular the sections regarding Succession (Section 5) and Mutual Exchanges and Fixed term tenancies (Section 8). The Executive agreed to ask officers to look again at elements of Section 5 and Section 8 to ensure clarity in the Policy.

Resolved:

- i) To approve the Selby District Council Tenancy Policy in principle:**
- ii) To ask officers to re-examine sections 5 and 8 of the Policy and make any necessary amendments after consultation with Councillor Ivey.**

Reason for decision:

To enable council housing to be let in accordance with councillors' steer on the Government's revised approach to the effective management of stock.

109. Housing Trust Governance

Councillor Mackman presented the report on the proposed Articles of Association for the new housing trust to be established by the Council.

Councillor Mackman outlined that, in accordance with the resolution by Council, the articles reflect a company limited by guarantee and the objectives aimed to reflect those of a charitable organisation. Once approved the articles may only be amended with the consent of the Council.

The Executive discussed its appointments to the Board of Trustees. It was agreed to appoint Councillors John Mackman, Ian Reynolds and Robert Packham to the board of trustees. It was agreed that the membership of the board would be reviewed annually at the same time as the Executive's appointments to other outside bodies. Officers were asked to clarify the qualifications referred to at paragraph 12.8.6 within the articles of association.

Resolved:

- i) **To approve the Articles of Association;**
- ii) **To appoint Councillors John Mackman, Ian Reynolds and Robert Packham to the board of trustees.**

Reason for the decision:

To enable the company to be established.

110. Programme for Growth – Tadcaster Linear Park Project

Councillor Metcalfe presented the report which proposed that the Executive release the funds allocated for Tadcaster to the Riverside Linear Park project.

At this point, Councillor Mackman considered that he might have a Disclosable Pecuniary Interest in this item by virtue of his role as a Director of Ground Work Wakefield, a matter which is entered into his Register of Interests. For the avoidance of doubt he left the meeting during discussion and voting on the item.

Councillor Metcalfe outlined that the project aimed to create a linear park along the west side of the river Wharfe in Tadcaster Town Centre. The project would create increased footfall in the town centre and, as there was currently no park in the town, fill an important gap in Tadcaster's provision of leisure.

Resolved:

To release the £130k allocated for Tadcaster to the Riverside Linear Park project.

Reason for the decision:

The Council adopted the Programme for Growth in July 2012. As part of the funding allocated to the programme, specific sums were allocated to the district's three towns. This recommendation relates to releasing the funding allocated to Tadcaster for a project which will help revitalise Tadcaster town centre.

Councillor Mackman returned to the meeting.

The meeting closed at 4.50 pm

Selby District Council

REPORT

Reference: E/12/71

Public – Item 4



To: The Executive
Date: 9 May 2013
Status: Non Key Decision
Report Published: 30 April 2013
Author: Glenn Shelley – Democratic Service Manager
Executive Member: Councillor Crane
Lead Officer: Keith Dawson

Title: Executive Representatives on Outside Bodies

Summary:

This report informs the Executive of the current representatives on Outside Bodies which it appoints. It asks the Executive to consider these appointments for 2013/14.

Recommendation:

That the Executive make its appointments to outside bodies for the 2013/14 municipal year.

Reasons for recommendation

To ensure the Council is represented on Outside Bodies as necessary in 2013/14.

1. Introduction and background

Under the current Executive arrangements, the responsibility for appointing representatives on Outside Bodies is split between the Executive and the Council. This report asks the Executive to consider those appointments within its remit.

2. The Report

- 2.1 The list of 2012/13 Executive appointed representatives is attached at Appendix A. This has been amended to reflect where organisations no longer meet and representation is not required. For completeness, the recently appointed representatives to the Housing Trust have been added.

3 Legal/Financial Controls and other Policy matters

3.1 Legal Issues

None within the context of the report.

3.2 Financial Issues

Travel expenses may be incurred for Councillors attending meetings.

4. Conclusion

To ensure the Council is informed it is essential that representatives attend outside body meetings to feed back information to Councillors.

Contact Details

gshelley@selby.gov.uk

**Appendix A – Executive Representatives on Outside Bodies
2012/13**

OUTSIDE BODY	CURRENT COUNCILLORS REPRESENTATIVE	TERM EXPIRES/NO. OF PLACES	REPORT REFERENCE NO.	TERM EXPIRES/NO OF PLACES
Local Government North Yorkshire and York	Cllr M Crane Deputy – Cllr G Ivey	2013 (1)	E/11/1	2013 (1)
Local Government Association	Cllr C Metcalfe Deputy – Cllr C Lunn	2013(2)	E/11/1	2013 (2)
Local Authorities -Yorkshire and the Humber	Cllr M Crane	2013 (1)	E/11/1	2013 (1)
Yorkshire and Humber Employers' Committee	Cllr M Crane	2013 (1)	E/11/1	2013 (1)
Selby District Local Strategic Partnership	Cllr G Ivey	2013 (1)	E/11/1	2013 (1)
York and North Yorkshire Development Board (Partnership Unit – Secretariat)	Cllr C Metcalfe	2013 (1)	E/11/4	2013 (1)
York & North Yorkshire Strategic Housing Board	Cllr G Ivey sub: Cllr J Mackman	2013 (1)	E/11/1	2013 (1)
Leeds City Region	Cllr M Crane	2013 (1)	E/11/1	2013 (1)
Leeds City Region Housing Panel	Cllr J Mackman	2013 (1)	E/11/4	2013 (1)
The First Ainsty Internal Drainage Board	Cllr D Mackay Cllr K Ellis	2013 (2)	E/11/1	2013 (2)
Danvm Drainage Board	Cllr Mrs G Ivey Cllr Mrs S Ryder Cllr M Jordan Cllr Mrs A Spetch Cllr Mrs C Mackman	2013 (5)	E/11/1	2013 (5)
Ouse and Derwent Internal Drainage Board First Electoral Division – Ouse	Cllr W Inness Cllr J Cattnach Cllr K Ellis	2013 (6)	E/11/1	2013 (3)
Third Electoral Division – Cliffe	Cllr B Marshall Cllr Mrs K McSherry Cllr J Deans			(3)
Selby Area Internal Drainage Board	Cllr J Mackman Cllr M Hobson Cllr C Pearson Cllr J Cattnach Cllr I Chilvers Cllr Mrs A Spetch Cllr Mrs J Dyson Cllr M Crane Cllr Mrs C Mackman Cllr D Peart Cllr R Price	2013 (11)	E/11/1	2013 (11)
North Yorkshire Building Control Partnership	Cllr J Mackman Sub: Cllr C Lunn	2013 (1 place and 1 sub)	E/11/1	2013 (2)
Groundwork (North Yorkshire)	Cllr D Peart Cllr J Thurlow	2013 (2)	E/11/1	2013 (2)
Community Safety Partnership	Cllr M Hobson	2013 (1)	E/11/1	2013 (1)
North Yorkshire Joint Procurement Committee	Cllr M Crane	2013	E/11/1	2013 (1)
Leisure Forum (Partnering board)	Cllr Mrs G Ivey	2013	E/11/4	2013 (1)
Environmental Services Contract Partnering Board	Cllr C Metcalfe	2013	E/11/4	2013 (1)
Audit Consortium Partnership	Cllr C Lunn sub: Cllr M Crane	2013 (1 place only + sub)	E/11/4	2013 (2)
North Yorkshire Waste Management Partnership	Cllr M Dyson	2013 (1)	E/11/1	2013 (1)
North Yorkshire Spatial Planning Board	Cllr J Mackman	2013 (1)	E/11/1	2013 (1)
Housing Trust	Cllr J Mackman Cllr I Reynolds Cllr R Packham	2014 (3)		

Selby District Council

REPORT

Reference: E/12/72

Public – Item 5



To: The Executive
Date: 9 May 2013
Status: Non-Key Decision
Report Published: 30 April 2013
Author: Karen Iveson
Executive Member: Councillor Crane
Lead Director: Keith Dawson

Title: Neighbourhood Planning

Summary:

The Localism Act introduced a new duty for the Council to provide support to local communities to draw up neighbourhood plans. This report updates Executive on proposals to fulfil this new duty.

Recommendations:

- i. **Executive Notes the report**
- ii. **Executive endorses the proposed approach to neighbourhood plans**

Reasons for recommendation

To meet the Council's duty to support local communities drawing up neighbourhood plans.

1. Introduction and background

- 1.1 Neighbourhood planning is a key component of the Government's Localism agenda and the Council has a statutory duty to assist local communities to create neighbourhood plans for their local areas.
- 1.2 The Council has received requests for assistance and further requests are likely. Access Selby is not currently commissioned to provide support for neighbourhood planning and the Council does not yet have

the formal arrangements in place to fulfil its new statutory responsibilities.

- 1.3 The costs associated with neighbourhood planning can be significant. For example the total cost of the Lynton and Lynmouth neighbourhood plan is reported to be in excess of £50,000. In this example the costs were met by external funding rather than by the local planning authority. There are also risks involved, for example a Neighbourhood Forum has recently been granted permission to judicially review Wycombe District Council's modifications of a proposed neighbourhood plan.
- 1.4 On 7 March 2013 the Upper Eden Neighbourhood plan became the first to successfully be approved at the referendum stage. Up to this date neighbourhood plans have been found unsound before reaching the referendum stage. The Council is already receiving enquiries and the associated publicity of this recent success may further increase the demand for neighbourhood plans in Selby.
- 1.5 Given the costs, risks, and potential demand associated with this new statutory duty, it is proposed that a low key approach to neighbourhood planning is taken to minimise costs and risk whilst fulfilling the duty.

2. The Report

- 2.1 Neighbourhood plans provide local communities with greater influence over local planning policies and proposals in their area.
- 2.2 Any parish or town council or other local group wishing to prepare a neighbourhood plan can request that the local planning authority (LPA) approves their neighbourhood area for designation.
- 2.3 Once approved the community will prepare a neighbourhood plan and submit the proposed plan to the LPA to check that proper procedures have been followed in preparation. Following a period of publicity, the LPA will arrange for an independent examination of the plan and organise a public referendum.
- 2.4 If approved and subsequently adopted, the neighbourhood plan becomes part of the development plan for the area and must be taken into account when making planning decisions.
- 2.5 It is proposed to commission Access Selby to work with a local community on a pilot to assist one community group through the neighbourhood planning process.
- 2.6 Following completion the pilot will be reviewed to establish costs and resources required and to propose recommendations for support for future neighbourhood plans.

- 2.7 Access Selby has been invited to submit a proposal to carry out this commission. This is attached at Appendix One.

3. Legal/Financial Controls and other Policy matters

Legal Issues

- 3.1 The Council has a statutory duty to support local communities in neighbourhood planning. Neighbourhood plans must be prepared in accordance with the relevant planning and other legislation.

Financial Issues

- 3.2 The Government is making funds available to local authorities to support neighbourhood planning. Each Council will be able to claim for up to twenty designations (£100,000) in the financial year 2013/14. Payment will be made under Section 31 of the Local Government Act 2003 and claims may be submitted at the beginning of July, October, January and March.
- 3.3 The Government announced on 14 March that grants of up to £7,000 will be made available to local communities to progress their neighbourhood plans.
- 3.4 The Community Infrastructure Levy (CIL) is due to replace most S106 agreements in 2014. Under current proposals communities will receive 15% of CIL revenue from development in their area, capped at £100 per council tax dwelling. Areas with adopted neighbourhood plans will receive 25% of CIL income which will not be subject to a cap.
- 3.5 Executive will need to consider how neighbourhood planning will be funded if the resource requirements exceeds the funds available.

4. Conclusion

- 4.1 The Council has a statutory duty to support neighbourhood planning. Access Selby has been requested to submit a proposal to assist the Council meet this duty.

5. Background Documents

Contact Details

Karen Iveson
Executive Director

Appendices:

Appendix One – Access Selby proposal

Appendix One

Neighbourhood Planning – The Requirements

The Localism Act introduced a statutory duty for local planning authorities to assist local communities prepare neighbourhood plans.

There are three broad stages to follow. The first is for parish/town councils or prospective neighbourhood forums wishing to prepare a Neighbourhood Plan, to submit their proposed neighbourhood area to the local planning authority for designation.

The second stage is preparing the Plan which includes publicity, development of local partnerships, community engagement and the building of an evidence base. This will inform the development of a vision for the plan and inform the formulation of policy, proposals and site allocations.

The third stage is to submit the proposed Plan to the local planning authority (LPA) to check that proper procedures have been followed in preparation. Following a period of publicity, the LPA will arrange for an independent examination and organise the public referendum.

Community engagement will be necessary at all stages of the plan-making process. Although the LPA has a duty to provide support and assistance, it is for the LPA to decide what level is proportionate. The duty does not require providing financial assistance to local communities for neighbourhood planning.

Entering into neighbourhood planning will have implications for the operation of the Community Infrastructure Levy (CIL) which is due to begin in 2014. The Government is looking towards CIL as an incentive for communities to welcome additional development in their neighbourhoods, and has made clear that a proportion of the proceeds from CIL will be shared with the local community.

Under current proposals communities will receive 15% of CIL revenue from development in their area, capped at £100 per council tax dwelling. The Planning Minister has announced that areas with adopted neighbourhood plans will receive 25% of CIL income which will not be subject to a cap. The Minister has suggested that some communities could receive up to £400,000 that they could spend on local facilities.

Neighbourhood Planning – How Access Selby can help

The client is looking to commission a low cost option to fulfil statutory obligations with the maximum potential for community groups to help themselves. Access Selby can develop a pilot to assist one community group through the stages of neighbourhood planning. Following completion the pilot can be reviewed to establish costs and resources required for wider roll out, and self help materials will be produced to guide others through the process.

The Government currently provides funding to assist with neighbourhood planning. Access Selby will make the necessary claims and access these funds on behalf of the client for the duration of this pilot. Where possible the resources put into the pilot will be matched to the level of funding available to keep additional cost to the client to a minimum.

Neighbourhood Planning Pilot – The Proposal and Costs

The proposed pilot would include:

Stage 1: Designation of the Neighbourhood Area.

Work on a neighbourhood plan can only begin formally when the LPA has designated the neighbourhood area. For the purposes of the pilot this should be restricted to an existing town or parish administrative area and the town or parish council should be the qualifying body for producing the Plan.

The parish or town council will need to submit the following details to the LPA to apply for designation:

- A map identifying the proposed neighbourhood area
- A statement explaining why the area should be designated
- A statement explaining that the parish or town council is capable of being a qualifying body

To support this stage Access Selby will:

- Provide a map for the qualifying body to indicate the nominated area
- Receive the application for a neighbourhood area to be designated.
- Publicise the application on the web and one local newspaper
- Acknowledge any representations received
- Provide a report with a recommendation for the Council to take a decision on the designation

CLG is currently offering Councils a payment of £5,000 for each of up to a maximum of 4 designations of a neighbourhood area. It is proposed that a fixed fee of £5,000 is provided to Access Selby on receipt of the pilot application to assist with stage one.

Stage 2: Preparing the Neighbourhood Plan.

The town or parish council will be responsible for preparing and consulting on the plan. Community engagement is a statutory requirement and when the completed Plan is submitted for independent examination it will need a statement on community consultation to demonstrate that the legal requirements for consultation have been met.

The Plan must be underpinned by a sound and proportionate evidence base. If it is not based on firm evidence and proper community engagement, it is more likely to reflect the assumptions and prejudices of those writing it than the wider community and fail the independent examination.

As the plan is drafted it will develop a vision and a practical set of policies and proposals to meet the vision. This may include site allocations for new housing, employment, or community uses. The Plan must be prepared in a way which complies with legislation including the need for environmental assessment and compliance with the Habitat Regulations Assessment.

Stage two is community led and Access Selby can provide the following support:

- Mapping Service
- Advising on general conformity with the local plan
- Advising which consultees should be involved
- Providing limited technical support for example does the Conservation of Habitats and Species Regulations 2010 apply and assisting preparing the consultation statement
- Advising on evidence requirements
- Providing electronic access to the LDF evidence base.
- Signposting to other sources of assistance
- Assist in preparing the consultation statement

It is proposed that Access Selby provides technical support for a fixed fee of £1,000 for each plan payable in advance plus £50 per hour up to an agreed limit of £5,000. This would be subject to open book accounting.

Stage Three – Submission, Examination, and Referendum

Once the Plan is complete it must be submitted to the LPA with the following information:

- A map to identify the area to which the plan relates
- A consultation statement
- The proposed Neighbourhood Plan
- A statement describing how the plan fits with national policy, contributes to sustainable development, is in general conformity with the local plan, complies with human rights requirements and is compatible with EU obligations.

The LPA will then publicise the plan and make it available for inspection and invite comments over a 6 weeks period.

The LPA will appoint a suitably qualified and experienced person to carry out the independent examination of the Plan in agreement with the parish or town council.

The LPA will send to the independent examiner the plan and supporting information and any comments received during the consultation period. The independent examiner will take these comments into account.

If the Plan is found sound, with modifications if necessary, the LPA will arrange for the referendum to take place.

If more than 50% of those voting in the referendum vote 'yes', then the local planning authority will bring the plan into force.

This stage is the most complicated and will require most support. Access Selby can assist by:

- Receiving the neighbourhood plan submitted to the Council
- Checking the proposals for conformity with relevant regulations

- Appointing an independent person to carry out the examination
- Managing the necessary publicity and administration arrangements.
- Acknowledge any representations received
- Notifying all bodies mentioned in the Qualifying Bodies consultation statement
- Attendance at Examination
- Advising the Client Executive, Policy Review and Council (this is part of the Budget and Policy Framework)
- Identifying any additional obligations for the Client within the proposal and their potential cost implications – e.g. Article 4 directions/CIL requirements etc

Organisation of the referendum will be the responsibility of the Council – it is suggested that any referendum is timed to coincide with existing elections to reduce costs.

CLG is currently offering Councils a payment of £25,000 on successful completion of the neighbourhood planning examination. This is to cover costs of the examination and any further steps needed for the neighbourhood plan to come into legal force, including referendum. Access Selby will organise payment on behalf of the Council ready for sign off the chief executive or S151 officer.

It is proposed that Access Selby manages the examination stage for a fee of up to £20k. The resources will be recorded be subject to open book accounting and will be subject to the submitted plan being found sound.

The Plan will then need to be adopted by the relevant Council approval mechanisms.

Learning from the Pilot

The arrangement will be reviewed following Adoption of the first neighbourhood plan to assess the resource requirements and ensure continued best value.

Access Selby will draft a report for the client with recommendations for support for future neighbourhood plans.

Subject to agreement with the client, Access Selby will develop a self help toolkit to support local communities.

Summary of Costs

Stage 1 £5k

Stage 2 £1k plus £50 per hour up to an agreed limit of £5k

Stage 3 £20k

Ongoing pilot review and signposting to self help materials and will be included as part of the Pilot

Costs will be restricted to keep them within the funds available.

Potential Income

For financial year 2013/14 LPAs will be able to claim for up to twenty designations totalling no more than £100,000.

Payments will be staged to enable local authorities to claim:

- £5,000 following designation of a neighbourhood area;
- £5,000 when the LPA publicises the neighbourhood plan prior to examination
- £20,000 on successful completion of the neighbourhood planning examination.

Notes

This arrangement will be entered into in the spirit of joint working and risks such as challenge to the adoption of a Neighbourhood Plan will be borne by the Council.

Selby District Council

REPORT

Reference: E/12/73

Public – Item 6



To: The Executive
Date: 9 May 2013
Status: Non-Key Decision
Report Published: 30 April 2013
Author: Karen Iveson, Executive Director (s151)
Executive Member: Cllr Cliff Lunn
Lead Director: Karen Iveson

Title: Right to Buy and One for One Replacement

Summary: This report briefs Councillors on the Government's enhanced Right to Buy (RTB) scheme and the arrangements for 'one-for-one' replacement homes and seeks approval to enter into an agreement with Central Government to retain additional capital receipts from RTB sales.

Recommendations:

The Council enter into the agreement for the retention of additional right to buy receipts.

Reasons for recommendation

To enable the Council to formally enter into the agreement with the Government and retain additional receipts for Quarter 1 of 2013/14 and onwards.

1. Introduction and background

- 1.1 From April 2012 the Government increased the maximum discount available to tenants wishing to buy their Council house or flat in order to provide a greater incentive for tenants to purchase their homes, and to in turn stimulate the provision of replacement properties.
- 1.2 The Government have issued an agreement (the agreement) to local authorities to enable the retention of the additional capital receipts that are expected to be generated by the enhanced RTB scheme. It is the Government's intention that these additional receipts are used by local authorities to deliver new affordable rented homes in their areas, either through new build or purchase of existing properties.
- 1.3 If the Council wishes to take part in the 'one for one' replacement scheme in relation to capital receipts, then it must sign and return the agreement by the end of the quarter in order to retain receipts for that quarter and into the future. The agreement can not be entered into retrospectively for previous quarters.
- 1.4 The number of RTB sales has increased in 2012/13 with 10 sales completing in the year. Further increases are expected as the Government continue to promote Right to Buy and mortgage lending increases.

2. The Report

Enhanced Right to Buy

- 2.1 With effect from April 2012, the maximum discount available to tenants who wish to buy their Council house or flat has increased to £75,000 nationally (from £24,000 in Selby District).
- 2.2 Tenants must have lived in a Council property for 5 years in order to qualify for the minimum percentage discount (35% for houses and 50% for flats) and each year thereafter increases the discount by 1% for houses and 2% for flats up to the maximum percentage discount of 60% and 70% respectively. The maximum discount available is therefore the lower of 60% (70% for flats) and £75,000.
- 2.3 In determining the amount of discount allowable a 'cost floor' is also applied to reduce the discount. Under the cost floor, the discount available must not reduce the selling price below what has been spent on building, buying, repairing or maintaining the property. If the cost of the works etc carried out over a 10 year period is greater than the market value of the property, then no discount is allowable. This period is 15 years for properties built or acquired after 2nd April 2012. Appendix A provides some worked examples.

- 2.4 The increase in available discount is expected to significantly increase the number of RTB sales and we have already seen an increase in the number of sales over the last year.

Re-investing Receipts in New Affordable Rented Homes

- 2.5 The Government aims to make the process as 'light touch' as possible and therefore the agreement is concerned solely with the flow of money in from receipts and out in investment in replacement housing stock.
- 2.6 The agreement stipulates that the retained capital receipts must not constitute more than 30% of the total amount invested in replacement stock – i.e. newly built or acquired council homes or social housing provided through local authority grants to housing associations.
- 2.7 It is the Government's intention that the remaining 70% is met from the Council's (or the housing association being grant funded) reserves or new borrowing serviced by the anticipated rental income from the new homes built or acquired. Council land that is gifted to housing associations can not count towards the housing associations 70% in line with the Homes and Communities Agency grant criteria.
- 2.8 The Government recognise that in order to maximise borrowing it may be necessary to charge an 'Affordable Rent' for new Council homes (i.e. up to 80% of market rent) but that is a decision for the Council.
- 2.9 It is also the Government's intention to encourage additional investment in social housing and therefore receipts from non-RTB sales can not be used to fund the Council's 70% contribution nor can we use funding already deducted from RTB receipts to cover the buying back of former Council homes.
- 2.10 Where retained receipts, measured on a quarterly basis, exceed 30% of the total amount invested in replacement stock, then these must be returned to the Secretary of State with interest calculated at 4% over bank base rate. This rate has been set high to encourage councils to invest in replacement stock.
- 2.11 There is no requirement to return receipts in the first 3 years of the agreement, but in quarter 1 of 2016/17 we will have to compare:
- 1) The total amount spent on replacement stock from the start of the agreement to the end of that quarter, with
 - 2) The total amount we have retained from RTB receipts in quarter 1 of 2013/14 (i.e. the receipts we have had three years to spend).

Where 2) is 30% or less than 1) then no further action is required. From Quarter 2 of 2016/17 onwards the calculation will be based on cumulative amounts from the start of the agreement.

- 2.12 We will be required to report to the Secretary of State quarterly on RTB sales, replacement starts and completions.
- 2.13 The Secretary of State has the right to terminate the agreement at any time, although would expect to do so only in extreme circumstances. This would mean that the Council would no longer retain receipts but would have 3 years from the start of the agreement to invest the receipts in replacement stock, or have to return them. The Council may also terminate at any time by voluntarily returning future receipts and paying back what we have already retained.
- 2.14 The advantages and disadvantages of signing the agreement are:

Advantages	Disadvantages
Gives us control the use of resources to meet local housing needs.	Risk of incurring high interest costs if receipts are not used within three years – difficulty finding sites for new build schemes may delay use of receipts.
Shows we are being pro-active about addressing housing shortages.	Will require management time to administer a pipeline of new build schemes and monitor use of capital receipts.
May also allow us to gain access to the new provision receipts of councils that chose not to sign the agreement with the government (if this were the case it is likely that these receipts would also be subject to the 30% rule).	
Opportunity to maintain the size of the council housing stock and thereby the sustainability of the HRA (ability to spread costs over a larger stock base) or provide funding for new affordable homes to the new housing trust.	

Modelling RTB receipts

- 2.15 Under HRA self-financing, assumptions about the level of RTB sales have been made and these new arrangements are concerned with the additional sales that will be generated.
- 2.16 Assumptions about RTB were factored into the level of debt the Council had to take on under self-financing and sales beyond this level will qualify for the additional retention arrangements.

- 2.17 In order to compensate councils for the loss of receipts expected under the new discount arrangements, the amount of self-financing debt we had to take was lower than it would otherwise have been, to reflect the expected reduction in rental income as a result of extra RTB sales. Assumed RTB sales included in the self-financing settlement are:

	2012/13	2013/14	2014/15	2015/16	2016/17
Number of sales	6.49	7.60	8.52	8.89	8.98

Our Business Plan assumes 2 RTB sales in 2012/13 and 2013/14 and then 5 sales p.a. for the following 6 years. The actual number of sales to date in 2012/13 was 10.

- 2.18 If RTB sales are higher than those assumed in the self-financing settlement then the retention formula provides some further compensation in the form of 'Attributable Debt' which allows us to retain a greater proportion of the receipts (to repay debt or finance capital expenditure).
- 2.19 The retention formula is complex and sensitive to variations (in discount levels and sale numbers, for example) and the full financial implications of these changes are difficult to quantify, although we are able to model some scenarios to exemplify the impacts. Scenarios for 5, 15 and 30 sales p.a. for the 5 years from 2013/14 to 2017/18 are set out at Appendix B.
- 2.20 Sales of 30 per year over the next 5 years (at an average sale price of £94k and a discount of £50k per property) would give us in the region of £1.6m additional receipts available to re-invest in new properties. To demonstrate the sensitivity of the calculation, a reduction in the discount (to say £38k per property) would increase the additional receipts to £3.6m over the 5 years.
- 2.21 Based on the actual sales and proceeds from RTB in 2012/13 the Council would not have been entitled to retain additional receipts even though more sales were achieved than assumed in the financing settlement. This is due to the sale proceeds after discount being much lower than those assumed in the settlement. Based on the sales and proceeds achieved over the last year, it is estimated that 13 or 14 sales would be needed before any additional receipts would be generated – levels which could easily be exceeded in the coming year given the increase seen in 2012/13.

Expenditure on new provision

- 2.21 The council has 3 years within which to use the retained receipts (from the quarter they are received) but they must make up no more than 30% of the total development costs. In the case of the above sales scenarios, and assuming the council signed the agreement with the

Government to retain the new provision element of receipts, the following levels of expenditure would be required to avoid making repayments to the Government:

Required Cumulative Development Expenditure

Required Cumulative Expenditure	5 sales per year £000	15 sales per year £000	30 Sales per year £000
2013-14	0	0	0
2014-15	0	0	0
2015-16	0	0	0
2016-17	0	182	1,285
2017-18	0	211	2,446
2018-19	0	211	3,487
2019-20	0	211	4,501
2020-21	0	211	5,528

- 2.22 At 5 sales per year there would be no 'new provision' element of RTB receipts and therefore no required development expenditure needed. At 15 sales per year, by 2016/17 £182k of development expenditure would be needed and by 2017/18 £211k of expenditure would be needed. At 30 sales per year new provision receipts over 5 years could total £1.6m which would necessitate total expenditure on development costs of £5.5m by 2020/21 profiled as set out in the table above.
- 2.23 The Council currently has £5m headroom within its HRA borrowing limits as well as future HRA surpluses which could be used to fund its 70% share of the expenditure.
- 2.24 Assuming acquisition/new build cost at an average of £100k per property then expenditure of £5.5m could provide 55 new affordable homes against sales of 150 – a net loss to the HRA stock of 95 properties.
- 2.25 Alternatively the Council does not enter into the agreement with the Government and forfeits the additional capital receipts of £1.6m but still loses 150 properties.
- 2.26 We are currently considering a development strategy for the Council following acceptance of the feasibility report on the Housing Trust. The retention of additional capital receipts will support this work and subject to councillor approval it is expected that a programme of new build

and/or purchase will be in place to take advantage of the additional RTB receipts.

3 Legal/Financial Controls and other Policy matters

3.1 Legal Issues

As set out in the report.

3.2 Financial Issues

As set out in the report.

4. Conclusion

- 4.1 RTB sales have already increased above the level assumed in the Government's self-financing settlement and should this increase continue the Council has the opportunity to retain additional capital receipts from RTB sales from quarter 1 of 2013/14, by entering into an agreement with the Government.
- 4.2 The agreement requires the Council to spend the additional retained receipts on new affordable dwelling (either new build or purchase of existing dwellings).
- 4.3 The receipts can not make up more than 30% of the cost of the new affordable dwellings and must be spent within 3 years.
- 4.4 Entering into the agreement is recommended as the benefits of retaining the receipts are greater than the risk of non-delivery and consequent repayment.

Background Documents

Government publication - Reinvigorating Right to Buy and one-for-one replacement: information for local authorities

Contact Details

Karen Iveson
Executive Director
kiveson@selby.gov.uk

Appendices:

Appendix A Right to Buy Discount – Examples
Appendix B Apportionment of Right to Buy Sales
Appendix C Agreement

Right to Buy Discount – Examples

Example 1

A tenant has lived in a Council house for 10 years, the house is valued at £100,000 and has had improvements valued at £50,000 in the last 10 years.

Valuation	£100,000
Discount @ 40%	£40,000
Cost floor	£50,000
Discount awarded	£40,000

Example 2

A tenant has lived in a Council house for 40 years, the house is valued at £150,000 And has had no improvement work in the last 10 years.

Valuation	£150,000
Discount @ 60%	£90,000
Maximum Discount allowable	£75,000
Discount awarded	£75,000

Example 3

A tenant has lived in a Council flat for 15 years, the flat is valued at £80,000 and has improvements valued at £35,000 in the last 10 years.

Valuation	£80,000
Discount @ 60%	£48,000
Cost Floor	£35,000
Discount awarded	£45,000

Appendix B

Apportionment of Right to Buy Sales

	5 sales per year £	15 sales per year £	30 Sales per year £
Total RTB Receipts	1,156,392	3,469,177	6,938,354
To the Council			
Transaction Costs	32,500	97,500	195,000
Attributable debt	0	712,088	2,339,921
Local Authority Assumed Income	330,717	763,966	807,715
Buy Back Allowance	0	0	0
To the Government			
Government Assumed Income	793,175	1,832,256	1,937,182
To the Council or the Government			
Money available for replacement homes	0	63,367	1,658,535

Note – any use of buy back allowance would be deducted from the money available for new provision (limited to 6.5% of new provision receipts).

30 sales per annum over 5 years with a £50,000 discount equates to £1.659m available for replacement homes.

When calculating the money available for replacement homes it is clear that the results are extremely sensitive to the amount of discount given, and the number of RTB sales.

The lower the discount, the more beneficial it will be for the Council – for example a £38k discount (instead of the currently assumed £50k) would generate £3.6m of receipts available for replacement homes over 5 years.

APPENDIX C

Agreement – Section 11(6) of the Local Government Act 2003

This agreement is made pursuant to section 11(6) of the Local Government Act 2003.

Parties

The Secretary of State for Communities and Local Government (“the Secretary of State”) and Selby District Council (“the Authority”).

This agreement comprises 10 pages

General

1. In this agreement :

“the due date”, “quarter” and “the relevant quarter” have the same meaning as in the Regulations;

“receipts” means the receipts to which Schedule 1 to the Regulations applies;

“retained amount” means the amount calculated in Part 1;

“the Regulations” mean the Local Authority (Capital Finance and Accounting) (England) Regulations 2003;

“social housing” means low cost rental accommodation as defined by section 68(1)(a) of the Housing and Regeneration Act 2008;

“the sub-liability” means the sub-liability calculated under Schedule 1 to the Regulations;

the terms “A”, “E”, “F”, “G”, “J” and “K” used in this agreement have the same meaning as in Schedule 1 to the Regulations.

2. This agreement applies to receipts received on or after 1st January 2013 (“the commencement date”).

3. The Authority is not required to pay to the Secretary of State such portion of the sub-liability calculated in accordance with Part 1 of this agreement provided the Authority complies with the conditions set out in this agreement.
4. The Authority must use the retained amounts for the provision of social housing. Any amounts not used for this purpose must be paid to the Secretary of State and interest will be payable calculated in accordance with paragraph vi of Part 1.
5. The Authority must provide the information set out in Parts 1 and 4 of this agreement to the Secretary of State at the times and in any format the Secretary of State may request.
6. This agreement may be terminated by the Secretary of State by giving notice of one quarter.
7. This agreement may be amended by agreement.

Part 1 - Calculation of the portion of the sub-liability that the Authority may retain.

- i. Where in any quarter –

A is more than $(3.398347729 \times G) + E + F + J$

the Authority may retain an amount (“the retained amount”) up to–

K less $(2.398347729 \times G)$.

- ii. The Authority must inform the Secretary of State of the following by the due date of the relevant quarter-
 - (a) the value of K less $(2.398347729 \times G)$;
 - (b) the retained amount; and

(c) any amount not retained by the Authority.

- iii. Where the Authority has informed the Secretary of State (under paragraph ii(c)) that an amount will not be retained, the Authority must pay that amount to the Secretary of State by the due date of the relevant quarter.
- iv. Where the Authority has informed the Secretary of State that an amount will not be retained and fails to pay that amount on the due date of the relevant quarter, interest is payable and incurred from the due date until the Authority pays that amount to the Secretary of State.
- v. Where the Authority does not inform the Secretary of State of the amount it will not retain by the due date of the relevant quarter, it will be assumed that the retained amount for that quarter is the full amount the Authority may retain and where an amount is not retained and is paid to the Secretary of State, interest will be payable and incurred from the due date until the date the Authority pays that amount to the Secretary of State.
- vi. The Authority may pay any part of the retained amount to the Secretary of State and where it does so, interest is payable and incurred from the due date of the relevant quarter in which the retained amount was retained by the Authority until the date it is paid to the Secretary of State.

Part 2– Return of retained amounts

- i. This Part applies where 13 quarters have expired since the commencement date.
- ii. In this Part :
 - “the reckonable quarter” means the quarter 12 quarters prior to the relevant quarter;

“quarter 1” means the quarter in which the commencement date falls;

A is the total of the retained amounts for all quarters from quarter 1 to the reckonable quarter;

“the total amount spent on the provision of social housing” is the amount spent on the provision of social housing from quarter 1 to the last day of the relevant quarter;

R is the total of the returnable amounts calculated under paragraph iv of this Part and amounts paid to the Secretary of State under paragraph vi of Part 1 for all the quarters from quarter 1 to the reckonable quarter.

- iii. The total retained amount is calculated as follows –

$$A - R.$$

- iv. Where on the last day of the relevant quarter, the total retained amount exceeds 30% of the total amount spent on the provision of social housing, the Authority must pay to the Secretary of State the portion of the total retained amount in excess of 30% of the total amount spent on the provision of social housing (“the returnable amount”).
- v. Where the Authority must pay a returnable amount to the Secretary of State under paragraph iv of this Part, interest is payable, calculated and incurred from the due date of the reckonable quarter until the date the returnable amount is paid to the Secretary of State.

Part 3 - Calculation of interest

Where interest is payable under this agreement, it will be calculated at a rate of 4% above the base rate on a day to day basis compounded with three-monthly rests and “base rate” has the same meaning as in the Regulations.

Part 4 - Provision of information

On the due date of each relevant quarter the Authority must provide to the Secretary of State the details of the number of starts on site since the commencement date.

“Start on site” means the earlier of commencement of the following by the Authority or other body to which the Authority has paid all or part of the retained amount for the purpose of providing social housing:

- (a) excavation for strip or trench foundations or for pad footings;
- (b) digging out and preparation of ground for raft foundations;
- (c) vibrofloatation, piling, boring for piles or pile driving; or
- (d) drainage work specific to the buildings forming part of the scheme.

Part 5 – The amount spent on the provision of social housing

- i. The amount spent on the provision of social housing shall not include any expenditure which has been used or which the authority intends to use to-
 - (a) reduce a capital receipt under regulation 15(1)(c) of the Regulations (capital allowance); or
 - (b) buy back a relevant interest defined in paragraph 3(1)(b) of the Schedule to the Regulations and claim buy back allowance in respect of that expenditure under paragraph 3 of the Schedule to the Regulations.

- ii. The amount spent on the provision of social housing shall not include –
 - a. any expenditure on dwellings which are social housing at the time of the expenditure; or
 - b. any expenditure for the provision of housing which is funded, wholly or in part, by grant paid by the Homes and Communities Agency.
- iii. The amount spent on the provision of social housing is the amount spent by the Authority or by a body to which the Authority has paid some or all of the retained amounts (such body must not be a body in which the Authority holds a controlling interest) on the development costs associated with the provision of social housing for the benefit of the Authority's area.
- iv. Where the Authority has paid all or some of the retained amounts to a body for the purpose of contributing towards the cost of providing social housing, the Authority must ensure that only retained amounts provided by the Authority have been used by such body for the provision of social housing for the benefit of the Authority.
- v. Social housing is provided for the benefit of the Authority where it is situated in the area of the Authority or the Authority has nomination rights in respect of the social housing.
- vi. The amount spent on social housing includes the following:
 - (a) the development costs associated with the acquisition of dwellings to be used as social housing;
 - (b) the development costs associated with the acquisition of land for the construction of dwellings to be used as social housing;
 - (c) the development costs of the construction of dwellings to be used as social housing.

- vii. In this Part “development costs” means the costs set out in Part 6.

Part 6 – Development costs

Development costs means the costs relating to the development of social housing in respect to the heads of expenditure set out below.

Heads of expenditure

1 Acquisition

1.1 *Purchase price of land/site.*

1.2 *Stamp Duty Land Tax on the purchase price of land/site.*

2 Works

2.1 *Main works contract costs (excluding any costs defined as on costs).*

2.2 *Major site development works (where applicable). These include piling, soil stabilisation, road/sewer construction, major demolition.*

2.3 *statutory agreements, associated bonds and party wall agreements (including all fees and charges directly attributable to such works) where applicable.*

2.4 *Additional costs associated with complying with archaeological works and party wall agreement awards (including all fees, charges and claims attributable to such works) where applicable.*

2.5 *Irrecoverable VAT on the above (where applicable).*

3 On costs

3.1 *Legal fees and disbursements.*

3.2 *Net gains/losses via interest charges on development period loans.*

3.3 *Building society or other valuation and administration fees.*

3.4 *Fees for building control and planning permission.*

- 3.5 *Fees and charges associated with compliance with European Community directives, and any requirements relating to energy rating of dwellings, Eco-Homes certification and Housing Quality Indicators.*
- 3.6 *In-house or external consultants' fees, disbursements and expenses (where the development contract is a design and build contract) (see note 1 below).*
- 3.7 *Insurance premiums including building warranty and defects/liability insurance (except contract insurance included in works costs).*
- 3.8 *Contract performance bond premiums.*
- 3.9 *Borrowing administration charges (including associated legal and valuation fees).*
- 3.10 *An appropriate proportion of the development and administration costs of the Authority or the body in receipt of funding from the Authority.*
- 3.11 *Irrecoverable VAT on the above.*

Note 1

Where the development contract is a design and build contract, the on-costs are deemed to include the builder's design fee element of the contract sum. The amount included by the builder for design fees should be deducted from the works cost element referred to above, as should other non-works costs that may be submitted by the builder such as fees for building and planning permission, building warranty, defects liability insurance, contract performance bond and energy rating of dwellings.

Note 2

Some items will not qualify as development costs unless the Authority can clearly demonstrate that such costs are properly chargeable to the social housing, i.e. for the sole use of the residents or to comply with any statutory obligations that may have been imposed.

Examples of these are as follows:

- *works to any roads which do not exclusively serve the social housing;*
- *landscaping to areas of land which lie outside the boundaries of the land on which the social housing is situated;*
- *district heating systems;*
- *trunk sewers and sewage disposal works;*
- *special refuse treatment buildings;*
- *public conveniences;*
- *community halls, club rooms, recreation rooms.*

Note 3

Subject to the above, where any cost incurred or to be incurred by the Authority or a body in receipt of funding from the Authority is common both to the development of the social housing and to any other activity, asset or property of the Authority or a body in receipt of funding from the Authority, only such part of that cost as is attributable to the development of the social housing may be treated as a cost in respect of which the retained amount may be paid.

Signed on behalf of the Authority by

(insert name and position in capitals)

Signed on behalf of the Secretary of State by -

.....(add signature
and date)