

Cabinet – 8 February 2012

New Homes Bonus

Portfolio: Councillor Adrian Andrew, Deputy Leader, Regeneration

Service: Regeneration – Development and Delivery

Wards: All

Key decision: Yes

Forward plan: Yes

1. Summary

1.1 This report seeks approval to the use of the New Homes Bonus (NHB) allocation in 2012/13. The NHB allocation in 2011/12 stood at £911,506, and Cabinet resolved at its September 2011 meeting to allocate the majority of this year's funding, some £866,506, towards stimulating new housing provision across the Borough's six partnership areas. Whilst an update on progress with the expenditure of the NHB fund in 2011/12 is addressed in the detail of this report, it should be noted that approximately £123,000 is likely to be uncommitted, and it is proposed that the uncommitted balance of the 2011/12 NHB allocation is rolled forward to 2012/13.

1.2 In 2012/13, the Council will receive the 2011/12 NHB grant of £911,506 again, plus a further £1,095,000 for housing completions in the 12 months to October 2011, to provide an overall NHB allocation in 2012/13 of £2,007,000. It is recommended therefore that NHB funding in 2012/13 is allocated towards the establishment of a Walsall Regeneration Fund which supports the six investment principles for NHB agreed by Cabinet at its July 2011 meeting. Further consideration of how NHB funding is allocated against the six investment principles is considered in greater detail in paragraph 3.8, and the approximate sums are summarised below:

- Supporting strategic acquisitions and development funding - £0
- Developing and maintaining a policy base to support future development - £130,000
- Supporting economic regeneration - £500,000
- Stimulating future new homes provision - £1,000,000
- Bringing empty homes back into use - £500,000
- Providing for gypsies and travellers - £0

- 1.3 It is proposed that NHB funding will make a significant contribution towards the establishment of a Walsall Regeneration Fund. Some of the projects to stimulate housing growth supported by NHB funds in 2011/12 will be loans, as will some of those supported by the 2012/13 allocation, and it is recommended that the repayment of funds from these loans will in the future be recycled to support the Regeneration Fund. Moving forward, the Regeneration Fund will be complemented by other funding streams, including funds raised through the introduction of the Community Infrastructure Levy (CIL) from April 2014, any funds secured by the Council and its partners from government programmes such as Regional Growth Fund, the Growing Places Fund and the Government's recently announced Housing Strategy, and funds secured from other sources such as the ERDF funded Property Investment Programme.

2. Recommendations

Cabinet is recommended to agree:

- 2.1 That a Regeneration Fund is established, into which the New Homes Bonus (NHB) allocation for 2012/13 of £2,007,000 is committed to support the six investment principles previously endorsed by Cabinet, and the funding in 2012/13 is split as proposed in paragraph 3.8 of this report.
- 2.2 That authority to use the NHB fund for 2012/13 flexibly to support the six investment principles previously endorsed by Cabinet, be delegated to the Executive Director Regeneration, in consultation with the Regeneration Portfolio Holder.
- 2.3 That authority to take decisions to allocate the NHB in 2012/13 to third parties or otherwise to support the regeneration of the Borough, by way of a loan, grant, acquisition or an alternative form of intervention, be delegated to the Executive Director Regeneration, in consultation with the Regeneration Portfolio Holder.
- 2.4 That authority is delegated to the Executive Director Regeneration to sign or authorise the sealing of any deeds, contracts and other related documents with third parties for the allocation of the NHB in 2012/13.
- 2.5 That any additional resources received by the Council relating to the allocation of the NHB in 2011/12 and 2012/13, by way of a loan repayment, disposal of land or any other mechanism, be recycled into the Regeneration Fund to provide future resources for the Regeneration Fund, and a further report will be submitted to Cabinet in relation to the expenditure of these recycled funds.

3. Report detail

- 3.1 As reported to Cabinet in July 2011, NHB has been introduced as part of the Government's planning reforms and is intended to provide an incentive to local authorities to encourage the delivery of new housing development. NHB is calculated on the basis of the number of new homes completed in the authority's area, and payment will be made for a period of 6 years from the date that a home is first recorded as having been completed.

- 3.2 The Government confirmed that, as a reward for new homes built and added to the Council Tax Base over the 12 months to October 2010, the Council would receive a payment of £911,506 for the first year from April 2011 and a total payment over the next 6 years of £5,469,036. New homes completed over the 12 months between October 2010 and October 2011 will also attract a payment for the following 6 years which is calculated at this stage at £1,095,000 and will be added to the above sums. Therefore, it is expected that the NHB allocation for 2012/13 will be £2,007,000.
- 3.3 The July 2011 report advised that in year 1 NHB is entirely “new money” whilst a proportion in years 2 to 4 will also be new. The exact proportion will depend on how successful NHB is in promoting additional housing. Funding beyond the annual level of £250m that has been set aside nationally will come from formula grant.
- 3.4 At its meeting on 27 July 2011, Cabinet agreed six investment principles to guide the future use of NHB funding:
- Supporting strategic acquisitions and development funding
 - Developing and maintaining a policy base to support future development
 - Supporting economic regeneration
 - Stimulating future new homes provision
 - Bringing empty homes back into use
 - Providing for gypsies and travellers

At the same meeting, Cabinet also agreed that NHB should fund the production of development plan documents (specifically a Site Allocations Development Plan Document and an Area Action Plan for Walsall Town Centre, as well as a charging schedule for the introduction of the CIL). The report sought funding for this of £135,000, £45,000 over three consecutive years, although the funding will be concentrated in some periods rather than others.

- 3.5 Given an overall award of £911,506 in 2011/12, and an existing Cabinet commitment to allocate £45,000 of this award to support the production of development plan documents, Cabinet resolved in September 2011 that the outstanding £866,506 in 2011/12 should be used to stimulate the provision of new homes in the Borough as far as possible equitably across the Borough’s six partnership areas. Cabinet also resolved in September 2011 that delegated authority be given to the Executive Director Regeneration, in consultation with the Regeneration Portfolio Holder, to establish a delivery mechanism for NHB and to take decisions to allocate the balance of the 2011/12 funds.
- 3.6 The fund, known as “Walsall New Homes Bonus”, was launched on the 17th October 2011, with bids invited by the closing date of the 11th November 2011. In all, seven bids were received, though two of the applications were later withdrawn. Following a thorough assessment of the bids, five schemes are now likely to be supported by the 2011/12 NHB fund, which in total are seeking £770,000 of funding to deliver 208 new homes. Of these applications, three are for loans totalling £420,000 and two are for grants seeking £350,000. It should be noted that these funds are being allocated to support otherwise financially marginal development schemes, which by their very nature are investments containing some risk despite the due diligence undertaken to date in respect of the applicant’s status.

3.7 At the time of drafting this report, it should be noted that the NHB grant in 2011/12 is under-subscribed. Of the £866,506 allocated towards stimulating new homes growth, only £770,000 is likely to be committed to support applications, whilst only approximately £18,000 of the £45,000 allocated in support of developing a policy base has been committed. It is proposed that the balance of these uncommitted funds, approximately £123,000, is rolled forward to 2012/13 and committed to the Regeneration Fund.

3.8 As noted above, it is anticipated that the NHB allocation in 2012/13 will be £2,007,000, plus the £123,000 to be rolled forward, and it is recommended that this is used towards the establishment of a Walsall Regeneration Fund which supports the six investment principles previously endorsed by Cabinet. It is considered that the Walsall Regeneration Fund should primarily make investments that support housing growth, create new jobs and generate future resources for the Council to support regeneration activity, and the majority of investments should be made with this rationale in mind. During 2012/13, it is proposed that the available NHB funds are allocated as indicated below, though there may be a requirement, on a project by project basis, to use the fund flexibly between these principles:

- **Supporting strategic acquisitions and development funding** – it is proposed that £0 should be allocated from NHB resources in 2012/13. Whilst target acquisitions have been identified to help deliver strategic projects in Walsall town centre, a separate 2012/13 capital funding bid has been made to pursue these acquisitions.
- **Developing and maintaining a policy base to support future development** – the funding agreed by Cabinet in July 2011 to support this was equivalent to £45,000 per annum for the three years from 2011/12 to 2013/14. To date, consultancy advice costing approximately £18,000 has been commissioned to provide specialist support with sustainability appraisals and habitats work to underpin emerging planning policy documents. Therefore, approximately £27,000 is also proposed to be rolled forward from the current year's allocation into 2012/13.

However, the requirements for evidence during 2012/13 are likely to be significant, including work on the viability of development sites and of investment in the town centre, the commissioning of work on housing need and on water (including supply, sewerage and flooding, and drainage) and the infrastructure needed to support development, and funding to support progress on the establishment of the CIL. Therefore, to ensure that the work should not be held back by a lack of resources, it is proposed that a total of £130,000 of the 2012/13 budget should be allocated towards this investment principle.

- **Supporting economic regeneration** – it is proposed that approximately £500,000 of the 2012/13 budget is allocated in support of this investment principle. Under this principle, funding will be allocated to meet the following aims:

- Attracting inward investment to Walsall, including both housing and employment led development, leading to the creation of new jobs and new homes, and attracting employers.
 - Supporting the sustainability of Walsall's town and district centres.
 - Growing the Borough's employment supply chains, creating new jobs and a thriving economy.
 - Bringing forward development sites to increase employment and housing land supply.
 - Working with education providers to ensure that skills are appropriate and attractive to both local people and employers.
 - Marketing the Borough as a place to do business, and to live and work.
 - Establishing an effective client handling approach and creating effective relationships with key employers.
- **Stimulating future new homes provision** – it is proposed that approximately £1,000,000 of the 2012/13 budget is used to support this investment principle. Building upon the success of this element using NHB funding in 2011/12 where 5 bids (2 for grants and 3 for loans) are being processed to deliver 208 residential units, it is proposed that the Council should move towards a more commercial lending process of providing loans, although there may be limited circumstances where grants are required to gap fund strategic affordable housing sites.
 - **Bringing empty homes back into use** – there are a range of corporate activities being undertaken to tackle empty homes, and it is proposed that approximately £500,000 of the 2012/13 budget is used to support this investment principle. This will contribute towards a dedicated empty homes officer within Housing Services, who will help to bring empty homes back into use through a variety of methods, including close working with housing associations where appropriate. The options comprise of negotiation without financial assistance, using loans to cover works to bring properties back to a usable standard, and advice to provide landlords with options for leasing these properties. In line with the Council's adopted Housing Renewal Assistance Policy 2012 -14, any loan investment provided will be recovered by the Council when the property is sold (or other relevant transfer), secured by a charge on the property. .

In the event that these methods do not bring empty property back into use, the Council can also consider negotiated purchase of property, or finally, enforcement works in cases of default or enforced sale. This may require as a last resort the acquisition of a small number of residential properties, which are then refurbished to meet energy efficiency requirements before disposal on the open market to recoup cost, a process which will provide a recyclable fund to purchase future empty homes. These properties will be marketed for sale as soon as the refurbishment works are completed, to ensure a financial return to the council at the earliest opportunity. None of the above options will involve the council retaining and managing properties.

The criteria for prioritisation of empty homes activity are where:

- There is referral from the West Midlands Fire Service following a fire
 - Unauthorised access can take place
 - Category 1 hazards exist (as defined within the Housing and Health Safety Rating Standard) that directly impact upon neighbouring dwellings
 - Nuisance to adjoining dwellings/a detrimental impact on the neighbourhood
 - A certain length of time empty, with priority given to those vacant for over 2 years, then over 1 year, then over 6 months
- **Providing for gypsies and travellers** – it is proposed that no funding is allocated to support this investment principle in 2012/13. The Council has a requirement to provide an additional 33 gypsy and traveller pitches by 2017. An opportunity exists to establish suitable locations through the provision of the Site Allocations Document, which is currently being drafted and is intended to be adopted by the end of the 2013 calendar year.

Furthermore, the Council has been informed that it has been successful in securing £941,000 from the HCA to provide 11 gypsy and traveller pitches, with the site identified by 2014 and this funding to be spent by 2015. It may transpire that the Council will have to provide some match-funding to deliver these pitches and that NHB in future years will be an appropriate source of such funding.

3.9 One of the Cabinet resolutions from the meeting in September 2011 concerning NHB was that a further report would be submitted to Cabinet that outlined specific criteria for the investment of NHB in future years. In this respect, it is considered that the criteria applied to stimulating new homes provision spend in 2011/12 will again be utilised in 2012/13, and the criteria for bringing empty homes back into use in 2012/13 are outlined above in paragraph 3.8. However, whilst the aims for using NHB funding to support economic regeneration are noted in paragraph 3.8, the specific criteria for investment are still being devised.

4. Council priorities

As expressed in the Corporate Plan 2011/12 – 2014/15, part of the Council's shared vision for the Borough is that Walsall will be a great place to live, work and invest, where "there are more and better jobs for local people" and "everyone has the chance to live in a home fit for their purpose and fit for their future". Furthermore, one of the three priorities for the Council is the economy, and if Cabinet approves the allocation of the NHB funding in 2012/13 towards the establishment of a Regeneration Fund, it will help to deliver the shared vision for the Borough and underpin the Council's economic priority.

5. Risk management

- 5.1 NHB funds are not required to be earmarked for any specific purpose. It therefore represents an excellent opportunity for the Council to establish a Regeneration Fund which will support new homes, create jobs and economic growth (both directly and by allocating sites for future development), and which can become a generator of further income and resources for the Council. However, by inviting private sector partners to bid for financial assistance, there is a requirement that a robust and transparent process is in place so that the Council's decision making processes can be defended if challenged.
- 5.2 It is proposed in this report that the 2012/13 NHB funding will be used towards establishing a Regeneration Fund, which as far as possible will distribute funds to deliver previously identified investment principles. However, despite what will be a proactive approach to raising awareness, there is a risk to the Council that no bids will be forthcoming, or that principles within the process could be over-subscribed, that any bids may be of poor quality not meeting the Council's scoring criteria, or that partners may not find the Council's terms and conditions acceptable. These risks could occur and will have to be addressed in the successful implementation of the NHB funding, and moving forward, the Regeneration Fund. These risks also explain why authority is required to be able to take a flexible approach to the allocation of resources.
- 5.3 There is a small risk of non repayment of loans made by the Council of the NHB funding, though this can be mitigated through contractual agreements. The Council will seek to secure a charge on the land (though banks may be the first charge in such circumstances), and will use its experience of developing loan agreements with housing developers and experience of distributing funds in 2011/12 to inform the process. There is also a risk that loans may not be taken up and that the Council may have to consider the provision of grants to stimulate economic growth. It should be noted that some of the funds may be allocated to support financially marginal development schemes, which by their very nature are investments that carry some risk. However, every effort will be made through legal agreements, including seeking personal guarantees from developers, to minimise these risks.

6. Financial implications

- 6.1 The NHB award for 2011/12 is £911,506 and the award for 2012/13 will be £1,095,000, which will equate to a total payment of £2,007,000 in 2012/13. Furthermore, it is anticipated that £123,000 of uncommitted 2011/12 funds will be carried forward into 2012/13. NHB is funded from reduced formula grant.
- 6.2 It is the intention, wherever possible, to make loans or other investments which secure a financial return. Loans could vary from zero interest rate to commercial rates, and obviously the Council will seek the best rate possible, whilst ensuring that the offer is attractive enough to fulfil the original purpose of building new homes, stimulating economic growth and job creation. Within this, the Council could consider offering more attractive rates to loan repayments that are made over shorter periods of time. These processes will be dependent upon the Council entering into contractual agreements with the private sector, and there

will therefore be ongoing financial implications for this process to work, not least around checking the financial viability of partners. Whilst the intention is to offer loans only, there may be occasions where grant funding is required to gap fund strategic affordable housing sites.

7. Legal implications

- 7.1 In relation to the current Walsall New Homes Bonus scheme, where the private sector was invited to bid for financial assistance, a robust, open, fair and transparent process (compliant with the Council's Contract Rules 2010) has been put in place so that the Council's decision making processes in allocating the funding can be defended if challenged. This will need to be repeated for the allocation of NHB resources in 2012/13 in relation to stimulating future new homes provision or otherwise.
- 7.2 The allocation of funds to successful applicants also needs to be compliant with State Aid regulations. For NHB in 2011/12, applicants have been asked to confirm that their bids are State Aid compliant so that the funding allocated to them is within the provisions of the *de minimis* State Aid exemption, which limits the level of State aid being received to 200,000 Euros in a rolling three year period. A loan could be offered above this value if it were to be made at a commercial interest rate compliant with State Aid guidelines, or if the benefit to the recipient (ie the difference between the value of actual interest rate charged and a commercial interest rate) fell within the *de minimis* provisions. Applicants have completed a declaration stating that they have not received other State Aid in the last 3 fiscal years above the *de minimis* threshold, which in aggregate would push the overall aid as a company beyond the threshold. Please note that where an applicant has received State Aid in the last 3 fiscal years above the *de minimis* threshold, it will still be possible to offer a grant/loan if that applicant is proposing a social housing scheme. In such circumstances, funding can be provided on the basis of Article 2.1(b) of the European Commission's 2005 "block exemption" from the regulations in respect of services of general economic interest or "SEGI", which includes social housing. A similar declaration of State Aid compliance will be utilised for the allocation of NHB in 2012/13.
- 7.3 Where the Council is giving grants or loans to stimulate housing provision, it will need to enter into contractual agreements with the successful applicant partners prior to funds being sent to them. Typically, this will be a grant agreement or loan facility agreement, and this may include the Council taking a legal charge over the land being developed. There are ongoing legal implications for these processes and Legal Services will be involved at each stage. The continued involvement of Legal Services will be required in the allocation of NHB resources in 2012/13 and in the proposed Regeneration Fund moving forward.
- 7.4 The development plan documents and the CIL charging schedule being prepared by the Council will have to comply with the requirements set out in the relevant legislation. This will help to give these documents the statutory status needed to manage and secure development and investment into the Borough.

8. Property implications

One of the principles proposed for the Regeneration Fund, though not for financial support in 2012/13, is the pursuit of further strategic acquisitions to support regeneration and the economic growth agenda. Clearly, this will have ongoing implications for Property Services, both in the initial acquisition of land and premises, and in the ultimate disposal of the land. Should the Council decide to dispose of any of its land or premises at less than best consideration through these processes, then it must be mindful of the implications of the State Aid regulations noted above.

9. Staffing implications

- 9.1 There will be ongoing implications for staff in the Regeneration Directorate and Resources Directorate (Finance Services and Legal Services) in administering the allocation of the Regeneration Fund, and the existing New Homes Bonus Project Group will continue to steer the process. It is considered that the programme can be managed from within the Regeneration Directorate, and Members should be reassured that officers have gained expertise from the successful delivery of the Regional Housing Pot programme and the implementation of NHB in 2011/12. The Project Group will develop a protocol for the management of the process for the Regeneration Fund in 2012/13 (compliant with the Council's Contract Rules 2010), and therefore the assessment of applications.
- 9.2 As referred to above, it is proposed that the use of 2012/13 NHB funding to bring empty homes back into use will contribute towards the employment of a dedicated empty homes officer in Housing Services.

10. Equality implications

An Equality Impact Assessment has been carried out on the implications of this Cabinet report. This assessment concluded that there will not be any negative implications for the characteristics protected by the Equality Act 2010. A key characteristic of the allocation of the NHB Fund in 2012/13 is that it will concentrate on the provision of new homes and the creation of jobs and economic growth for the benefit of the residents of the Borough.

11. Consultation

- 11.1 Prior consultation has been undertaken with officers in service areas across the Regeneration Directorate and with officers in legal and financial services.
- 11.2 Once the Council is in a position to seek applications for investment from the NHB in 2012/13, the availability of the fund will be advertised widely. This will ensure that a range of potential private sector partners are consulted on the proposals.

Background papers

New Homes Bonus – Reports to Cabinet, July 2011 and September 2011.

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Tim Johnson
Executive Director Regeneration
29 January 2012

A handwritten signature in blue ink, appearing to read 'Councillor Andrew', with a vertical line to its right.

Councillor Andrew
Regeneration Portfolio holder
30 January 2012