

SUSTAINABLE GROWTH SCRUTINY COMMITTEE

WEDNESDAY 29 JUNE 2011

6.30 PM

Bourges/Viersen Room - Town Hall

AGENDA

Page No

1. **Apologies for Absence**

2. **Declarations of Interest and Whipping Declarations**

At this point Members must declare whether they have an interest, whether personal or prejudicial, in any of the items on the agenda. Members must also declare if they are subject to their party group whip in relation to any items under consideration.

3. **Call In of any Cabinet, Cabinet Member or Key Officer Decisions**

1 - 10

The purpose of the meeting is to provide an opportunity for consideration of any request to call in a decision. A Call-In request has been made in relation to the decision made by Cabinet on 13 June 2011 with regard to the Local Authority Mortgage Scheme.



There is an induction hearing loop system available in all meeting rooms. Some of the systems are infra-red operated, if you wish to use this system then please contact Paulina Ford on 01733 452508 as soon as possible.

Emergency Evacuation Procedure – Outside Normal Office Hours

In the event of the fire alarm sounding all persons should vacate the building by way of the nearest escape route and proceed directly to the assembly point in front of the Cathedral. The duty Beadle will assume overall control during any evacuation, however in the unlikely event the Beadle is unavailable, this responsibility will be assumed by the Committee Chair.

Committee Members:

Councillors: C Burton (Chairman), S Allen (Vice Chairman), Arculus, D Day, J Peach, Murphy and D Fower

Substitutes: Councillors: G Nawaz and M Jamil

Further information about this meeting can be obtained from Paulina Ford on telephone 01733 452508 or by email – paulina.ford@peterborough.gov.uk

SUSTAINABLE GROWTH SCRUTINY COMMITTEE	Agenda Item No. 3
29 JUNE 2011	Public Report

Report of the Solicitor to the Council

Report Author – Paulina Ford, Senior Governance Officer, Scrutiny

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REQUEST FOR CALL-IN OF AN EXECUTIVE DECISION: LOCAL AUTHORITY MORTGAGE SCHEME

1. PURPOSE

1.1 To consider a request to call-in an executive decision made by the Cabinet.

2. RECOMMENDATIONS

2.1 That the Sustainable Growth Scrutiny Committee considers a request to call-in a decision taken by the Cabinet in respect of the Local Authority Mortgage Scheme.

3. BACKGROUND

3.1 On 13 June 2011, the Cabinet made an executive decision relating to the Local Authority Mortgage Scheme. In accordance with the Constitution this decision was published on 15 June 2011.

3.2 On 17 June 2011, Councillors Ed Murphy and Mohammed Jamil submitted a request to call-in this decision on the following grounds:

- (i) Decision contrary to the policy framework.
- (ii) The decision does not follow the principles of good decision making set out in Article 12 of the Council's Constitution, specifically that the decision maker did not:
 - (a) realistically consider all alternatives and, where reasonably possible, consider the views of the public

After further consideration Councillors Murphy and Jamil decided to retract the reason (i) for Call-In as there was no reasonable grounds to call the decision in that was contrary to the policy framework. Therefore the reason for Call-in is based solely on the grounds of (ii) above.

3.3 A copy of the request to Call-In is attached at Appendix 1 and a copy of the report considered by the Cabinet is attached at Appendix 2.

3.4 After considering the request to call-in and all relevant advice, the Committee may either:

- (a) not agree to the request to call-in, when the decision shall take effect;
- (b) refer the decision back to the decision maker for reconsideration, setting out its concerns; or
- (c) refer the matter to full Council.

4. IMPLICATIONS

4.1 Any implications are contained within the Cabinet report at Appendix 2.

5. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

None

6. APPENDICES

Appendix 1 – Request to Call-In Decision

Appendix 2 – Report Considered by the Cabinet

CALL-IN REQUEST FORM

This form must be completed, signed by at least two members of any Scrutiny Commission or Scrutiny Committee and returned to the Scrutiny Team within 3 working days of the decision being published (*not including the day of publication*)

Decision taker:	Cabinet
Date of publication of decision:	15 June 2011
Decision Called in :	Local Authority Mortgage Scheme - JUN11/CAB/061

	REASONS FOR CALL-IN	Tick which reason applies
1.	Decision contrary to the policy framework?	√
2.	Decision contrary or not wholly consistent with the budget?	
3.	Decision is Key but it has not been dealt with in accordance with the Council's Constitution.	
4.	Decision does not follow principles of good decision-making set out in Article 12 of the Council's Constitution.	√
If reason 4, please tick which specific element of Article 12 the decision maker has not followed, did he or she not:		
(a)	Realistically consider all alternatives and, where reasonably possible, consider the views of the public.	√
(b)	Understand and keep to the legal requirements regulating their power to make decisions	
(c)	Take account of all relevant matters, both in general and specific, and ignore any irrelevant matters.	
(d)	Act for a proper purpose and in the interests of the public.	
(e)	Keep to the rules relating to local government finance.	
(f)	Follow procedures correctly and be fair.	
(g)	Make sure they are properly authorised to make the decisions.	
(h)	Be responsible for their decisions and be prepared to give reasons for them.	
(i)	Take appropriate professional advice from officers.	

Detailed Reason(s) for Call-in. *Please explain below why one of the reasons for call-in applies (eg. For number 1 - which major policy affected and how/why)*

1. This decision does not fit with the anti poverty work or the elderly and poorest will not be able to use the proposed scheme in practice, nor will the unwaged and disabled.
2. Were pecuniary interests declared?
3. The Council did not consider other providers to Lloyds nor did the Council look at obtaining the expertise or a partnership to provide mortgages directly.
4. The views of the public and other stakeholders were not effectively sought as no reasonable time period for comment was provided.
5. Sector Treasury Services proposed the scheme and they will also monitor it.

	Name (please print)	Signature	Date
1.	Councillor E Murphy	Councillor E Murphy	17 June 2011
2.	Councillor Mohammed Jamil	Councillor Mohammed Jamil	17 June 2011
3.			

CABINET	AGENDA ITEM No. 7
13 June 2011	PUBLIC REPORT

Cabinet Member(s) responsible:	Cllr Cereste - Leader of the Council and Cabinet Member for Growth, Strategic Planning, Economic Development and Business Engagement Cllr Hiller - Cabinet Member for Housing, Neighbourhoods and Planning Cllr David Seaton – Cabinet Member for Resources	
Contact Officer(s):	John Harrison, Executive Director Strategic Resources Steven Pilsworth, Head of Corporate Services	Tel. 452398 Tel. 384564

LOCAL AUTHORITY MORTGAGE SCHEME

R E C O M M E N D A T I O N S	
FROM : Executive Director Strategic Resources	Deadline date : 13 July 2011
<p>Cabinet is recommended to:</p> <ol style="list-style-type: none"> 1. Approve participation in the Local Authority Mortgage Scheme (LAMS), initially in partnership with the Lloyds Banking Group, for £1m; 2. Approve plans to extend the scheme across other lenders as they enter the scheme, or with Lloyds, up to a total value of £10m; 3. Delegate to the three responsible Cabinet Members the authority to develop the local policy for scheme eligibility, and recommend it to Full Council for approval at the meeting of 13th July; 4. Delegate to the Chief Executive the authority to execute the deed indemnifying the Monitoring Officer on behalf of the authority. 	

1. ORIGIN OF REPORT

- 1.1. This report is submitted to Cabinet following consideration as to how the Council can support first time buyers and the local housing market, and help deliver the Council's priority of delivering substantial and truly sustainable growth

2. PURPOSE AND REASON FOR REPORT

- 2.1. The purpose of this report is to seek Cabinet approval for the Council to participate in the Local Authority Mortgage Scheme.
- 2.2. This report is for Cabinet to consider under its Terms of Reference No. 3.2.3, to take a leading role in promoting the economic, environmental and social well being of the area; and 3.2.5, to review and recommend to Council changes to the Council's constitution, protocols and procedure rules.

3. **TIMESCALE**

Is this a Major Policy Item/Statutory Plan?	NO
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4. **BACKGROUND**

- 4.1 The turmoil in the financial and banking market has had a severe impact on both the local economy and on local housing. House prices nationally have continued to fall over the last 12 months, and the outlook remains uncertain. The lack of buyers, together with the ongoing lack of mortgage availability means house prices are likely to continue to slide. Nationwide Building Society predicts house prices in 2011 to stay weak as a result of the uncertainty surrounding the economy and the Government's massive spending cuts.
- 4.2 There is still considerable concern about some areas of the housing market, particularly the low percentage of first time buyers. According to the Council of Mortgage Lenders (CML), mortgage lending fell by 13% in January compared with December – the lowest level for a year. The CML believes the housing market will remain subdued in 2011 due to uncertainty surrounding the economy and the ongoing mortgage rationing by lenders. The level of activity in the mortgage market is therefore expected to remain subdued.
- 4.3 Current constraints are a particular problem for first-time buyers, especially those unable to provide a substantial deposit. Many banks and building societies do not lend to those home buyers who cannot provide up a deposit of 20 to 25 per cent. The typical entry level price for two-bedroom property in Peterborough costs around £94k which would mean a deposit of around £24k is needed. With other costs on top of this, including stamp duty and other costs, this is effectively preventing most first time buyers from entering the property market.
- 4.4 The issue is adversely affecting the delivery of the Council's priority of delivering substantial and sustainable growth.

5. **LOCAL AUTHORITY MORTGAGE SCHEME**

- 5.1 Sector Treasury Management services (currently the Council's treasury advisers) have developed a national scheme, initially in conjunction with the Lloyds banking group, to allow Councils to provide support to first time buyers. The scheme is aimed at first time buyers, providing help for potential buyers who can afford mortgage payments - but not the initial deposit – to get on to the property ladder.
- 5.2 The scheme would operate as follows:
- The Council would specify the qualifying characteristics for those who should qualify for a mortgage under the scheme (see section 6 below). The Council would also specify whether there would be a maximum loan value, and the total level of support offered by the council;
 - Potential Buyers would approach the lender directly (initially Lloyds TSB) and the lender would deal with the Council. The Council will not know the identity of the individuals concerned, and have no role in approving individual mortgages;
 - The Bank will assess the buyer against its own credit criteria, as well as the Council's criteria;
 - If a potential buyer meets the strict credit criteria applied by the lender, and meets the criteria set out by the Local Authority to qualify for a mortgage under the scheme, the Local Authority will provide a top-up indemnity to the value of the difference between the typical Loan to Value (LTV) ratio of around 75% and a 95% LTV mortgage. The potential buyer will thereby obtain a 95% mortgage on similar terms as a 75% mortgage, but without the need to provide the substantial deposit usually required;

- The Council will deposit a sum with the bank equal to the total value of the overall indemnity offered;
 - The bank would lend all the money agreed under the mortgage to enable the purchase to be made;
 - The buyer would make repayments to the bank, and liaise with the bank on all issues relating to the mortgage; and
 - The indemnity provided by the Council will last for 5 years. After this time the sum deposited with the bank is returned to the Council with interest.
- 5.3 The indemnity would only be called upon, leading to a cost for the Council, if a loss is crystallised by the lender. This would require a default by the buyer, a repossession by the bank and then the property to be sold for less than the value of the mortgage. By way of example:
- Property valued at £100k, mortgaged at £95k (funded Local Authority indemnity £20k, Bank Mortgage £75k), was subsequently sold for £70k, the bank would request the full £20k indemnity from the Local Authority. In this case the value of the property would need to have fallen by 30% from the original valuation;
 - If the property was sold for £90k the bank would request £5k from the Council. In this case the value of the property would need to have fallen by 10% from the original valuation.
- 5.4 The Council will only face costs if both these situations arise – that there is default, and the subsequent resale value is less than the value of the mortgage. Such costs would be funded from the interest gained in depositing the indemnity funds with Lloyds. Information from the Council of Mortgage lenders indicates that the number of repossessions by first charge mortgage lenders in 2010 was 0.3% of all mortgages. Over the five year period, the following would need to happen for the costs to the council to exceed the interest income:
- Defaults to be ten times higher than the 2010 level indicated by CML; AND
 - Property prices to drop 10% from the level at the time the mortgage is approved
- 5.5 The scheme is currently being launched through Lloyds Banking Group, however it is anticipated that more mortgage lenders will be invited to join the partnership as it progresses. Sector has been in discussions with the FSA approved mortgage lenders in the UK to raise awareness of the scheme. The scheme will operate on a nationwide basis and there will be no restrictions on the type and number of banks who will be entitled to participate (providing they have the necessary authorisation to offer residential mortgages in the UK).
- 5.6 It is recommended that the Council initially provides £1m of indemnity to support the scheme with Lloyds. The scheme with Lloyds does not currently cover new build properties. It is further recommended that this is extended up to a maximum of £10m, following a review of the success of the initial £1m indemnity as follows:
- Extending the scheme to cover other lenders as they enter the scheme, providing additional choice locally. Sector are currently in discussion with a number of lenders about entering the scheme, including lending on new build properties;
 - Increasing the indemnity with Lloyds group if the first tranche of funding is exhausted.
- 5.7 Extending the indemnity to £10m does not alter the financial risk profile. Whilst the possible sums payable following default could increase, so does the interest income to cover this.
- 5.8 Sector Treasury Services will undertake an annual audit of the scheme to ensure both parties are fully compliant with the agreement. The Council will agree with Lloyds a monthly performance report, so that it is able to demonstrate clear links to strategic objectives and also review the performance of the scheme in relation to its investment.

6. LEGISLATIVE POWERS TO EFFECT THE SCHEME AND LOCAL ELIGIBILITY POLICY

- 6.1 Sector Treasury Services have sought Counsel's opinion on the legal basis for Councils to be able to support this scheme, along with the position regarding state aid. The Council has also sought advice from its own legal advisers that this is sound.
- 6.2 The Housing Act 1985 (as amended) provides the statutory framework for the scheme. The Act allows Local Authorities to "advance money to a person for the purpose of acquiring a house" (section 435 of the act). Section 442 of the act allows a local authority to grant an indemnity to a lender to enable the lender to give the potential buyer a mortgage.
- 6.3 In order to participate in the scheme on this basis, the Council will need to develop a local policy for scheme eligibility. It is recommended that authority is delegated to the three lead Members to develop this policy once the overall principle of participating has been approved. Possible elements for this policy to include are listed in appendix A. The Council will then need to incorporate the policy into the local housing strategy, which will need to be approved by Full Council as part of the Major Policy Framework. It is recommended that this is undertaken in time for consideration by Council at the meeting of July 13th. Once the policy is approved, and associated legal agreements with Lloyds completed, the scheme can be launched.
- 6.4 As well as Cabinet approval, the Council will need to provide the following as part of the agreements with the lenders:
- Letter from the monitoring officer (Solicitor to the Council) confirming that the Council can enter into the scheme. This will be provided given the independent confirmation received as outlined in para 6.1 above, in line with the delegated powers of the Solicitor to the Council set out in the Constitution as follows:

3.17.1 The Solicitor to the Council is authorised:

(l) to sign on behalf of the Council any deed or other document, which, in his/her professional judgement, is necessary or desirable to sign;

- Confirmation that the Council indemnifies the monitoring officer against this advice. Cabinet will need to delegate to the Chief Executive the authority to provide this indemnification, as set out in recommendation 4 above.

7. CONSULTATION

- 7.1 Proposals have been discussed across departments with an interest in housing and growth, at Corporate Management Team, and with the relevant Cabinet portfolio holders.

8. ANTICIPATED OUTCOMES

- 8.1 That Cabinet:
- Approves participation in the Local Authority Mortgage Scheme, initially in partnership with the Lloyds Banking Group, for £1m;
 - Approve plans to extend the scheme across other lenders as they enter the scheme, or with Lloyds, up to a total value of £10m;

- Delegate to the three responsible Cabinet Members the authority to develop the local policy for scheme eligibility, and recommend it to Full Council for approval at the meeting of July 13th;
- Delegates to the Chief Executive the authority to execute the deed indemnifying the Monitoring Officer on behalf of the authority.

9. REASONS FOR RECOMMENDATIONS

To allow the Council to participate in the Local Authority Mortgage Scheme, supporting first time buyers in Peterborough.

10. ALTERNATIVE OPTIONS CONSIDERED

- 10.1 The council could consider providing mortgage directly. The Council does not have the required level of expertise to do this, and would require FSA approval to do so.

11. IMPLICATIONS

Financial

- 11.1 Key financial issues are outlined in section 5 above. The initial advance of £1m will be classified as capital expenditure and will be provided from the surplus funds currently invested in the money markets. The £1m will need to be deposited with Lloyds for five years and will earn above market interest rates. Lloyds is currently a nationalised bank and depositing money for the proposed five year period is within the Council's approved Treasury Management Strategy. At the end of five years the money will be returned to the Council and be classified as a capital receipt.

Legal

- 11.2 The legal powers enabling the Council to participate in the scheme are covered in section 6 above.

12. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985).

None.

Possible content of local policy

The policy could include statements about:

- how the policy will contribute towards the fulfilment of the Local Authority's strategic aims, objectives and priorities;
- how the policy will contribute towards the fulfilment of the Local Authority's housing strategy and any other relevant corporate strategies;
- the key priorities which the policy will address and the reasons for selecting them;
- the amount of capital resources that will be committed to implementing the policy and how this is budgeted for;
- a description of the types of assistance available, what the assistance will be used for, and what key outcomes will be achieved by each form of assistance;
- the circumstances in which people will be eligible for assistance;
- the amounts of assistance that will be available to eligible people, and how these amounts will be determined;
- the types and amounts of preliminary or ancillary fees and charges associated with the provision of assistance that will be payable and in what circumstances;
- the process to be used to apply for assistance;
- how people can obtain access to the process of applying for assistance;
- details of conditions that will apply to the provision of assistance;
- how conditions will be enforced and in what circumstances they may be waived;
- advice that is available, including financial advice, to assist people wishing to enquire about, and apply for, assistance;
- the arrangements for complaints about the policy and its implementation;
- the arrangements for applications for assistance to be considered where these fall outside policy;
- key service standards that will apply to the provision of assistance;
- a policy implementation plan;
- national and local performance indicators that are relevant to the policy and the targets that the Local Authority has set itself to improve performance;
- how (or if) the Scheme will be promoted or publicised;
- what information will be provided in the promotion of the Scheme;
- what training is needed for Local Authority employees and other agencies involved in implementing the Scheme.