

Slough Borough Council

Report To:	Cabinet
Date:	15 th July 2024
Subject:	Akzo Nobel
Lead Member:	Councillor Chahal, Deputy Leader of the Council – Finance, Council Assets and Transformation
Chief Officer:	Annabel Scholes – Executive Director Finance and Commercial (s151 Officer)
Contact Officer:	Chris Holme – Finance Director (Corporate and Strategy)
Ward(s):	ALL
Key Decision:	YES
Exempt:	NO
Decision Subject To Call In:	YES
Appendices:	Appendix 1 - Review of Akzo Nobel Purchase and Disposal (EY)

1. Summary and Recommendations

- 1.1 This report sets out the accounting treatment of the capital receipt arising from the disposal of the former Akzo Nobel site at Wexham Rd. The site was purchased in 2021 and subsequently sold within 2 years, generating a significant excess capital receipt. The site was initially purchased for the Housing Revenue Account (HRA) and funded by a mixture of borrowing and reserves.
- 1.2 The Council's General Fund financial recovery plan is reliant on significant levels of capital disposals, that will reduce costs of both Borrowing and the associated Minimum Revenue Provision. Council officers have identified asset disposals within the HRA that could be used to improve the Council's overall financial position, subject to relevant guidance being met.
- 1.3 This report also sets out the consideration of relevant guidance in relation to maintaining the HRA ringfence, being the general principle of no detriment accounting for disposal of future HRA assets to support the strategic priority of a Council that lives within its means, balances the budget and delivers best value for taxpayers and service users.

Recommendations:

- 1.4 Cabinet is recommended to:
 - a) Note the accounting treatment of the excess capital receipt arising from the disposal of the Akzo Nobel site in 2022 as outlined in paragraphs 2.14 to 2.16 of this report

b) Agree that the principle set out in regard to the accounting treatment to be applied for any HRA disposals, should those circumstances apply, as outlined in paragraph 2.17 of this report.

c) Agree that confirmation be provided to Full Council annually, when setting the HRA budget, that the criteria outlined in paragraph 2.10 of the report have been met.

Reason:

1.5 The recommended approach is key to reducing the costs of Minimum Revenue Provision (MRP) and delivering financial sustainability for the Council.

Commissioner Review

Commissioners are content with the recommendations in this report.

2. Report

Introductory paragraph

2.1 The former Akzo Nobel site was acquired in 2020/21 as part of the Council's then plans to re-develop the site for a mixture of commercial and residential development. It was purchased for the HRA and funded from borrowing and reserves. In November 2022 Cabinet determined to dispose of the site. Its disposal was deemed a key element of the Council's revised Corporate Plan, with a key objective of contributing to the reduction in the Council's future financial commitments, generating disposal receipts and reducing the Council's borrowing and Minimum Revenue Provision (MRP). This report seeks approval to an accounting treatment of the receipt that maximises this key objective.

Options considered

2.2 *The Council could retain all of the receipt within the HRA. This is not recommended as it would fail to support the key objective of reducing MRP and would have significant additional financial consequences for the Council.*

2.3 *The Council could apply all of the receipt to the General Fund. This would not be in accordance with the key principle of 'no detriment' to the HRA, therefore is not recommended.*

2.4 *Therefore, this paper sets out the process by which the Capital Receipts Reserve available in the HRA can be partially applied to the General Fund to reduce the costs of borrowing and associated Minimum Revenue Provision charges.*

Background

2.5 The Council acquired the site in 2020/21 as part of the Council's then plans to redevelop the site of the former Akzo Nobel works for a mixture of commercial and residential development. This was initially purchased for the HRA and funded by a mixture of borrowing and reserves. Cabinet approved the purchase of the site on the assumption of up to 1,000 residential units being delivered. Under Section 120 of the Local Government Act 1972 the Council has power to acquire by agreement any land for the purposes of any of its functions under the above Act or any other enactment or for the benefit, improvement, or development of its area.

- 2.6 However, concerns were raised about the likely costs and affordability of the proposed development and following the subsequent issuing of a Section 114 notice in July 2021, and as part of the Council's asset disposal strategy, the decision to sell the site was made in November 2022. A key rationale for its disposal was to contribute towards the reduction in the Council's future financial commitments, generating disposal receipts and reducing the Council's borrowing and MRP. Disposal of this site was deemed to be an essential part of the journey back to financial stability.
- 2.7 The Council is subject to a Capitalisation Direction of £348m, which is to be funded solely from capital receipts arising from asset disposals. As part of the Council's budget setting process for 2022/23, the Council had approved a Treasury Management Strategy (TMS) for the period 2022/23 to 2026/27. A key element of that TMS was the need to reduce borrowing to bring the Council back onto a more sustainable financial footing, with an aspiration of generating £100m of capital receipts by the end of March 2023. There was no decision to appropriate the site to the General Fund, prior to disposal of the asset.
- 2.8 The sale of the site generated a net capital receipt which significantly exceeded its purchase, by over £100m, and helped deliver that aspiration. Given the materiality of the capital receipt the proposed accounting treatment is being presented to Cabinet.

Report

- 2.9 This report (and Appendix 1 attached) outlines the accounting treatment of the purchase and subsequent disposal of the Akzo Nobel site and proposes an approach for other excess capital receipts which can be applied to the General Fund, subject to the core principle of there being 'no detriment' to the HRA. in accordance with relevant Government guidance¹.
- 2.10 Subject to certain requirements being met, excess capital receipts from the disposal of HRA assets can be used to offset against General Fund capital expenditure. The Council must be able to demonstrate that:
- there is no detriment to the HRA, and
 - the HRA does not require the 'excess capital receipts' to deliver a sustainable 30-year business plan.
- 2.11 If the above criteria are met, then it is within the Council's gift to apply the excess capital receipts to the General Fund. The disposal of the site generated an excess net capital receipt of £101.8m, and if applied to the Council's Capitalisation Direction or debt reduction, this will have a significant impact on the Council's MRP position. This is particularly important as, despite the value of this one receipt, the overall position on asset disposals, as outlined separately on this agenda, is significantly below budgetary assumptions set out in the approved Treasury Management Strategies (TMS) and consequentially Medium-Term Financial Strategies (MTFS) for both 2022/23 and 2023/24. It should be noted that in approving the 2024/25 TMS, receipts equating to the value of the excess receipt on the Akzo Nobel site were included in the debt reduction and subsequent capital financing assumptions for the 2024/25 budget.

¹ [Operation of the Housing Revenue Account ring-fence - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/operational-guidance/operation-of-the-housing-revenue-account-ring-fence)

- 2.12 A strategic review has been undertaken of the rolling 30-year HRA business plan, and the updated plan continues to be viable and sustainable in the current and future financial environment and meets the strategic and regulatory priorities of the service. The financial estimates and assumptions that underpin the business model and will change over the period, are considered reasonable and robust based on known information at the time. They are assessed against the affordability parameters set out in the approved Treasury Management Strategy and Capital Strategy and viability is demonstrated for each year of the plan.
- 2.13 In the context of 2.9 above, the flexibility to utilise the excess capital receipts to support general fund debt reduction is a prerequisite to delivering financial sustainability for the Council.
- 2.14 The excess capital receipt, after taking account of all costs and stamp duty land tax (SDLT) is some £101.8m. Substantial work has been undertaken, including support from external consultants, to ensure clear evidential support to satisfy the Council that the proposed approach satisfies the minimum “no detriment” requirement. Furthermore, the Council approved a 30-year HRA business plan on the 7 March 2024 which demonstrated a sustainable account going forward without the application of the net Akzo Nobel site receipt, hence demonstrating that based on current assumptions, the HRA would not require the receipt to deliver a sustainable 30-year business plan. In fact, that plan did not include the reimbursement of costs incurred by the HRA from the acquisition and holding of the site, which will provide a benefit to the HRA (compared to the 30-year plan) of approximately £40m.
- 2.15 It is therefore proposed that the excess capital receipt be transferred from the HRA to the General Fund, utilising the principle of no detriment to the HRA in line with relevant Government guidance.
- 2.16 The following impact on the Council’s Minimum Revenue Provision (MRP) over the Medium-Term Financial Planning period will be crystallised. This is particularly important as we finalise the 2023/24 accounts, and as this is a key tenet of the journey towards financial sustainability outlined in the MTFS.

Summary Table: Impact of Akzo Nobel transaction on MRP charges, 2022/23 to 2027/28

MRP Charge, £	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
Total MRP charge	21,059,242	16,620,898	16,114,271	12,419,193	11,114,849	11,205,152
Impact of Akzo Nobel Transaction	-	(4,369,068)	(4,285,669)	(2,800,091)	(1,957,335)	(2,416,378)

- 2.17 It is proposed that the principle being sought for confirmation in this report is applied, if appropriate, with regard to any other HRA disposals where the ‘no detriment’ principle applies.

3. Implications of the Recommendation

3.1 *Financial implications*

- 3.1.1 This is a report of the Executive Director of Finance and Commercial and the financial implications are set out in the body of the report.

3.2 *Legal implications*

- 3.2.1 The HRA is a ring-fenced account to ensure that taxpayers do not subsidise housing tenants and vice versa. S.74 of the Housing and Local Government Act 1989 requires local authorities to keep an HRA of sums falling to be credited or debited in respect of housing and other buildings which have been provided under Part 2 of the Housing Act 1985, land which has been acquired or appropriated for the purpose of that Part and other prescribed circumstances. Previous reports to Cabinet do not clearly set out the rationale for the Akzo Nobel site being held in the HRA, however it is clear that HRA funds have been utilised for the acquisition of the land.
- 3.2.2 There are strict rules on the use of capital receipts arising from HRA disposals and proper accounting practices must be followed. External advice has been sought and the Council proposal seeks to ensure that the HRA is properly recompensed for any HRA funds used for the acquisition and maintenance of the land.
- 3.2.3 Guidance on operation of the HRA recommends that local authorities carry out regular reviews of assets to ensure that land remains properly held in the HRA and that if it is determined that land is no longer required for housing purposes, steps are taken to either dispose of the land or appropriate it to the General Fund.

3.3 *Risk management implications*

- 3.3.1 The table below summarises the key risk and mitigation -

<i>Risk</i>	<i>Description</i>	<i>Mitigation</i>
Financial – Challenge to the Approach	A successful challenge to the approach would have significant financial implications and would bring severe strain on the Council's medium term financial strategy and ability to deliver General Fund financial sustainability	Throughout this process there has been dialogue with external auditors and DLUHC officials, as well as legal, to ensure sound accounting arrangements are put in place

3.4 *Environmental implications*

- 3.4.1 There are no specific environmental implications arising from the recommendations in this report.

3.5 *Equality implications*

- 3.5.1 There are no specific equality implications arising from the recommendations in this report.

4. **Background Papers**

Operation of the Housing Revenue Account ring-fence - GOV.UK (www.gov.uk)