

Report to CABINET

Commercial Property Investment Strategy and Fund

Portfolio Holder: Councillor Sean Fielding, Leader of the Council and Cabinet Member for Economy and Enterprise
Councillor Abdul Jabbar MBE, Deputy Leader and Cabinet Member for Finance and Corporate Services

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Reason for Decision

Cabinet approval is sought for the updated Commercial Property Investment Strategy and to continue a Fund to facilitate development in a robust, property and alternative investment portfolio in order to generate a sustainable future income stream to support the Council's mainstream service delivery.

Executive Summary

The Council continues to be faced with an unprecedented financial challenge with uncertainty around funding arrangements. This proposal to revise the Commercial Property Investment Strategy and continuation of the Investment Fund, presents an opportunity to reduce this pressure by increasing revenue income to support the Council's budget by way of additional income streams from the acquisition of new investment property assets and alternative investments.

Recommendations

Cabinet is recommended to approve:

1. The transfer of functions of a Member/Officer Property Appraisal Group to the Corporate Property Board which will comprise of the Directors of Finance, Legal Services and Economy and the Deputy Chief Executive, the Leader of the Council and the Cabinet Member for Finance and Corporate Services to evaluate business cases and make recommendations in relation to future property acquisitions which align to the Commercial Property Investment Strategy principles.
2. Realignment of the Capital Programme to allow for new alternative investments to be agreed at Annual Budget Council.
3. The Directors of Finance and Economy be given delegated authority to secure additional specialist external advisors as considered appropriate.
4. The authorisation to the Director of Legal Services or his nominated representative to sign and/or affix the Common Seal of the Council to all the documents and ancillary or associated paperwork required to give effect to the recommendations in this report.
5. The Directors of Finance and Economy be given delegated authority to utilise the £250k pre-investment reserve as appropriate.

Commercial Property Investment Strategy and Fund

1 Background

- 1.1 The original Commercial Property Investment Strategy (CPIS) was agreed at Cabinet on 18 December 2017. This was to be a mechanism to increase revenue streams for the Council via the acquisition of investment properties. The CPIS is aligned to the Medium Term Financial Strategy (MTFS) in that income from investment properties is utilised to support in the provision of Council services.
- 1.2 In order for the CPIS to be sustainable, an allocation was agreed within the Capital Programme of £15m and which c £9m will be uncommitted at financial year end. Further allocation in the Capital Strategy is required to ensure there is a suitable level of funding available for arising opportunities.
- 1.3 The Chartered Institute of Public Finance and Accountancy (CIPFA) has recognised that commercial investment is an option for Local Authorities for future financial sustainability and revised their Prudential Code of Practice in 2018 to take into account these new initiatives. The Prudential Code of Practice was developed as a professional code to support local strategic planning, asset management planning and proper option appraisal for Local Authorities when developing their programmes for capital investment in fixed assets. Its objectives are to ensure that capital investment plans are affordable, prudent and sustainable, and that treasury management decisions are taken in accordance with good professional practice. The prudential indicators within the Prudential Code are designed to demonstrate compliance with these objectives and to provide assurance to Government that Local Authorities are acting responsibly. The CPIS has been prepared having regard to the revised Code.
- 1.4 Recently, CIPFA has issued a document entitled “Prudential Property Investment” which provides guidance on the provisions in the Prudential Code that relate to the acquisition of property intended to make investment returns. It clarifies a range of issues including changes to statutory guidance.
- 1.5 The CPIS has been prepared having regard to the revised Prudential Code and the most recent CIPFA guidance.

2 Current Position

- 2.1 Currently, the Council's non-operational property portfolio consists of shops, offices, industrial units and an extensive range of low value freehold reversionary residential and commercial interests situated in the town centre and across the borough.
- 2.2 The portfolio generates a gross annual income of c £3m. Not unlike many Council property non-operational estates in the UK, the majority of the revenue value of the estates is held within a few properties and this is not unexpected given the complex reasons why Councils have acquired and then retained assets in the past.

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- 2.3 A review of the Council's property assets began in 2018 following the adoption of an updated Medium Term Property Strategy (MTPS). The review reidentified properties within the Council's estate which are required for service delivery, investment, community assets, regeneration and surplus to requirements. Since the realignment of the estate a number of disposals, community asset transfers and rental income reviews have taken place.
- 2.4 The revised strategy sets out the Council's intent and approach to acquiring new property assets to be held for investment and making alternative investments. It presents the risks and the process by which the Council can achieve increased income streams. It also covers those properties in the current non-operational portfolio which can be classified as investments and should be managed accordingly.
- 2.5 There are two main additions to the strategy since December 2017. These are the inclusion of two new categories of investment as an opportunity for income generation:
- a) Debt/equity investments
 - Debt investment utilises the purchase of a debt instrument with a profit at the end of the investment period and profit interest during the investment period.
 - Equity investment occurs when shares or part of a building is purchased, generating a dividend payment.
 - b) Investment in green technologies which is a new but growing area. Income would be generated through investment in a scheme producing an annual tariff return and this would also promote sustainability and alignment with the Council's Green Strategy.
- 2.6 There are a number of ways in which the Council could deliver elements of the Commercial Property Investment Strategy, whether in-house, via a property vehicle company or through arm's length investment in a property fund. Since the adoption of the 2017 strategy, management of the property estate has remained inhouse and is planned to continue in the short term, although the strategy allows for external professional advisors to be engaged.
- 2.7 It is recommended that specialist professional advice is secured as and when required. In addition, as it is possible that some of the acquisitions may be out of borough, therefore geographically, use of external resource including on-going property management, may be more appropriate. Any acquisition costs including specialist fees will be included within the business case.

Governance and Delegations

- 2.8 When an investment property or alternative investment opportunity comes to market, decision-making must align with the due diligence processes and timetables usually followed by the private sector, otherwise opportunities will be lost. This will necessitate the extension of delegated authority in order to make decisions within a commercial timeframe.

2.9 A typical timetable for the purchase of commercial property could be a 2-3 weeks marketing period, including making of offers and confirmation by the seller of the preferred buyer and preparation of Heads of Terms, followed by a 4-6 weeks period of due diligence investigations by the buyer's solicitors prior to exchange of binding unconditional contracts on the purchase. Completion will usually follow within a further four weeks.

2.10 It is therefore proposed that Cabinet confirms the existing delegated approval process for decision making as per the Commercial Property Investment Strategy. An extract of the strategy is detailed below:

- All acquisition proposals will be channelled through the Director of Economy, by Heads of Service within the Property Services, who will review any outline business case in consultation with the Senior Finance Manager to consider potential investment opportunities. All alternative investment opportunities will be channelled through the Senior Finance Manager or Assistant Director of Finance, who will review the financial case and present an outline business case to be considered by the Director of Finance.
- To ensure that good investments are not lost through delays in the decision making process, it is recommended that the Corporate Property Board (CPB) consider recommendations in a timely manner (this is a change from the 2017 Strategy where the Property Appraisal Group was the forum for consideration of recommendations).
- The CPB will comprise of Directors of Finance, Legal and Economy, Deputy Chief Executive and the Leader of the Council and Portfolio Holder for Finance and Corporate Services.
- A quorum of at least 3 members of the Board will be required to conduct business, including finance, property and Member representation.

Performance Issues

2.11 The success of the CPIS will have a direct impact on the Council's General Fund revenue income and therefore on delivery of the Council's priorities and outcomes.

2.12 The financial performance of the CPIS as a whole and of each property within the portfolio will be measured and reported on a regular basis to Cabinet following periodic reviews by the Corporate Property Board. Reports presented to Cabinet will include an analysis of performance with a view to making recommendations concerning review/amendments to the adopted strategy to ensure that the main objectives continue to be achieved.

2.13 The day to day management of investment properties and alternative investments will adopt normal 'private sector' principles for such a portfolio including rent collection. Council officers will need to be upskilled to carry out some of these activities, whilst there will be a necessity to engage with external consultants and partner organisations to carry out these functions should investments be outside of the Borough or on such a scale that the Council does not have the required capacity.

3 Options/Alternatives

3.1 Two options are presented for consideration as follows:

3.2 Option 1 - Do not agree the strategy and reallocate funds within the Capital Programme.

Cabinet could choose not to agree the Commercial Property Investment Strategy and continuation of a fund to acquire new investment properties. This is not recommended as it does not maximize the potential of additional revenue generation for the Council. The remaining £9m would be reallocated within the Capital Programme to emerging priorities.

3.3 Option 2 - Agree the strategy and continuation and increase of the fund.

The Council could choose to agree the Commercial Property Investment Strategy and continuation of the Commercial Property Fund based on its principles. This will include a further allocation to the fund to be determined as part of the wider Capital Strategy and Programme which will be presented to Budget Council. Utilisation of the current funding allocation, Prudential Borrowing or capital receipts will be based on a sound business case which will be subject to a robust due diligence exercise.

4 Preferred Option

4.1 The preferred option is to approve the strategy and to continue with the fund to facilitate implementation of the attached Commercial Property Investment Strategy.

5 Consultation

5.1 Officers in Property, Legal and Finance Services together with the Senior Management Team have been consulted.

6 Financial Implications

6.1 This CPIS is a framework designed to secure long term and sustainable income streams for the Council and to increase its financial resilience over time, so that it is less reliant on declining funding from Central Government.

6.2 All other financial implications are contained in Part B of the report.

7 Legal Services Comments

7.1 Any investments will need to be appraised and appropriate due diligence carried out in line with relevant Council policies, powers and strategies and will be the subject of separate reports which will need to assess merits/risks/benefits and relevant powers on an individual basis.

7.2 Any property transactions would need to comply with the Council's Land and Property Protocols and in particular with the best value obligations in Section 123 of the Local Government Act 1972.

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- 7.3 Any contracts / procurements to be entered into by the Council would need to comply with the Council's Contract Procedure Rules.
- 7.4 All transactions must comply with the Council's Financial Procedure Rules and appropriate external advice must be obtained to protect the Council's interests and to ensure all decisions are lawful and reasonable. In discharging its fiduciary and reasonableness duties the Council will also need to be mindful of the following;
- Procurement issues
 - State aid issues
 - Best value
 - Vires considerations
 - Appropriate consultation processes
- 7.5 The Council has the power to make this decision.

(Rebecca Boyle)

8 Co-operative Agenda

- 8.1 Generation of income from property investment will support service delivery and is therefore entirely aligned to the Co-operative agenda.

9 Human Resources Comments

- 9.1 None.

10 Risk Assessments

- 10.1 This initiative represents a risk for the Council and is therefore included in the Council's Risk Register. (Jane Whyatt)

11 IT Implications

- 11.1 None.

12 Property Implications

- 12.1 The CPIS is in accordance with the Council's need to increase revenue from the acquisition of new income generating investments. This is also supported by the Council's Medium Term Property Strategy which was approved by Cabinet in August 2018.

(Peter Wood)

13 Procurement Implications

- 13.1 There are no immediate procurement implications. Any future requirements to commission goods, services, or works, must be done so in line with Council CPRs and where applicable, external legislation, and therefore a requirement to engage the procurement team at an early stage. (Dan Cheetham)

14 Environmental and Health & Safety Implications

14.1 None directly arising from this report.

15 Equality, community cohesion and crime implications

15.1 None.

16 Equality Impact Assessment Completed?

16.1 No.

17 Key Decision

17.1 Yes.

18 Key Decision Reference

18.1 ECEN-13-19

19 Background Papers

19.1 N/A.

20 Appendices

20.1 None.