Hinckley & Bosworth
Borough Council

ACQUISITION AND DEVELOPMENT STRATEGY: TECHNICAL DOCUMENT

NOVEMBER 2022

Acquisition & Development Strategy

Introduction

1. Hinckley & Bosworth Borough Council is a proactive authority, engaging with partners and positively delivering services across its economic, regeneration and housing services as a means of achieving its overall corporate aims. The Council actively innovates and explores new ways in which it can deliver its services and improve outcomes for its residents and businesses. In 2015 it established Hinckley & Bosworth Development Ltd, an incorporated wholly owned company with the aim of developing new housing outside its Housing Revenue Account. As part of its continued exploration of new ways to drive local economic development the Council intends to pursue this Acquisition and Development Strategy as a means of actively intervening in the local market to deliver new employment, regeneration and housing opportunities.

Aims and Ambition

2. This strategy aligns to the Councils overall corporate ambition of creating ‘A Place of Opportunity’ and to secure the sustainable economic development of the Borough. Its aim is to actively pursue investment and development opportunities to:
    - Drive Local Economic Regeneration and Development
    - To Grow the Local Economy
    - Create new job opportunities
    - Improve availability of new Affordable Housing

The Operation of the Acquisition & Development Strategy

3. The purpose of the Strategy is to guide the use of the Borough Council’s actions to make land and property acquisitions and in some cases to undertake the development or redevelopment of the Council’s existing or acquired assets for service delivery purposes including, but not limited to, supporting economic redevelopment or regeneration, delivering new housing opportunities or to create social or economic value within the

borough or within the Functional Economic Geography (FEG) from which the Council derives economic benefit (Appendix 1).

4. In establishing the geography within which the Acquisition and Development Strategy will operate, the Council will use the wider FEG from which it derives strategic economic benefit and in which the Council therefore has a vested interest in ensuring the success of.

   The Council is a member of the Leicester & Leicestershire Local Enterprise Partnership (LEP) and because of its functional economic interconnectivity with Coventry, is also an associate member of the Coventry & Warwickshire LEP.

5. Whilst it will always be the Council's preference to pursue the Strategy within the borough area to support housing, regeneration and local economic development, the Council recognises that economic growth is dynamic and transcends administrative boundaries. The local economy which interplays within and across the Hinckley and Bosworth Borough Council area derives from the wider FEG. The Council therefore has a vested interest in supporting the growth of the wider functional economic geography including the LEP areas on the basis that it will benefit locally from the wider Leicestershire hinterland success. The Council also acknowledges that whilst its strategic focus and priority will remain within the borough, there will be opportunities available across the wider geography which are not available within the borough. These will also be considered under this strategy in order to mitigate risk associated with localised property acquisition that will be reduced by assembling a portfolio of property across a wider geographic spread, as well as sector and asset size spread. To this end therefore the Council will consider using the Strategy to support this wider economic benefit covering the local government administrative areas within Leicestershire, Leicester City, Coventry and Nuneaton & Bedworth.

6. The Council acknowledges the latest HM Treasury guidance on the use of PWLB borrowing (Appendix 2) and proposes that any assets supported through this Strategy will be held for the benefit of housing, regeneration and economic development purposes.

7. The Council understands the importance of developing a robust viability appraisal and business case on an opportunity by opportunity basis to enable the Council to determine whether to acquire or develop the asset; this Strategy is important in establishing a framework to guide the Council in identifying appropriate opportunities. The Council is mindful that in some circumstances it will need to respond without delay when opportunities arise and to be in a position to assess acquisition opportunities in a consistent and systematic manner but should also be able to move quickly when a compelling opportunity arises. The Council is careful to balance this against the need for robust decisions to be made, involving its Members.

   The Council's process for determining opportunities under this Strategy is set out in Appendix 3.

16. The Council understands the importance of external expertise to support its decision making process and using its procurement process will establish a framework of suitably qualified valuers, quantity surveyors and building surveyors to ensure that decisions taken by the Council are based on professional advice including 'Red Book' valuations and building condition surveys. This framework will be renewed every three years and professionals will only be used that hold the appropriate and current qualifications.

17. Each acquisition opportunity will be supported by the external 'Red Book' valuation and building condition survey information, including where appropriate asbestos and mechanical and electrical surveys. Each proposal will be required to demonstrate through a robust business case and financial modelling that is proportionate to the cost of acquisition and that it meets or ideally exceeds the Council's minimum expectations for net return. Each business case will also recommend whether the acquisition is to be held by the Council or through the development company, acknowledging that returns to the Council on any asset held in the development company will be through interest payments on loans made to it by the Council and/or in profit distribution by way of a dividend payment to the Council as sole shareholder.

Strategic Inter-relationships

18. The Borough Council's Corporate Plan 2022-25 sets out the Council's overarching aims and objectives for improving the social, environmental and economic wellbeing of the borough for its residents, businesses and visitors. One of those objectives is *"encouraging sustainable economic and housing growth, attracting businesses, improving skills and supporting regeneration"* and one of the means by which that is to be achieved is to *"provide direct investment in economic opportunities where opportunities arise and subject to the business case."* The Borough Council sees its ability to acquire and develop assets through this strategy as a key means by which it can actively deliver improved employment outcomes through economic growth, improved housing opportunities through direct intervention and improved wellbeing through regeneration and redevelopment opportunities.

19. This strategy should be read alongside the Borough Council's other linked plans and strategies, namely the Property Asset Management Plan (AMP) 2022 to 2025 , and the Economic Regeneration Strategy 2021-2025. The AMP sets out the overarching strategic approach to the use of assets to deliver regeneration projects, support economic growth, revitalise town centres, foster business opportunities and promote social interaction. In short the AMP supports the broad aims of the Borough Council to promote, economic, social and environmental wellbeing through the positive use of its assets. The AMP recognises that there will be opportunities to extend and compliment the Council's estate, provide quality employment and residential opportunities and generate additional revenue as well as identifying opportunities for capital disposals that will enable recycling into improved service delivery.

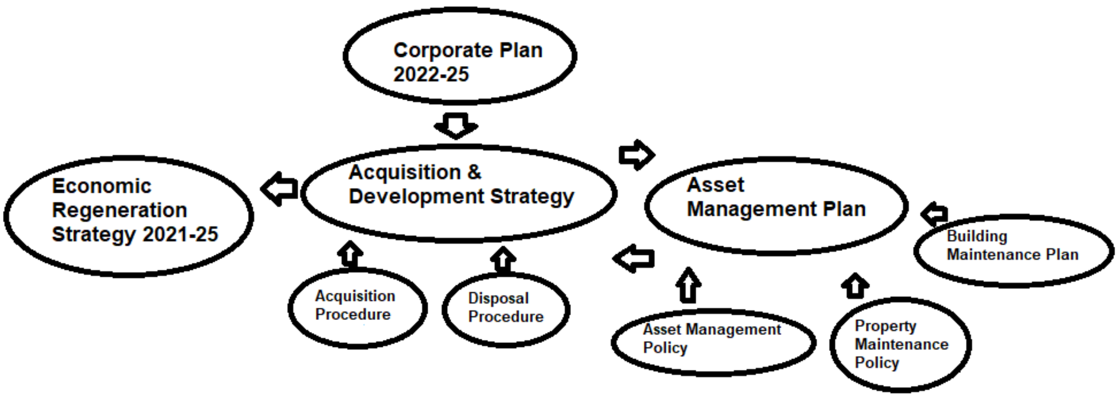
20. The AMP is accompanied by an Asset Management Policy, a Building Maintenance Plan and a Property Maintenance Policy. All combined set out the Council's comprehensive approach to how it will use its assets and these support and complement this Acquisition and Development Strategy.

21. The Council's Economic Regeneration Strategy 2021-2025 contains within its vision the desire to *"attract and sustain investment, business growth and entrepreneurship".* As part of the strategy under the 'Places' theme the Strategy the Council

also sets out its ambition to bring forward employment sites and facilitate quality ‘move on’ space for growing businesses. Under the ’Prosperity’ theme the Council proposes to use the Local Plan to identify new opportunities for redevelopment and investment with a particular reference to new ‘start up’ and ‘grow on’ opportunities. The Acquisition and Development Strategy will enable the Council to realise its economic aims through direct intervention to acquire and develop asset opportunities which support local businesses and help them to grow, attract new business into the borough and support the long term growth of the Functional Economic Geography (FEG) of Hinckley and Bosworth.

22. The Council also has procedural documents which set out operationally how the Council deals with acquisitions (Appendix 4) and disposals (Appendix 5) and these explain the operational management of the acquisition and disposal of assets.

23. The inter-relationships of the Council’s strategies can be shown diagrammatically:



The Principles of the Strategy

Rate of Return

24. The experience of asset business case development elsewhere indicates that a gross yield of upwards of 5% on the value of the investment will be necessary for the proposal to be viable for the Council, taking into account its borrowing costs and other overheads.

    The Strategy therefore will require an indicative minimum net return of 1.25%. The minimum rate of return would be limited to business cases meeting the excellent/very good investment criteria in Appendix 3 or having strong economic development grounds and good/acceptable acquisition criteria. Business cases outside of this will require a net rate of 2% return. These indicative rates are similar to those achieved by the many other Councils with developed property portfolios and whilst modest, are thought to be realistic. Officers will continue to modify them based on professional advice and prevailing market conditions. Table 1 below illustrates that this could make a contribution towards closing the funding gap of between £250,000 to £400,000 per annum.

Table 1 Rate of Return Requirement	**Minimum 1.25% net rate of return**	**2% rate of return Basis Investment**
Investment before Stamp Duty	£18,735,000	£18,735,000
Acquisition costs 6.75%	£1,265,000	£1,265,000
Total purchase Cost	£20,000,000	£20,000,000
Rate of Return calculation		
Financing costs (PWLB interest 3.2%)	£640,000	£640,000
MRP 50 year	£400,000	£400,000
Admin cost	£64,000	£64,000
Total annual costs Cost	£1,104,000	£1,104,000
Net rate of return	£250,000	£400,000
Gross rate of Return required	£1,354,000	£1,504,000
Gross rate of Return on £20m	6.8%	7.5%
Breakeven rate of return	5.5%	5.5%

25. Not all asset proposals fit neatly within the Council's potential portfolio of assets set out below and there may be occasions that propositions fall outside the generalised type of asset this strategy covers e.g. a proposal falls short of the criteria threshold, but there is an overriding explicit justification for still considering it, a property may be vacant when purchased but have alternative use potential or the acquisition may involve land or property which is past its useful economic life but which has significant redevelopment potential. These would all be required to have a fully developed supporting business case which is agreed by Members but would not be automatically rejected initially because they don't fit the expected 'norm'.

26. Returns from the acquisition or development of property can be by way of both income (rent) received and appreciation of the underlying value (capital growth) and consideration will need to be given to both of these factors to understand the total return on any proposal. The Council also recognises that by acquiring property it can have direct benefits such as Business Rates or Council Tax income as well indirect benefits through increased confidence in the local economy. Property prices are a function of property type, location, age etc together with the lease arrangements and the covenant strength of tenants. Within the property investment market there can be a wide spread of returns (yields) relating to the characteristics of the asset investment in question. The yield reflects the risk that investors associate with securing a long-term income, including the potential for growth. So, in Appendix 3 below, those investments on the left hand side of the table will be associated with lower yields and those on the right with higher yields. The range might be anything from 4%-6%% in prime locations to 9%+ in secondary and tertiary locations. Indicatively, good quality office and industrial property acquisitions will provide a gross income return of 6%+, (lower for modern single let industrial/distribution), whilst equivalent retail property income yields will be in excess of 6% (food retail at c.5%+).

27. The Council will consider whether returns from asset opportunities are acceptable on a case by case basis taking into account the criteria set out in Appendix 3 below and the location of the opportunity. More risky proposals (with a higher yield) should produce a higher return that less risky proposals with a lower yield, this is the basic risk/reward principle. All proposals

will initially be screened against the pass/fail criteria of whether the costs of borrowing can be met and using Net Present Value (NPV) and Internal Rate of Return (IRR) calculations; schemes that produce a positive NPV and an IRR in excess of the cost of capital will then be assessed against the criteria set out in Appendix 3.

Identification of Opportunities

28. The Council will select potential assets for the purpose of regeneration or economic development (including housing) or a mixture of both, that meet the tests of viability that the Council has set. The Council may acquire and hold properties directly or through the development company; all these factors will be determined on a business case by case basis. The Council will prioritise opportunities within the borough but will also retain the discretion to pursue proposals outside the borough within the functional economic geography from which the borough benefits economically. The Council may use the Strategy in the development of its own assets, acquire assets for development or acquire existing assets.

29. The Council will continue to monitor prevailing market conditions to enable the Council to reserve discretion to acquire assets that may fall outside the criteria outlined above if a strong case can be made that the proposal provides an exceptional opportunity to promote the Council's main priorities and values as described in this Strategy. The Council will seek advice where required from external advisors to support its market analysis.

30. Having assessed opportunities against their ability to cover borrowing costs by calculating NPV and IRR of the proposed opportunity, further evaluation will then be undertaken against a comprehensive set of defined property specific criteria as set out in Appendix 3 below. The Council will consider these criteria and seek to achieve the appropriate balance of risk and reward proportionate to the size of the proposal being considered. The Council will score each proposal using the matrix (unless the proposal is unique and does not fit the usual evaluation methodology); any proposal will need to score a minimum of 250 to be considered acceptable as a suitable opportunity. Those proposals scoring 250 and above will then be subject to further appraisal including building survey and formal valuation work.

31. In considering its costs against a gross return the Council will need to consider some or all of the following when developing the business case for proceeding:

- Finders' Fees approx (1%)
- Legal Fees approx (0.5%)
- Survey and Valuation and due diligence fees approx (0.5%)
- Stamp Duty Land Tax (5% on freehold purchases over £250K)
- Finance Costs including minimum revenue provision (circa 5%)
- Marketing and other rent incentives
- Agents' letting fees
- Void Business Rates/Council Tax (tenants should be covering these in occupied units)
- Repairs and maintenance (depending on lease type (probably covered in a service charge)
- Running costs of building, including building management (depending on lease type may be covered in a service charge)
- Opportunity cost of alternative use or sale of the asset
- Costs to manage the portfolio and properties (non-recoverable)
- Conversion or fit out costs
- Dilapidations

32. The Council may hold property assets either directly or indirectly. Direct property holding gives the Council full control over the property and responsibility for its management. Indirect property holding is where the asset is held through the development company and will be necessary primarily where the Council is to act in the private rented housing market.

33. Any direct asset acquisition would be subject to purchaser's costs, typically these would include legal fees, agent valuation and survey fees together with Stamp Duty Land Tax (SDLT), typically these will amount to 6-7% of an asset purchase price. In addition, the Council will have to take into account the cost of borrowing through PWLB and an amount for minimum revenue provision.

Risk Management

34. It is necessary for the Council to take a prudent approach to the management of its financial affairs and when assessing proposals under the Strategy the Council will need to carefully consider the balance of risk and reward and in doing so will consider such factors as the security against loss, the liquidity of the proposal, the yield, affordability of the loan repayments, change in interest rates and property values (see Appendix 6 below). As part of this approach the Council will consider each proposal carefully in terms of the ability of the underlying asset to provide security for the capital outlay.

35. In terms of management of risk it is understood that there are inherent risks associated with the use of the Strategy and each business case will be required to identify the risks associated with that individual proposal and the Council will need to balance risk and reward proportionate to the scale of the proposal. Whilst not exhaustive, Appendix 6 sets out some of the risks the Council will be expected to consider.

36. The overall portfolio value and range of assets acquired using the Strategy needs to represent a good mix and spread of risk, size, sector and location across differing sectors to ensure that the portfolio is resilient to change that might lie outside the Council's control. It is important that the Council maintains an adequate level of reserves and balances to ensure it can manage any downturn in the property market and limit the impact it will have on revenue income. The Council will also consider favourably opportunities which allow for growth in rental income and overall capital value of assets. It is the Council's strategic intention to grow the capital value of the overall portfolio by acquiring some assets to which value can be added quickly and the asset recycled for disposal at an enhanced capital return; the capital return being re- invested and recycled into future opportunities.

Portfolio Management

37. It is also important that the Council plans sufficient resources to actively manage the assets it acquires or develops. At an operational level this will be undertaken by the Council's Estates and Assets Manager. The Council will need to keep under review the capacity to manage assets in house and may at some point decide that extra resource is required or to outsource this function. In terms of strategic performance monitoring this will fall to the Head of Finance to ensure that the assets are delivering the revenue and capital growth returns that were envisaged and to act in the Council's financial interest.

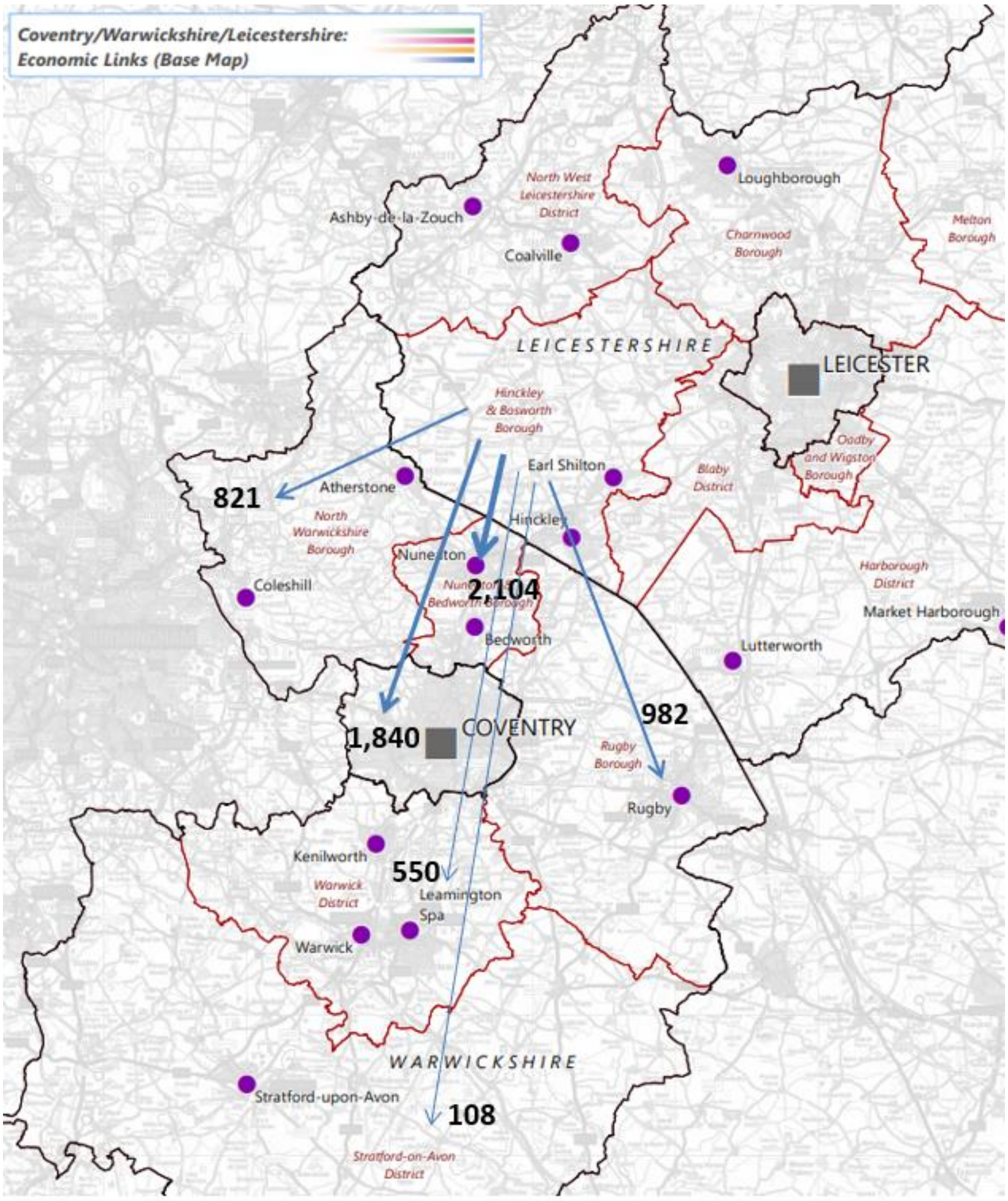
38. The Council understands that acquiring and developing property assets requires a long term strategic view to meet its objectives and will always be prepared for short term market fluctuations. The Council will always endeavor to adhere to its long term service delivery objectives with a focus on building capital and revenue growth. The Council will though consider the strategic disposal of assets that are underperforming or no longer meet the Council's objectives or to take advantage of a rising market to enhance the overall portfolio value. As part of this management of the portfolio the Head of Finance will consider the liquidity needs of the Council and form a view of the prevailing market conditions to determine whether it would be necessary and/or advantageous to dispose of any of its assets.

39. Subject to resource availability the Estates & Asset Manager will provide regular reports on management issues and the performance of the portfolio. The Council's Asset & Regeneration Group will receive a report from the Estates & Asset Manager quarterly with bi-annual reporting to the Council's Scrutiny Commission which will update on the overall asset portfolio against expectations at the time of purchase and performance against prevailing market conditions. These reports can be made available to other meetings of the Council

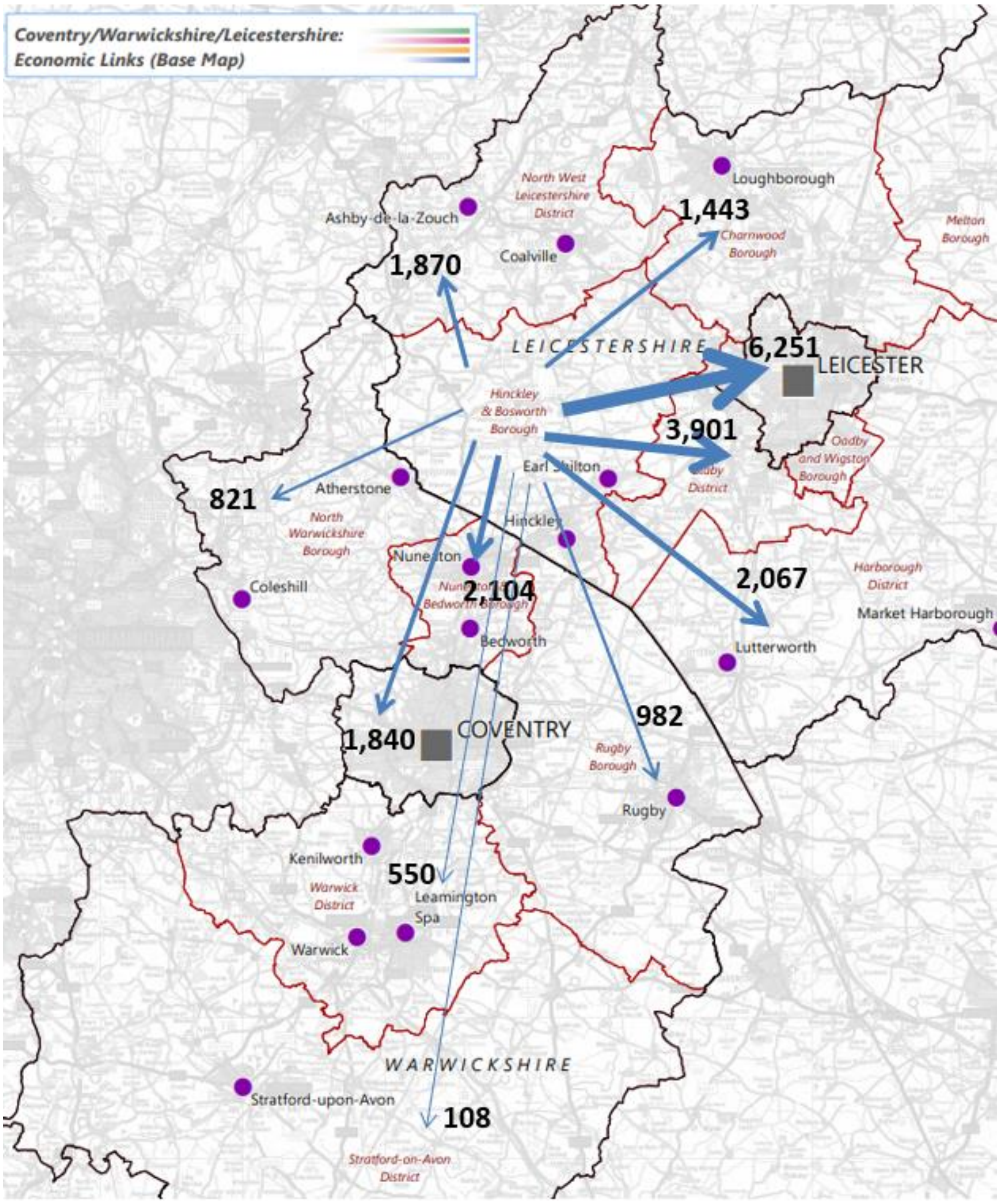
Appendix 1

Functional Economic Geography (FEG)

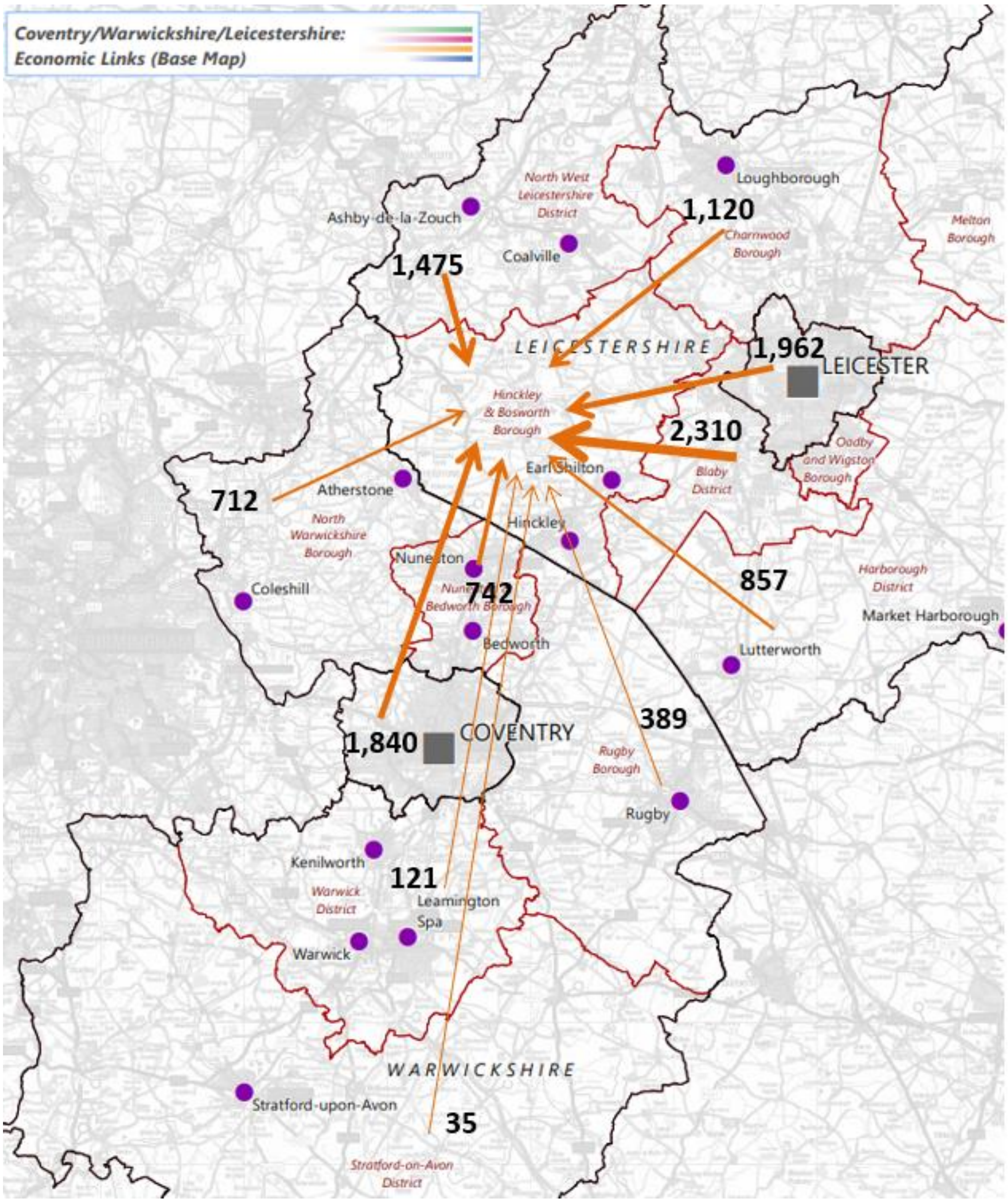
1. Evidence from the 2011 census indicates that of the resident population in Hinckley & Bosworth, just under seventeen and a half thousand people also work within the borough; just over six and a half thousand commute into the Coventry and Warwickshire area (principally Nuneaton and Coventry); and just under seventeen thousand work elsewhere in Leicestershire.



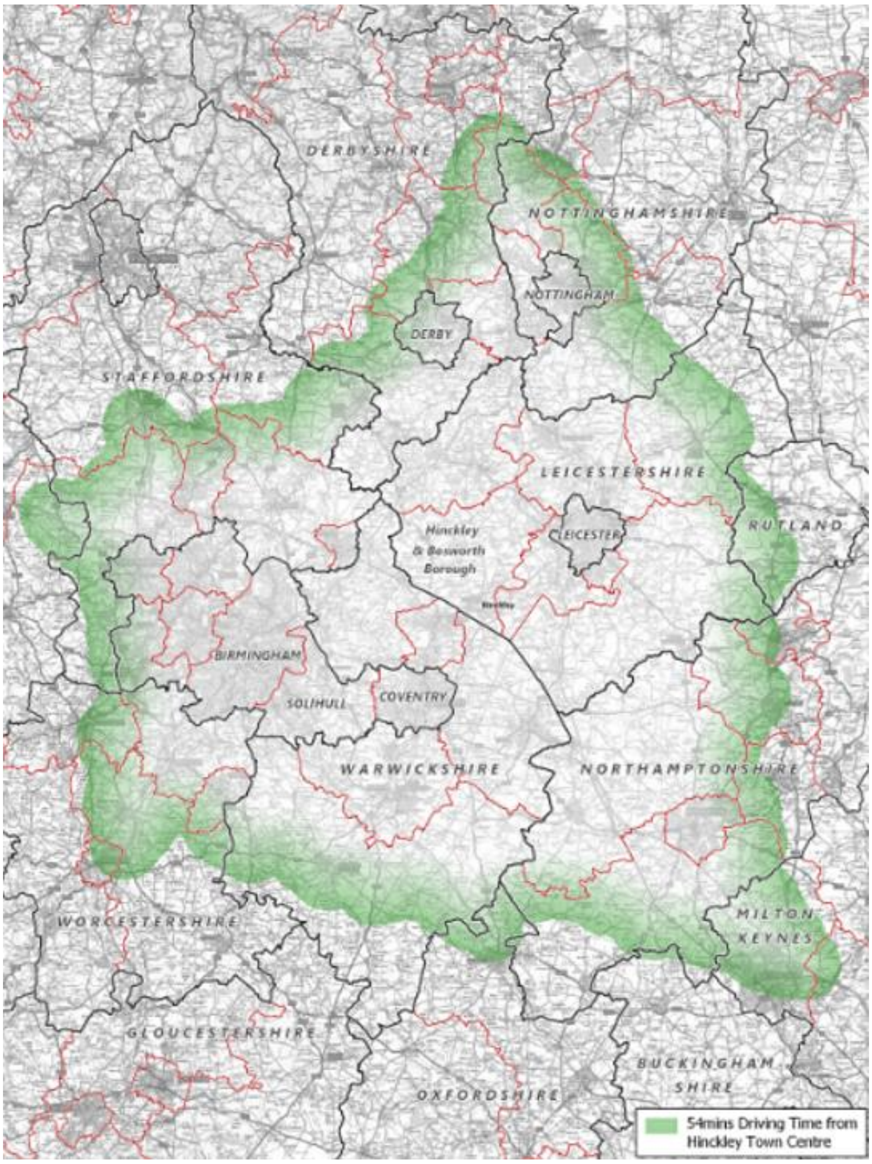
Coventry/Warwickshire/Leicestershire:
Economic Links (Base Map)
Loughborough
North West Leicestershire District
Ashby-de-la-Zouch
Coalville
Charnwood Borough
Melton Borough
LEICESTERSHIRE
LEICESTER
Hinckley & Bosworth Borough
Earl Shilton
Oadby and Wigston Borough
Blaby District
821
Atherstone
North Warwickshire Borough
Hinckley
Nuneaton
Nuneaton & Bedworth Borough
2,104
Harborough District
Market Harborough
Coleshill
Bedworth
Lutterworth
982
1,840
COVENTRY
Rugby Borough
Rugby
Kenilworth
550
Warwick District
Leamington Spa
Warwick
WARWICKSHIRE
Stratford-upon-Avon
108
Stratford-on-Avon District



Of those living outside the borough but travelling into the borough to work, just over eight thousand live in Leicester and Leicestershire and over four thousand seven hundred live in Coventry and Warwickshire.



This commuting interconnectivity is due in part to the accessible highway network in and around the borough which benefits from the A5 providing the east/west corridor to the south of the borough, the M69 & M1 to the east and the M6 & M42 to the west. The UK average commute time of 54 minutes opens up a considerable range of potential commuting into and out of the borough.



2. In June 2022 Iceni Projects Ltd updated their report 'Leicester & Leicestershire Housing and Economic Needs Assessment' (HENA) which defined a Leicester and Leicestershire Functional Economic Market Area (FEMA) which reflected strong economic relationships between the City of Leicester and Leicestershire, with high commuting self-containment within the area. The HENA included a detailed analysis of the housing and economic geographies and from a housing perspective it concluded that *"Leicester and Leicestershire authorities are an appropriate 'best*

fit' for the functional HMA [Housing Market Area] using local authority boundaries."
The economic market area geography (FEMA) was reviewed through the analysis of economic and commuting inter-relationships and reinforced previous 2017 findings that the Leicestershire FEMA comprised the central City and wider hinterland of market towns, of which Hinckley is one. This is described as the Greater Leicestershire FEMA. It was also recognized though that Leicester's influence also extends across the A5 into Nuneaton, and as above this is also true for Hinckley and Bosworth.

Hinckley and Bosworth Borough clearly enjoys the housing and economic interactivity that would be expected within the Leicestershire county area, but also has strong economic links to Coventry and Nuneaton which also make up its FEG.

Appendix 2

HM Treasury Guidance

1. The latest guidance on PWLB borrowing was published in May 2022 and can be found here:

PWLB guidance for applicants (updated) V1.docx (dmo.gov.uk)

2. In the guidance the government reiterates its support for local investment in part by offering low-cost loans to local authorities through the PWLB. The purpose of the PWLB, the guidance says, is to offer long-term affordable loans to support local authority investment in service delivery, housing, economic regeneration, treasury management and occasionally preventative action under the prudential regime. The guidance makes it clear that the PWLB cannot be used by councils investing in assets primarily for yield. This latter activity has been what many councils have hitherto been using PWLB for. This is a really important point recognised in this strategy; the Council is not seeking investment opportunities for yield in acquiring new assets, but rather the delivery of its services which may involve the acquisition of new assets using PWLB.

3. The guidance makes clear what constitutes service delivery under the areas identified above. Service delivery is defined as *"expenditure on assets that form part of the authority's public service delivery".* Ultimately it is for the Council's s151 officer to categorise items of expenditure as service delivery. Housing is clearly part of service delivery and can include all expenditure on delivering new homes, maintaining and improving existing homes and purchasing new build properties (a distinction needs to be maintained between the development of new homes through the Housing Revenue account (HRA) and the development of new homes outside the HRA. A new HRA Investment Strategy is being developed and this will reinforce the differences between the two approaches). Regeneration can also be included where it involves acquisition of assets to generate social or economic benefits and usually involving some or all of addressing market failure, acquiring assets to develop and improve them and generating activity such as job creation or social or economic value that wouldn't have come about without

the authority's actions. Preventative action is also considered appropriate for councils to use PWLB borrowing for, this is where the council may directly support local companies or acquire assets to protect jobs or to prevent social or economic decline. In these instances, the authority must be able to demonstrate that its actions prevented a negative outcome, that there was no other realistic prospect of support, that it has an exit strategy and that the intervention creates a balance sheet asset such as grant, loan, sale and leaseback.

4. Investment assets bought primarily for yield are assets that serve no service function but are held primarily to generate an income. The authority is unable to use PBLB as a source of finance for such acquisitions. If the Council were to source external funding on the commercial market for acquisitions that are intended to generate an income then it will be prohibited from borrowing from the PWLB for that financial year for any purpose.

Appendix 3

Portfolio Criteria

40. The Council aims to hold a mix of the following as its target portfolio:

    I. Retail assets that:

       i. Are located in vibrant city centre, town centre or local centre locations; or
       ii. Are located in out of town retail parks; or
       iii. Are located on key transport corridors where there are local regeneration benefits; and
       iv. Are let to tenants with a good covenant and a minimum of five years unexpired lease term; or
       v. Are let to tenants with lesser terms where the Council has alternative regeneration/re-purposing reasons for investing; and
       vi. Produce a gross return on investment that meets agreed viability criteria; and
       vii. Are in lot sizes of £250k - £5m.

    II. Office assets that:

       i. Are in vibrant city centre, town centre or local centre locations; or
       ii. Are located on business parks; and
       iii. Are let to tenants with a good covenant and ideally at least five years unexpired lease term; and
       iv. Produce a gross return on investment that meets agreed viability criteria and
       v. Are in lot sizes of £1m - £5m.

III. Industrial/Warehouse assets that:

i. Are located on good highway routes; or

ii. Are located on vibrant industrial estates; and

iii. Are of modern construction and capable of flexible layouts; and

iv. Are let to tenants with a good covenant and ideally a minimum of five years unexpired lease term; or

v. Are let to tenants with lesser terms where the Council has alternative regeneration reasons for investing; and

vi. Produce a gross return on investment that meets agreed viability criteria and

vii. Are in lot sizes of £250k - £5m.

IV. Leisure/ Food & Beverage assets that:

i. Are located in vibrant city centre, town centre or local centre locations; or

ii. Are located in out of town retail parks; or

iii. Are let to tenants with a good covenant and ideally at least five years unexpired lease term; and

iv. Produce a gross return on investment that meets agreed viability criteria and

v. Are in lot sizes of £500k - £5m.

V. Mixed Use assets:

i. The Council will consider combinations of mixed residential, retail, leisure and office investments that meet a blend of the criteria set out above.

VI. Residential assets that:

i. Enable the Council to deliver its strategic housing service more effectively

ii. Are located in sustainable locations with good access to services

iii. If already tenanted, are let on suitable lease terms

iv. Are in lot sizes £250k - £5m

Criteria	score	5	4	3	2	1
	Weight	**Excellent / very good**	**Good**	**Acceptable**	**Marginal**	**Poor***
Location	20	Major prime	Micro prime	Major secondary	Micro secondary	Tertiary
Tenancy strength	20	Single tenant with strong financial covenant	Single tenant with good financial covenant	Multiple tenants with strong financial covenant	Multiple tenants with good financial covenant	Tenants with poor financial covenant strength
Tenure	10	Freehold	Lease 125 years plus	Lease between 75 & 125 years	Lease between 10 & 75 years	Lease less than 10 years
Occupiers lease length	20	Greater than 15 years	Between 10 and 14 years	Between 9 & 6 years	Between 3 & 5 years	Less than 2 years or vacant
Repairing terms*	10	Full repairing & insuring	Internal repairing - 100% recoverable	Internal repairing - partially recoverable	Internal repairing - non recoverable	Landlord
Building Quality / Obsolescence	15	Newly Built	Recently Refurbished	Average condition and likely to continue to be fit for current use for 25+ years	Aged property with redevelop-ment potential	Nearing end of useful life/ use unlikely to continue when lease expires
Investment size	5	Up to £5m	From £5m to £10m	From £10m to £15m	From £15m to £20m	Above £20m

** unless there is an overwhelming case for investment that exceeds the Council's expectations*

Criteria Explained:

Location

Major prime locations will be the main city centres of Leicester and Coventry, with micro prime being the outskirts of these two city centres. Major secondary locations are Hinckley, Nuneaton, Loughborough, Melton Mowbray, Coalville and Market Harborough. Micro secondary are the market and smaller towns and tertiary are local centres.

Tenancy Strength

All tenant covenants are considered in terms of their financial strength, risk of business failure, length of building occupancy and whether there are rent or rates arrears. The Council will use the conventional means of assessing tenant covenants which might for example include Dun and Bradstreet.

Tenure

Freehold interests are the best interests in assets as they give certainty of ownership into perpetuity and provide no impediments to the owner. Long leaseholds over 99 years are treated as de facto freehold ownerships but do not give the absolute certainty of freehold ownership.

Lease Length

The length of the tenant(s) lease will determine the guarantee of rental income; in commercial terms, the longer the term remaining, the better and more secure the income may be. For residential though a longer lease may prevent the landlord maintaining flexibility, so leases of between three and five years are preferred. Most leases will have break and review options and these will need to be considered in the context of length of time the income can be guaranteed and also the potential for uplift in rent.

Repairing Terms

For commercial assets full repairing and insuring leases are the best as they place all responsibility with the tenant. Next most secure are internal repairing leases where the tenant has responsibility for internal repairs and insurance and the landlord is responsible for the external maintenance; often these costs (or at least some of them) can be recovered by the landlord through the service charge. Internal repairing, non recoverable leases mean the landlord has full responsibility for external maintenance and cannot recover any of those costs. Finally the least preferable are where the landlord has full responsibility for both internal and external maintenance and repair.

Building Quality/Obsolescence

Consideration will be given to building age and quality in determining the repairs and maintenance that might be required immediately to comply with statutory requirements through to the likely general maintenance required from year to year. The building condition surveys will advise on these elements.

Acquisition Value

The lot size will be considered as part of the overall offer. The Council plans to develop a balanced portfolio of lot sizes.

Appendix 4

Acquisition Procedure

CONTENTS

INTRODUCTION

The purpose of this strategy is to provide a framework with transparency and fairness for the acquisition of property assets in accordance with the Property Asset Management Plan.

1. REASONS FOR THE ACQUISITION OF LAND AND PROPERTY

Unless there are exceptional circumstances, the Council will only acquire land or property for the following reasons:

- To provide Council services
- For Economic Development purposes
- To facilitate Council policies
- To provide affordable housing
- To improve performance of the investment portfolio
- Strategic acquisition for redevelopment

2. PROPERTY SEARCH

Once a need has been identified, the Estates & Asset Management Service in association with key services will carry out a search to establish whether suitable land or property is available to fulfil the requirements of the Council. This includes utilisation of existing assets and opportunities with potential Partner organisations.

Where a number of potentially suitable properties exist in the marketplace, comparisons will be made to establish which is the most suitable for the Council's needs. Criteria against which such decisions will be made include:

- Price
- Condition of property
- Availability (in terms of timing)
- Nature of tenure being offered (freehold or leasehold)
- Location advantages (where a strategic acquisition is under consideration)
- Return on investment (where a revenue generating asset is being considered)
- Restrictive covenants / easements etc
- Costs in-use for premises for Operational purposes
- Cost to build, adapt or improve any premises and other costs relevant to the purpose

3. FINANCIAL APPRAISAL

When a suitable property has been identified, a financial appraisal will be carried out to establish the financial/budgetary implications of acquiring the property. The advice of the Deputy Chief Executive (Corporate Direction) will be sought regarding interest on capital invested, to enable the opportunity cost of the acquisition to be fully assessed. The financial appraisal will take into account the following matters:

- The capital cost of acquisition and relevant expenditure
- The opportunity cost of acquisition
- Any revenue, or potential revenue, generated from the property, both short and long term
- Availability of external funding sources
- Possibility of joint ventures
- The cost, in Asset Management terms, of owning the property, including:
  Immediate maintenance/refurbishment requirements
  Demolition costs, if appropriate
  Adaptation requirements
- The overall effect of the acquisition on the Council’s budgetary position.

4. DUE DILIGENCE

Appropriate investigations will be undertaken into matters relating to:

- The legal title of the property
- Planning and Building Regulation compliance for the existing use and proposed purpose
- Other relevant statutory consents
- Pollution
- Existing construction and M&E plant

5. INDEPENDENT VALUATION

A written formal report compliant with the RICS Red Book shall be obtained before any legal obligation or purchase is completed. Appropriate informal advice shall be obtained prior to that to assist with assessing options and recommendations.

6. NEGOTIATION

Once the Executive or Council or other appropriate decision maker has agreed to support a case to the Council for acquisition, negotiations will be commenced with the vendor – to include any appropriate caveats such as investigation of title, planning consent and full Council approval. Where the sale of the site is by auction or tender, a bidding strategy will need to be formulated as appropriate and approved by the appropriate person / body with delegated authority.

7. COUNCIL DECISION MAKING AND DELEGATED AUTHORITY

The Constitution sets out the powers and duties in respect of decision making relating to acquisition. In summary:

The Full Council has power to set policies and make decisions reserved for Council.

The Executive has delegated power to make decisions which are not reserved for another Committee or Council and implement decisions provided generally they are within existing authorised polices and budgets.

The Scrutiny Commission has the duty and power to review and scrutinise decisions and actions of both members and officers.

The constitution sets out delegated authority in respect of acquisitions to be made in accordance with the Asset Management Plan:

- In all cases to the Asset Management Strategy Group containing the executive member for Finance & ICT which can make recommendations
- Deputy Chief Executive (Corporate Direction) up to £5K
- Deputy Chief Executive (Corporate Direction) in conjunction with Executive Member up to £25K
- Executive up to £50,000
- Council over £50,001

The Constitution also sets out alternative procedures for Urgent Action.

All decisions shall be in accordance with the Council's Financial Procedure Rules.

8. INSTRUCTIONS

Once appropriate approval has been received, and all investigations satisfactorily carried out (or earlier if appropriate), the Proper Officer will be instructed to complete the documentation associated with the acquisition.

9. COMPLETION

Once the acquisition has been completed, Members will be informed as appropriate. The Estates and Asset Manager will ensure the Asset is added to the Asset Database and surveyed and maintained as identified in the Corporate Asset Management Strategy. The Legal Service will ensure that Land Registration information is provide to the I.C.T service so that GIS database system can be updated

Where appropriate or where requested as a requirement, the relevant officer to provide regular update reports to Council or the Asset Management Strategy Group or Executive providing detail on the progress of the project for which the asset was acquired.

10. ADOPTION OF PUBLIC OPEN SPACE

The adoption of public open space should be considered by the three parties set out below prior to a report to Council for approval. The adoption of land will also be reported to the next available Asset Management Group Meeting in the form of an update report

The three parties will include Estate and Asset Manager in the role of The Corporate Property Officer, Green Space Development Officer and an appropriate Planning Officer. The maintenance liability of each parcel of land must be considered in full before any adoption agreement will be agreed.

The Council will not adopt areas of Public Open Space unless;

1. A commuted payment is available from the developer to cover at least 20 yrs of maintenance, calculations of how sums can be found within the Councils Play & Open Space Guide 2002.

or

2. The Area is of interest to a charitable trust, which will maintain the land to which the Council can transfer the ownership of the land.

or

3. The developer has ceased trading and there are no assets to fund future maintenance of the Public Open Space.

or

4. It has proven impossible to negotiate an agreement between the developer and owners of houses on the estate and local parish councils to adopt the areas of Public Open Space.
   (Note, that prior to planning permission be granted to the developer, that the planning department sent a letter to the Parish Council requesting a formal agreement that the Parish Council will adopt the POS on completion, inline with the terms and conditions of the 106 agreement).

It is intended that the developer will liaise with the Council before and during the adoption process to ensure that any agreed works are being carried out to the correct standards and specifications. The supervising officer for this development will be the Green Space Development Officer.

Boundary, hedges, fences, ditches and trees should be conveyed where appropriate with the adjoining development to reduce future maintenance costs.

Any adopted land parcel will be registered by the Legal department with the Land registry and the GIS database system updated with the relevant information.

11. <u>ACQUISITION BY CPO</u>

The procedure for obtaining a Compulsory Purchase Order is already enshrined in legislation and therefore not set out here. All decisions to enter into a Compulsory Purchase are reserved to Council regardless of value. This Policy does not apply to Compulsory Purchase situations until an acquisition stage has been reached e.g.:

- General vesting Declaration
- Notice of Entry and Notice to Treat
- Agreed acquisition of title

At such stage the procedure set out in section 9 above shall apply. Further administrative steps being taken as appropriate once the Notice to Treat crystallises as an acquisition of title.

12. <u>ACQUISITION BY GIFT OR POSSESSORY TITLE</u>

If such an acquisition opportunity arises, it will be considered if meeting the criteria set out in section 1 above and subject to appropriate measures under sections 3, 4 and 7.

13. <u>LEASES AND LICENCES</u>

Entering into a lease or licence agreement shall be considered in the same terms as any property acquisition the Council makes. Therefore Reasons for the purchase, property searches, financial appraisals, independent valuation, negotiations and Council approvals should all be identifiable stages. Clear ownership of responsibilities will require agreement prior to assignment of a lease in terms of H&S, maintenance requirements etc

Appendix 5

Disposal Procedure

CONTENTS

Appendices

1. <u>INTRODUCTION</u>

The purpose of this strategy is to provide a framework with transparency and fairness for the disposal of property assets in accordance with the Property Asset Management Plan.

Local Authorities are subject to constraints when they come to dispose of land or buildings in their ownership. Some of these constraints are enshrined in law; others arise because of a general expectation that Local Authorities should be seen to act fairly when disposing of land as in other aspects of their work. The Constitution of the Council also sets out various requirements and responsibilities.

Changing requirements for service delivery and the regular review of properties will at times lead to some land and/or property assets becoming surplus. In addition, there may be circumstances in which a disposal is considered the best way to achieve one or more of the strategic objectives of the Council.

Legal Powers:
Under the Local Government Act 1972 local authorities have powers to dispose of property in any manner they wish, subject to certain constraints.

Under the Local Government Act 1972: General Disposal Consent (England) order 2003, Councils may dispose of land at less than the best consideration reasonably obtainable provided that any undervalue does not exceed £2 million and the transaction is considered by the local authority to help secure the promotion or improvement of the economic, social or environmental well-being of its area. Disposals at greater under-value require consent of the Secretary of State. A disposal for the purposes of the 1972 Act consists of -

a) a freehold transfer; or
b) a grant of a term exceeding seven years; or
c) the assignment of a term which, at the date of the assignment, has more than seven years to run. (The Council currently has no such assets).

Since the 1972 Act, Government policy has introduced the concepts of Community Asset Transfer, community rights in respect of Assets of Community Value, and recognition of the Social Return on investment. The Localism Act 2011 further extends rights and powers for communities and individuals.

Councils may also be restrained from disposing of land for a purpose that was not the purpose for which it was acquired under legislative powers and this is particularly relevant for:

- Allotments
- Open Space and Burial Grounds
- Pleasure Grounds

This strategy applies to freehold or long leasehold disposal of commercial or operational land and buildings except for Council housing which is subject to alternative arrangements.

2. REASONS FOR THE COUNCIL HOLDING PROPERTY

The reasons for the Council holding property are:

- To provide Council services
- For Economic Development purposes
- To facilitate Council policies
- As investment to make a financial return to support service delivery
- Strategic acquisition for redevelopment
- Social Housing

The aims for the Asset Management Service are to facilitate:

- Use of the Council's property holdings to meet current and future corporate/service requirements and allow flexibility of use;
- Use of property economically, efficiently and effectively;
- Provision of clean, compliant and safe accommodation/premises for staff/public;
- Support for economic, social and environmental well-being;
- Production of income/capital to support budgetary requirements.
- Use of appropriate assets for approved purposes by voluntary and Community groups
- Advice for the Medium Term Financial Strategy.

3. IDENTIFICATION OF SURPLUS AND UNDER UTILISED PROPERTY

OPERATIONAL AND COMMERCIAL PROPERTY

Property will be identified as surplus if it does not meet any of the reasons or objectives for the Council holding property assets as set out above or is identified as performing inadequately – functionally or financially.

It is the responsibility of each Service, in conjunction with the Estates and Asset Management Service, to identify any property or part thereof that is under utilised or surplus to individual service delivery requirements. Following the identification of surplus property it should be referred to the Estates and Asset Manager in his role as Corporate Property Officer (CPO) to consider any other potential uses for the property. This will include the identification of any other parties that may be interested in the property, e.g. another Service, County Council Departments, partners or external organisations.

Other referral may be required (in liaison with SLB) with:

- The Corporate Operations Board
- The Asset Management Strategy Group (AMSG)
- The Executive
- Council

HOUSING LAND (HRA)

From time to time requests are received from members of the public to sell small pieces of land forming gardens of Council houses or adjacent landscaping (formally on the HRA).

Matters relating to HRA land shall be referred to the Chief Officer for Housing, Community Safety and Partnerships and as required the Portfolio Member for Housing for an in-principle decision about disposal. Any approved disposal shall then proceed in accordance with this strategy.

On larger pieces of HRA land, consideration should be given to the aims within the Council House Investment Strategy which include:

- Investment in the existing stock to maintain good quality homes.
- Investment in new build/acquisitions of affordable housing.
- Refurbishment and regeneration of stock which no longer meets needs.
- Environmental improvements to estates.

Decisions will be taken during 2012/13 on investment levels into these priorities and linked to this will be work on the use of HRA land, including how capital receipts from the sale of HRA land are used.

OPEN SPACE

From time-to-time requests are received from members of the public to sell small pieces of land forming open space.

The Council will not normally dispose of any core recreational open spaces identified in its open space audit and open space strategy i.e. 'Town Parks', 'Country Parks', 'Neighbourhood Parks', 'Nature Reserves' and other local play areas. (exceptional circumstances might be for instance where this is seen as beneficial for recreational use of the site or will significantly benefit the wider community rather than the individual applicant).

The Council will contemplate disposal of 'incidental open space' and areas of landscaping or parts of these – particularly where it will improve the management of the land benefiting the wider public, will reduce an unacceptable and significant impact on a neighbouring property resulting from miss-use of open space and/or clears up anomalies of past land sales, acquisitions, transfers.

In contemplating these sales, the Council must comply with its legal requirement to advertise proposed sales of public open space and consider objections prior to deciding to dispose of the site. (Applicants / proposed purchaser will be required to meet the costs of advertising the proposed sale).

There is no legal requirement for the Council to provide a reason for not selling, however, the Council may refuse to sell on the following grounds:-

- it judges that the personal safety for users of the remainder of nearby open space will be detrimentally affected e.g. where a narrow alleyway is created; or
- it will result in the wholesale loss of, or detraction from the visual quality/amenity of the surrounding area. Alternatively, in such cases it may apply covenants on sales to retain the open nature of landscaped areas and/or to require the provision of certain standards of new boundary fencing, walling or delineation; or
- it is considered that there will be detrimental impact of such sales on neighbouring properties not financially involved in, or not benefiting from the sale.

4. PROPERTY DISPOSAL RESPONSIBILITIES

Major disposals being significant regeneration sites are (normally) the responsibility of the Regeneration Service under the Head of Planning. The balance of disposals is the responsibility of the Estates and Asset Management Service under the Corporate Property Officer. The principles set out in this strategy should be followed in all disposal cases.

Minor Disposals

A minor disposal is where the sale price does not exceed £5,000 or as defined in the Financial Procedure Rules.

The disposal shall proceed in accordance with the Financial Procedure Rules. There may be circumstances where it is in the Council's interest to initiate a minor disposal e.g. land surplus to requirements or for reasons of good estate management.

However, departure from open marketing should only be considered in the circumstances as outlined in this section and on professional advice. In cases where there is more than one other contiguous land holding, consideration should be given to alternative disposal strategies to obtain the best price.
In the case of minor disposals, the Estates and Asset Management Service is responsible for the disposal of its property assets in accordance with this strategy.

Major Disposals

A major disposal is any disposal not covered by the minor disposal definition above.

The disposal shall proceed in accordance with the Financial Procedure Rules.

When a property has been identified as surplus to the requirements of the Council, the CPO should be notified. If the Asset is not identified as a key disposal under the Acquisition and Disposal Strategy, it should be processed by the Asset Management Service to ascertain the value of sale. On successful completion of this process CPO may seek Executive approval to it being declared surplus and add the record to the acquisition and disposal strategy for an appropriate programmed sale.

Disposal at less than best consideration

In contemplating a disposal or in marketing the premises, opportunities might come forward to consider a Community Asset Transfer or a community request in respect of an Asset of Community Value. It is recognised that disposals through these mechanisms may likely produce a receipt less than best consideration.

Also there might be opportunities where the Council wishes to facilitate a policy objective by sale at lower value.

Disposals at less than best consideration shall have the formal support of the Service whose policy is being supported and for major disposals shall require approval by Council – unless already approved within the Property Asset Management Plan or other Council approved policy. In such cases the RICS Guidance Note should be consulted.

Whether or not Ministerial consent is required, the Valuer shall provide the following figures in all cases:
(a) unrestricted value;
(b) restricted value;
(c) the value of voluntary conditions.

5. DISPOSAL METHODS

As a general principle, disposal with open marketing is the appropriate way to attract interest and secure best consideration. However there are circumstances where alternatives should be considered.

These are the principal methods of disposal available:-

Private Treaty – sole party without marketing

This is to be considered where there is unlikely to be more than one party interested in the property at an open-market price or there is clearly a special-interest purchaser likely prepared to pay above the market price.

This generally arises when an application is received from adjacent or neighbouring owner(s) to purchase the freehold or leasehold interest of a small or inconsequential area of land in the Council's ownership. If the land is surplus to requirements as identified in the Acquisition and Disposal Strategy, has no development value or open market opportunity and has a market value of less than £5000. It is permissible in these cases to open 'confined' negotiations with the adjacent or neighbouring owner in order to achieve the most advantageous financial or economic result e.g. if the land is 'landlocked' or is difficult or expensive to maintain.

It might also arise in special circumstances where an adjacent owner can gain advantage by combining land to give rise to:

- Ransom value
- Betterment value
- Overage

In such cases it is necessary to establish both the open-market value and the value advantage to the proposed purchaser.

Private Treaty – with open marketing

After a reasonable period of exposure to the market, negotiations are carried out with interested parties and a clear highest bidder might emerge.

In the event that two or more interested buyers are identified at similar prices it is possible to consider moving on to the Informal Tender method below

Advantages:
- allows a flexible approach;
- time pressures are seldom imposed on either the seller or buyer; and
- it is widely understood and accepted by the general public.

Disadvantage:
- the proceedings cannot always overcome suspicions of unfair dealings, and it is therefore a method to be used with caution.

Formal Tender

Requires a great deal of preparation, as the tender document forms the contract for sale. A full appraisal of the transaction needs to be carried out, including a valuation which may be used to provide a guide price, in order to have a baseline against which to assess the tenders when they are returned.

Advantages:

it can be concluded quickly where it is unconditional;
it avoids tentative time-wasting enquiries;
the Council does not need to accept any tender if the offer is not satisfactory provided this is made clear in the invitation to tender;
the tender procedure should guarantee complete fairness; and
as bids are not public, tenderers should put forward their best offer.

Disadvantages:

potential purchasers are often put off by the procedure whereby they commit themselves contractually upon making any financial offer;
there is little room for discussion about the scheme itself, and this method is too robust and inflexible to take account of any conditional offers, e.g. subject to planning etc.

In view of the inflexibility and disadvantages of the formal tender procedure there should, in normal circumstance, be a presumption against this method for the disposal of property.

Current **Contract Standing Orders** do not state that they apply to the sale of property. They do however regulate formal tender procedures, therefore, in the event of a disposal by formal tender Contract Standing Orders should be followed.

Auction

This method is to be considered when value is difficult to establish or where there could be numerous bidders, especially for small parcels of development land.

To achieve success with this method of disposal, external auctioneers will inevitably be used. The auctioneer should be briefed at an early stage, and fully involved in preparing conditions of sale and fixing the reserve price. The reserve should be approved by the appropriate delegated authority route and conveyed to the auctioneer before the auction. It should also be recorded in writing which the auctioneer will have available at the time of sale. Sale by auction requires preparation of all contractual details beforehand in order that a binding contract may be effected immediately a bid is accepted. Development land should only be considered for auction with planning permission and after pre-marketing.

Advantages:

Certainty: contracts are exchanged on the fall of the hammer;

- open process of competitive bidding may lead to a price in excess of that by private treaty;
- Regional/national marketing by the auction house.

Disadvantages:

- the seller has no control over who buys;
- funds to meet the sale price must be available within a specified period, and this may put off purchasers who need to raise finance;
- potential purchasers have to consider the transaction during the marketing period, with no opportunity to discuss alternative ways to structure the deal;
- the winning bid need only be marginally more than the second highest bid, and need not represent the maximum the purchaser would have been willing to pay;
- Mortgageable houses should not be sold by auction.

Informal Tender (sealed bids)

The Local Government Ombudsman has issued the following guidance on informal tendering:

"Informal tendering is a process by which offers are invited but perhaps without a firm closing date. Unlike a formal tendering process (when tenders are submitted in sealed envelopes all of which are opened together) offers in the informal process are opened as they are received. Officers may be invited to increase their bids, possibly having been told that that a higher bid has been received. Whilst the practice of informal tendering (which might also be described as extended auction) does frequently give rise to complaints, the Ombudsman accepts that such a procedure may sometimes be appropriate and may result in the Council obtaining a higher price for the land than if bidding was restricted to a single sealed tender. At the end of such an extended auction process all parties still expressing interest should be asked to submit a final bid by a specified date".

Advantages:

- the most advantageous terms for the Council can be formulated even in very complex cases;
- the Council does not need to accept any tender if the offer is not satisfactory;
- as bids are not public, tenderers should put forward their best offer. (Though not necessarily going to achieve best price because in an auction situation people are sometimes prepared to bid more than they had envisaged, particularly when they see others prepared to bid at that level)
- most useful as a tool for resolving competing interest following private treaty marketing.

Disadvantages:

lacks the certainty of the Formal Tender procedure, can be frustrating since post-

tender negotiations can be protracted and may not be successful; and

- the requirement to negotiate raises some of the disadvantages of a sale by private treaty.

6. PREPARATION FOR DISPOSAL

The stages of preparation for disposal should include the following:

(i) Internal Circulation to COB members - To be carried out prior to declaring property surplus in order to give Services the opportunity to comment or express an interest within a time limit of 21 days.

(ii) Legal Consultation - To report fully on the Council's title, any rights or obligations which may be bound to the site and any restraints on disposal which might be in place due to legislation. Where it is intended to include covenants or conditions, legal advice should obtained prior to negotiations.

(iii) Former Owner – Consider if there is an obligation under the Crichel Down Rules to offer the land back to a former owner. A summary of these rules and procedures is in *Appendix A.*

(iv) Inspection - The purpose of which will be to identify development potential or any matter which is likely to aide or hinder the disposal.

(v) Physical Constraints – Check the Council's own records, and also those of statutory undertakers, if appropriate.

(vi) Define Development Potential - Appraisal of potential disposal property should always consider the means by which maximum sale proceeds can be generated. In straightforward cases, the equivalent of an "outline planning consent" for the most valuable use available should be secured.

(vii) Where the Council wishes to consider ensuring a desired use of property to achieve its policy objectives, it will be necessary to introduce restrictive covenants, where appropriate.

(viii) An overage provision may be contemplated, so that the Council can participate in the benefits of any future increase in value due to a more valuable planning consent or significant uncertainty in valuation.

(ix) Consideration of Method of Disposal as set out above to consider the options available. Financial Regulations provide guidance aimed at minimising or addressing the difficulties presented by late or revised bids.

(x) Special Purchaser - It may be prudent to deal with a “special purchaser” if it would result in capital receipts above that which would be paid in the general open market, or in the furtherance of achieving one or more of the Council’s Corporate objectives, subject to compliance with the Council’s legal requirements.

7. DISPOSAL DUE TO Compulsory Purchase Order

The procedure for obtaining a Compulsory Purchase Order is already enshrined in legislation and therefore is not set out here. This strategy does not apply to Compulsory Purchase Order situations until a disposal stage has been reached e.g.:

- General vesting Declaration
- Notice of Entry and Notice to Treat
- Agreed transfer of title

At such stage the procedure generally as set out in section 4 onwards shall apply with further administrative steps being taken as appropriate once the Notice to Treat crystallises as an acquisition of title.

Appendix 6

FORMER OWNERS – CRICHEL DOWN RULES

Successive Governments have accepted the basic principle that land, whether in agricultural or other use originally, should be offered back to former owners or their successors if it was acquired by or under threat of, compulsion or under statutory blight provisions, and if it had not been materially changed in the interim, and was found to be surplus to requirements or otherwise appropriate for disposal. Disposals to former owners under these arrangements will be at current market value.

This principle was established in the 1954 Crichel Down case and has been used as a guideline for policy ever since.

ODPM Circular 06/2004 sets out the revised arrangements under which the rules should apply. The Rules are non-statutory but it is recommended, by central government, that they be followed.

The general obligation to offer back will not apply to the following types of land:

1) agricultural land acquired before 1 January 1935;
2) agricultural land acquired on and after 30 October 1992 which becomes surplus, and available for disposal more than 25 years after the date of acquisition;
3) non-agricultural land which becomes surplus, and available for disposal more than 25 years after the date of acquisition.

The date of acquisition is the date of the conveyance, transfer or vesting declaration.

POLICY

The Council shall follow the guidelines of the Crichel Down rules.

Appendix 6

Risk Management

Risks

Recession Risk.

There is a risk of the property market going into recession, capital values and rentals can fall as well as rise. This needs to be factored into long terms decisions.

The Acquisitions and Investment Strategy criteria (table 1) will target low risk, low management investments that will better withstand any downturn and remain occupied and attractive to tenants, landlords and investors.

Operating as a commercial function will entail making good decisions quickly in order to put offers forward. However, these can be made as conditional offers and contracts for sale need not be exchanged until the full due diligence and the necessary governance procedures have been completed.

Abortive Cost Risk

Abortive costs will be incurred in making bids that do not succeed, or from choosing (as a result of due diligence) not to continue to exchange of contract. These costs may include feasibility studies, ground investigations, advisers' costs, legal costs, survey fees and Officer time.

This risk is inherent to property investment and the focus will be on ensuring that potential problems are identified at the earliest possible stage of each acquisition. Interest Rate Risk

Interest rate risk

The PWLB borrowing rates have been consistently below 3% for some time but are now increasing above that level, the market can change. To mitigate he risk of interest rate change the borrowing required for a business case will be undertaken and fixed at the time the scheme is committed.

A change in interest rates would require an update of Table 2 on the gross rates of return.

Knowledge of the Market Risk

Property investment involves clear risks due to wider economic conditions, which are beyond the control of the Council. However, other property related risks, such as those relating to the condition of the property or complications with leases, are easier to assess and manage.

The property market is driven by prompt responses to opportunities that may not be offered on the open market. The Council should be able to increase the potential to be offered access to such opportunities by engaging specialist external advisors. However, the ability to act quickly is critical and the Council will need to use its own knowledge of the District, combined with the wider market understanding of (external) specialists, to ensure that it adopts a proactive approach with property owners and specialist property investment agencies.

Operational Risk

Property management has many inherent operational risks including:-
• Vacancies (voids) in the portfolio will reduce average yield. As well as lost rental income on vacant units, the Council could find itself liable for a share of on- going costs which a tenant would normally pay such as empty property rates.
• Disputes with tenants. Common disputes include ongoing maintenance and repair costs of buildings and the ability to recover those costs from tenants.
• Tenant default, and that financing costs could rise.

These risks will be mitigated through the quality of the property and tenant. The criteria in table 1 will allocate most funds to the excellent/very good category.

Capacity Risk

Operating a dynamic property investment function calls on a knowledge base and skill set which the Council does not currently have. Although some relevant expertise does exist within the Council, existing workloads and ongoing projects make it unlikely that this could be released at the level required to support this type of commercial activity. Nevertheless, in order for the council to successfully implement its Acquisition & Development Strategy, it will need access to the type and level of expertise that can support robust and timely decision-making. It is likely that this will be best achieved by contracting with external property investment advisors who will do the following:

• Identify potential investment opportunities and evaluate values.
• Carry out necessary due diligence and advice on risks.
• Prepare individual business cases.

- Undertake commercial negotiations.
- Manage Freehold and leasing arrangements.
- Evaluate prospects for rental growth and capital appreciation.

This use of external advisors will need to be carefully and consistently managed by the Executive Director of Finance and Resources.

Change of Government Policy Risk

The Council will use the General Power of Competence to undertake the Acquisition & Development Strategy. There is a risk that the Government could introduce limits to this power. If this was to happen it would restrict future investment, including business cases in progress but is unlikely to be retrospective.

- Capital values and rental values can fall as well as rise.
- Borrowing costs fluctuate and could increase.
- Vacancies (voids) in the portfolio will reduce average yield. As well as lost rental income on vacant units, the Council could find itself liable for a share of on- going costs which a tenant would normally pay such as empty property rates.
- Disputes with tenants. Common disputes include ongoing maintenance and repair costs of buildings and the ability to recover those costs from tenants.
- Tenant default, and that financing costs could rise.
- External factors. Property acquisition is subject to factors the Council cannot control, e.g. failure of tenants, poor building management, changes in perception of what is a good location, economic downturn, pandemics etc.
- Ease of market exit (sale)
- Changes in government policy
- Sectoral changes