Asset Investment Policy

1. Introduction

Local government is being challenged to identify new ways to generate both revenue and capital funding streams to help bridge the gap between available funds and increasing service demands.

In common with all public bodies the Council has a property portfolio which is used to facilitate service delivery and deliver corporate objectives. The Council has been driving down holding costs through the rationalisation of its operational estate and the implementation of agile working. Whilst this process will continue to seek efficiencies, it is a process for managing costs rather than generating additional income. For that reason, it is now proposed that a more pro-active approach is developed in the form of a property acquisitions policy. The purpose of this paper is to:

- Provide a formal policy for the acquisition of investment opportunities that will derive a net return to the Council.
- Provide the governance and delegated authority arrangements
- Establish the criteria to support a proposed acquisition.

2. Objectives of the policy

2.1 To help sustain Council Services and enhance the asset base by investing in commercial property assets in order to increase the net rental income stream for the Council.

2.2 The Council's Corporate Plan 2017 – 2022 identifies five priorities, the last of which is a "future focussed Council". One of the key measures for this is *income generation from commercial investments*. This policy will provide the framework for the evaluation of potential commercial property investments.

2.2 We will actively seek out investment opportunities within the County of Monmouthshire, City Deal geographical boundary and neighbouring areas of economic influence which will support our economic and regeneration priorities. In order to manage and spread the risk we will also identify investment options beyond our county boundaries which meet our criteria.

3. Purpose of the Policy

3.1 The purpose of this policy is to formalise the commentary within the Councils Asset Management Strategy (AMS) and provide a robust governance framework. The AMS outlines the following:

The Estates team will actively seek opportunities for property investment where a Business Plan evidences:

- *Financial Criteria are met –In accordance with financial parameter's detailed below*
- *Investment Criteria are met – in accordance with the investment criteria detailed below.*

3.2 The principal purpose for acquiring land and property assets will be to improve the financial position of the Council and its communities. This could be in the form of a revenue stream to the Council or to facilitate economic development or regeneration schemes.

4. Powers to acquire land and property assets.

Power to acquire and hold assets

4.1 The 1972 Local Government act provides the authority for local government to both acquire and dispose of property assets. S120 deals with the acquisition of assets as follows:

S120 Acquisition of land by agreement by principal councils.

(1) For the purposes of—

(a) Any of their functions under this or any other enactment, or

(b) The benefit, improvement or development of their area,

(c) A principal council may acquire by agreement any land, whether situated inside or outside their area.

4.2 Well-being powers

Section 2 of the Local Government Act 2000, gives local authorities the power to do:
1) Anything which they consider is likely to achieve any one of the following objects:
(a) The promotion or improvement of the economic well-being of their area,
(b) The promotion or improvement of the social well-being of their area, and
(c) The promotion or improvement of the environmental well-being of their area

Section 2 (4), of the act provides local authorities with the ability to incur expenditure, give financial assistance, enter into arrangements or agreements and provide goods services and accommodation.

We have obtained specific advice on the application of these powers to acquire investment assets, which has confirmed that a direct benefit to the citizens of Monmouthshire needs to be accrued from the acquisition of the assets which can be tangible i.e. the provision of new facilities, or intangible i.e. funding service delivery.

General Power of Competence
Welsh Governments White Paper, *Reforming Local Government: Resilient and Renewed*, makes provision for the introduction of the general power of competence for Welsh local authorities to bring us in line with the powers already held by our English counterparts. The WLGA have advised that the White Paper proposals will provide powers which will allow councils to be more innovative and lend or invest money; or setup a company or co-operative society to trade and engage in commercial activity. Use of the power is not restricted to the geographical area of the authority or for the benefit of its residents.

Power to borrow

4.3 The power to borrow is provided via S1 of the 2003 Local Government Act. This determines that borrowing may be undertaken;
(b) For the purposes of prudent management of its financial affairs provided it does not exceed its affordable borrowing limit under s.3 Local Government Act 2003 (s.2 (1) and 2(4))

A number of English Authorities have sought advice on the extent of this power and whether it confers the right to borrow money for purely financial purposes. This is yet to be tested in the Courts, however Welsh Government proposals seem to infer a greater degree of freedom than that afforded by the Localism Act which confers the general power of competence to English authorities.

5. Financial Criteria

Individual acquisitions should meet the criteria set out below, acquisitions outside these criteria will require approval by Cabinet with a supporting business case and reasons for deviating from the agreed protocols.

5.1 Target Fund Value - £50 Million Pounds over a three year timeframe to be reviewed annually.

5.2 Maximum Lot size No greater than 20% of the Target fund value

5.3 Minimum Return - total cost of borrowing (interest and repayment) Target Income Return – 2% above the annual cost of borrowing (interest and repayment). Where the acquisition will result in net economic growth to Monmouthshire (through the provision of jobs, additional employment floor space, local regeneration etc) the Investment Committee can adopt a lower return, but the return cannot be lower than 0%.

5.4 Target Total Return - 7% per annum, to be reviewed annually to reflect prevailing market conditions.

5.5 Minimum Repayment Provision (MRP) will be assessed on a case by case basis by reference to the economic life of the land and buildings but in all cases will not exceed 50 years.

6. Acquisition & Governance Framework

6.1 All proposed land and property acquisitions are to be undertaken by the Council's Estates team or its appointed agents in accordance with prevailing legislation and the rules laid down by the relevant professional bodies. All valuations must be undertaken by a qualified[1] member of the Royal Institution of Chartered Surveyors with knowledge of the relevant local and specialist markets.

6.2 All potential investment acquisitions will be assessed against the following Investment Criteria at both a portfolio and asset level

- Location
- Quality
- Tenure
- Portfolio blend
- Strength and security of Income
- Income and Capital growth potential
- Potential Landlord Liabilities

[1] MRICS or FRICS

- Identifiable Risks
- Development and added value opportunities
- Economic, Regeneration and other Key Council priorities

6.3 All proposed acquisitions will need to be the subject of a Business Case which will be created in conjunction with the Council's Finance team. The report will consider both the Financial and Investment Criteria

6.4 The Business Case will be presented to the Investment Committee which will be made up of the Council Leader, Deputy Leader, Cabinet Member for Resources and the Leaders of the two largest opposition parties (political balance 3:1:1). The Committee will be advised by the Resources Chief Officer and Officers from Finance, Estates and Legal Services.

6.5 The Investment Committee will have delegated authority to make prudent decisions on the acquisition of investments utilising the £50,000,000 allocated borrowing. There will need to be 3 members in attendance for the meeting to be deemed quorate.

6.6 All acquisitions will be subject to

- An independent valuation report supporting the purchase price
- Satisfactory building survey and assessment of economic life
- Satisfactory report on title

7. Review Principles

7.1 An annual performance review of the Investment Committee and any acquisitions will be undertaken and reported to Audit Committee to ascertain performance against the following criteria:

- Governance arrangements and adherence to policy
- Relevant Market indexes
- Property performance locally
- Capital, Income and Total returns.

The Investment Strategy will be reviewed annually and adjusted to reflect prevailing market circumstances.

7.2 In the event that a property holding is deemed to be underperforming or fails to meet any debt repayment costs, a review will be undertaken to determine:

- The potential to increase the revenue generated or reduce holding costs
- The anticipated sale value of the asset

7.3 If it is determined that the net sale value will realise a receipt in excess of the purchase price and that there is little potential to increase the revenue then the asset will be sold. If however the net sale value will not realise a value equal to or in excess of that originally paid the asset will be retained until such time the capital value has increased. All income and expenditure will be funded and managed by the Estates Team.

7.4 Where the asset is located away from the County or has specific management skill requirements, external agents may be instructed to manage it on our behalf, all costs incurred will be deducted from the gross annual return.

8 Risks

8.1 As with all investment opportunities the property market will be subject to fluctuations which will result in either increases or decreases to the rental value and the resultant capital value.

8.2 Illiquidity - In the event that a property needs to be sold to generate capital funds the disposal process will generally take in the region of 6 – 12 months to complete, dependent on the prevailing market conditions.

8.3 Commercial property will require management to safeguard the physical condition of the asset and the landlord tenant relationship. Regardless of contractual arrangements there will always be the risk of tenant default.

9. Purchasing and Finance.

9.1 - The Council benefits from the ability to access funding from the PWLB at relatively low interest rates and fixed repayment terms enabling the acquisition of land & property assets

9.2 - Alongside the purchase price the Council will incur fees at the point of purchase such as Legal and specialist fees, Land Transaction Tax and VAT. In the event no revenue funding is available these will be treated as Capital costs and aggregated into the total borrowing required.

9.3 A fund will be created to top slice net rental income to manage repairs, maintenance, staff resources and improvements, to prevent the portfolio becoming a net cost to the authority.

10.1 - Governance & Purchase Flow Chart

Identification of potential investment opportunity & collation of information

Creation of an Outline Business Case to establish viability of proposal and evidence that the Financial and Investment Criteria are met

If the Outline Business case is met, an officer within the Estates team or nominated agent will seek approval from the Investment Committee to submit a conditional offer (contract, due diligence & Member approval) and draft Heads of Terms

Finalise the Full Business Case, seek approval to proceed based on the delegations outlined in the policy and commission surveys to undertake due diligence

Commence legal process for purchase of the investment. Until exchange of contracts, all negotiations and investigations will be on a 'subject to contract' basis.

Exchange contracts. Council now financially committed to purchase.

Pre completion searches and arrange draw down of funds to complete transaction.

Post completion - payment of Land Transaction Tax and other fees, make arrangements for rental payments and ongoing property / portfolio management.

Complete Transaction, assume liability for the property. Update relevant colleagues internally and update terrier and other databases.

Undertake annual assessment to review financial return and compliance with policies outlined in this policy.