Property Acquisition & Investment Policy

September 2019

Property and Facilities

milton keynes council

Contents

Version Control

Version Number	Date issued	Author	Update information
1	27/09/2019	Bee Lewis/ Peter Beer	First published version

Introduction

This policy applies to the acquisition of all interests in any non-residential property. It sets out procedures that are designed to be open, transparent and consistent, to ensure maximum benefit from the effective purchase and subsequent management of the Council's assets. Within this context, the policy will ensure the Council achieves best value, acts within the appropriate legal framework, considers whole life costs and operates in a demonstrably fair and open manner.

Milton Keynes Council's (MKC) powers to acquire land are governed by law. Section 120 of the Local Government Act 1972 permits Councils to acquire land whether situated inside or outside their areas for the purpose of any of their functions or for the benefit, improvement or development of their area. Within this legal framework, the Council holds property in order to meet its corporate objectives and to deliver services for the borough of Milton Keynes.

Local authorities also have the ability to invest for a commercial purpose under the "general power of competence", a free standing power afforded by section 1 of the Localism Act 2011. This power enables Local Authorities (LA's) to do anything an individual may do, subject to a number of limitations. These limitations include fiduciary duties and public law requirements to exercise the power of competence for a proper purpose.

Property and Facilities Team

The Property and Facilities Team will lead on all commercial property acquisitions on behalf of MKC. The service will:

- Work within the guidelines of this policy and relevant delegated authority at all times;
- Seek opportunities that will further the corporate aims and objectives of MKC;
- Ensure the local property market and relevant external influences are monitored for market risk;
- Ensure MKC’s property portfolios exploit opportunities with partner organisations to maximise opportunity benefits;
- Work strategically with our partners to ensure that we learn from our common experience and share best practice.

Rationale for investing in property

The Council faces substantial financial challenges and funding shortfall. It is operating in an environment of decreasing central government support and an increasing demand on services. It is vital we think differently in many areas, particularly in our approach to generating sustainable new incomes as well as enhancing current incomes. Without a new approach it is inevitable our communities will be impacted through significant service reductions.

Property assets have the potential to be a key enabler to generating income and can contribute significantly to reducing future funding deficits. Creating a pipeline of opportunities with a structure, governance and key metrics will enable us to understand opportunities and risks and take steps to secure potential long term sustainable incomes.

The Council currently has an investment property asset base which delivers a significant income stream into the Council. It can also access further capital with no current limits on prudential borrowing provided there is a clear mechanism to service that borrowing and repay the capital. The Council can look at rationalising the existing portfolio, particularly low yielding assets, in order to reduce holding costs and generate capital for investment into new higher yielding assets, or use reserves or borrowing for the same.

The core objectives for investing in commercial property are:

- To invest in commercial property to generate a sustainable and predictable investment return.
- To acquire standing commercial investments to generate an immediate income
- To provide a return with a clear margin over the cost of capital that is sustainable and offers potential to increase income through future rental growth.
- To achieve an even balance of risk and return through a diverse portfolio.
- To acquire investment grade properties possessing characteristics to preserve value and retain liquidity.

MKC has an aspiration to create a balanced portfolio of investment assets. The portfolio will be financed primarily through a mixture of capital receipts and prudential borrowing.

The intention is to acquire/ develop a diverse portfolio with a balance between risk and return. Assets are assumed to fall within 4 main categories:

- Core – lower yielding, lower risk, with limited added value i.e. modern buildings let on FRI terms to a strong covenant with unexpired lease terms of say 10 years +
- Core (Development) – Higher risk and managed/ mitigated by pre-lets to strong covenant companies on leases of 10+ years. Superior returns and ability to create 'Core' investment class.
- Core plus – higher yield (risk) but with added value opportunities i.e. modern buildings let to mix of medium strong covenants with unexpired terms of say 5-7 years but with the opportunity for increased rental income on renewal / re letting.

When looking for income security and income growth an emphasis is placed on assets where the yield is stable or can be improved.

Compulsory Purchase Orders

There may be times when the Council needs to utilise Compulsory Purchase Orders (CPO) to acquire land for specified purposes. CPOs do not form part of the acquisition and investment strategy as the procedure for exercising a CPO is directed by the Acquisition of Land Act 1981, and this statutory procedure must be strictly observed. In the event that these powers are exercised, compensation is payable to the landowner in accordance with the Land Compensation Act 1961.

The Council may acquire land by agreement either as an alternative to CPO or in the general exercise of their statutory powers, and these efforts will always be encouraged. The ability to acquire land by agreement is provided by S227 of the Town & Country Planning Act 1990 in the case of a specific alternative to compulsory purchase and, more generally, by S120 of the Local Government Act 1972. Where the Council has the ability to acquire land compulsorily, acquisitions by agreement are often referred to as 'acquisitions under threat of CPO'. It will be assumed that the Council was prepared to utilise powers of CPO unless the land was publicly or privately offered for sale immediately before negotiations.

The Council will need to be satisfied that the purposes for which a compulsory purchase order is made justified interfering with the human rights of those with an interest in the land affected. Particular consideration will therefore need to be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights.

Process

The property market will be monitored and analysed to identify suitable property acquisitions. In some cases there will be liaison with the planning authority in order to assess any future development potential.

- The Head of Property and Facilities will produce a business case prior to any acquisition. It must:
    - clearly set out the reasons, benefits, risks and financial implications of any proposed acquisition.
    - summarise tenancy, covenant and other known legal factors related to the proposed purchase as set out within the strategy principles.
    - demonstrate that the acquisition is in line with the aims of the Corporate Property Strategy and achieves best consideration.
    - identify known urgent maintenance or improvement works directly related to the acquisition.
    - identify if the acquisition is based in full or part on future hope value of obtaining planning consent, and what discussions have been had, if any, with the planning authority in this regard.
- The business case will be submitted to the Corporate Leadership Team (CLT) and Strategic Property Board (SPB) for consideration and approval prior to any detailed works or negotiations being undertaken, followed by a report seeking financial authority to proceed.
- Estates will enter into negotiations on behalf of the Council but decisions must be made in line with the relevant delegated authority. Approval of Heads of Terms must be sought from the Head of Property and Facilities.

Funding and budget will be identified before any acquisition is actively pursued (post-negotiation) or any costs incurred. Purchase costs must not exceed the agreed acquisition budget unless consent has been given in line with the relevant delegated authority

Authority

Authority to acquire property will be given by either Cabinet or the relevant Lead Member. This authority may be delegated to senior officers in consultation with Members and the Section 151 officer.

Principles of Acquisition

Yield

The yield from investment opportunities should achieve a return to MKC at a specific percentage above the cost of capital borrowing, after servicing the purchase costs, to be agreed on a case by case basis by the relevant Section 151 Officer.

Due Diligence

Due diligence checks are to be carried out prior to any acquisition as part of the business case, to include (but not limited to) the analysis of:

a. The minimum length of the unexpired lease terms;

b. Tenant covenant strength and credit checks;

c. Asset maintenance liability and building condition;

d. Legal encumbrances, including 3rd party rights and covenants;

e. Planning and/or regeneration potential;

f. Technical due diligence.

Where the business case is strong enough, acquisitions may occur outside of the Borough boundaries in accordance with S120 of the Local Government Act, 1972.

Risk Spread

Property investment risk is to be spread over a range of property assets to include:

- *Retail* – risks to be mitigated by selecting schemes in the right locations;
- *Commercial* – with opportunities for conversion, or part-conversion to residential.
- *Industrial* – risks to be mitigated by selecting schemes in good locations and where future capital investment costs are identified.

Property and Facilities will keep a database of commercial properties to demonstrate the number of, and income from, each portfolio so that investment risk is spread effectively.

Property and Facilities

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