



## Housing and Growth Committee

25 January 2021

**Title** **Proposed Asset Acquisition Strategy**

**Report of** Chairman of Housing and Growth Committee

**Wards** All

**Status** Public

**Urgent** No

**Key** Yes

**Enclosures** Appendix A - London Borough of Barnet Asset Acquisition Strategy

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### Summary

This report seeks approval for the proposed London Borough of Barnet Asset Acquisition Strategy attached as Appendix A to this report.

## Officers Recommendations

### 1. That the Committee approves the Asset Acquisition Strategy document.

#### 1. WHY THIS REPORT IS NEEDED

- 1.1 To discuss with a view to approving the proposed Asset Acquisition Strategy document.

#### The Proposal

- 1.2 This proposal sets out the strategy for the acquisition of real estate assets by LBB. The purpose of the attached document, therefore, is to set out the strategy of LBB for how these assets will be acquired, how risk will be identified and managed, how both current and future income generating assets will be managed and how overarching governance arrangements will be deployed. It covers the following:

- Objectives and Strategic Priorities
- Risk
- Portfolio mix
- Governance and performance reporting arrangements
- Management of the portfolio
- Funding and financial performance of the portfolio
- Returns & Investment evaluation criteria
- Performance indicators & monitoring of the portfolio
- Acquisition procedure

#### Governance process

- 1.3 An internal officer governance board will be established to oversee the acquisition and management of assets (where they represent a short to medium-term investment), once approved by relevant committee / delegated officers. It is envisaged this board will report to Housing & Growth and Policy & Resources Committees, as appropriate.

#### 2. REASONS FOR RECOMMENDATIONS

- 2.1 There has previously been no uniform approach to acquisitions or management of non-operational properties.
- 2.2 The Council have therefore set out a rationale for acquiring assets through this strategy. Indicators include, but are not limited to:

- Strategic Acquisitions that align to LBB Growth Strategy and Barnet Plan 2025
  - Assets which facilitate regeneration projects, whilst providing no detriment to the general fund.
  - Sites that are considered distressed and require long-term public-sector intervention
- 2.3 The Strategy set out by the Council will be compliant with the Prudential Code for Capital Accounting (“the Code”). The strategy will also be compliant with the MHCLG Statutory Guidance on Local Government Investments<sup>2</sup> (“MHCLG Guidance”).
- 2.4 On the 25<sup>th</sup> November 2020 as part of the national spending review PWLB rates were reduced by 1% to return them to the previous October 2019 levels. The use of PWLB borrowing has been reformed to cease the use of borrowing for investment property bought primarily for yield, which presents a risk for both national and local taxpayers. The Council would only purchase properties for the appropriate reasons (regeneration and other socio-economic benefits), in compliance with the Prudential Code, and the general fund will be protected by breaking even in the first years of an investment and maintain a positive position ongoing prior to regeneration occurring.

### **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 The alternative is to continue as at present where there is no uniform approach to acquisition or management of non-operational properties. The other alternative is to not buy anything, which would render LBB unable to deliver regeneration and infrastructure improvements to the Borough.

### **4. POST DECISION IMPLEMENTATION**

- 4.1 The following will occur:
- Implementation of the strategy
  - This Strategy will form part of the Council’s Capital Strategy documents
  - Internal governance arrangements will be established
  - All potential acquisitions will be tested against the parameters contained within this strategy
  - The review of the existing portfolio will continue and further recommendations arising from this will be brought back to the Housing and Growth Committee at the appropriate time

### **5. IMPLICATIONS OF DECISION**

#### **5.1 Corporate Priorities and Performance**

- 5.2 This Strategy supports the vision and objectives as set out in Barnet 2025 Corporate Plan:
- A well maintained and pleasant borough that we protect and invest in
  - Safe and strong communities where people get along well
  - Our residents live happy, healthy, independent lives with the most vulnerable protected

3.2 The proposals that emerge from the Barnet 2025 plan will be reviewed and reflected in the investment strategy going forwards. This Strategy links to the key themes of:

- Thriving
- Clean, Safe and Well Run

3.3 The Strategy has links to other Council documents:

- Capital Strategy
- Medium Term Financial Strategy
- Treasury Management Strategy
- Growth Strategy

3.4 The Council will use the asset acquisition strategy to support wider strategic objectives in the Borough as outlined in the Barnet Plan.

3.5 The Council aims to support the regeneration and economic vitality of the Borough in accordance with Corporate objectives.

5.4 **Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability).**

5.4.1 **Finance and value for money**

All potential acquisitions will be assessed against the proposed strategy, and value for money considerations will form part of this assessment. Following the internal protocols outlined in the paper, if an acquisition is made under delegated powers, the property purchase will normally be funded from the Strategic Opportunities Fund and brought back to the relevant chief officer with existing delegation under Table A and article 10 of the constitution for approval. If the value of the acquisition is outside of the financial threshold of the remit of Table A of the constitution, then a committee report will be required

The General Fund impact from an asset acquisition (short or medium-term) must, at a minimum, break-even during the early years with a net positive impact over the life of the asset acquisition.

A 'hurdle rate' of 5% net yield will be required on commercial assets. If an asset is being required for development, a return of at least 15% is proposed.

5.5 **Staffing**

5.5.1 On-going investment in and management of the commercial portfolio is equally as important as the acquisition process for each asset. It is therefore recommended, subject to affordability, that an Asset Portfolio Manager is appointed, together with an Estates Project Officer, and that they appoint specialist managing agents and development or construction partners to manage each property by sector and tenant type, as appropriate.

## 5.6 Risk Management

Investments will comply with the Prudential Code whilst generating returns for the General Fund and providing other socio-economic benefits for the Borough.

There are a number of risks with acquisitions that will sought to be mitigated prior to each purchase. These are listed in some detail in the attached paper, and include:

1. Political
2. Economic
3. Social
4. Technological
5. Legal
6. Environmental
7. Property-related
8. Financial
9. Corporate & Governance

A comprehensive risk register will be maintained by the sub-Board and reported as part of the governance arrangements.

## 5.7 Property

- 5.7.1 The overarching aim of this programme is to achieve the best outcomes in relation the council's assets.

## 5.8 Social Value

- 5.8.1 Outcomes attached to acquisitions will align with social outcomes desired in the future, as set out in the Corporate Strategy.

## 5.9 Legal and Constitutional References

- 5.9.1 Council Constitution Article 7.5 states that the remit of the Housing and Growth Committee includes responsibility for regeneration strategy and oversight of major regeneration schemes, asset management, employment strategy business support and engagement

The Council Constitution, Article 10 Table A states that Housing and Growth Committee is responsible for authorising all acquisitions and disposals over 500K.

- 5.9.3 Additionally the council has the power to acquire and dispose of land in accordance with Sections 120 to 123(2A) of the Local Government Act 1972, and subject to obtaining all appropriate consents and approvals.

- 5.9.4 The Constitution- Article 9.1 (b) - Chief Officers – Management Structure- Delegated Authority to Chief Executive and Chief Officers states (i) Chief Officers (Deputy Chief Executive, Assistant Chief Executive, Strategic Director for Adults Children and Environment, Director of Resources) have the delegated powers in respect of all matters which are not key decisions (as defined in Article 2) and not

reserved for decision by the Council or by a Committee of the Council as set out therein.

5.9.5 The Council has a range of powers including the general power of competence under Section 1 of Chapter 1 of the Localism Act 2011 to do anything that individuals can do subject to any specific restrictions contained in legislation and Section 111 of the Local Government Act 1972 which provides that a local authority has power to do anything which is calculated to facilitate, or is conducive or is incidental to, the discharge of its functions.

5.9.6 The Council will need to consider, comply with and obtain any statutory and legal requirements /consents to give effect to the proposed acquisition or option.

5.9.7 In respect of any disposal and land arising from this Strategy; unless there is a general consent available which dispenses with the need to obtain express consent from the Secretary of State the following provisions will apply:

5.9.7.2 s 123 (2) of the Local Government Act 1972, to any disposals arising from this provisions of this Strategy states that, except with the consent of the Secretary of State, a council shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than best that can be reasonably obtained;

5.9.7.3 Section 123(1) of the Local Government Act 1972 permits Councils to dispose of land in any way they wish but this is subject to any other statutory consents which may apply to that disposal.

5.9.8 Procurement of public works and services contracts over the relevant value thresholds must observe the requirements of the Public Contracts Regulations 2015, to include the placing of OJEU notices where such contracts are not drawn down from a compliant framework. The Public Services (Social Value) Act 2012 requires the Council to consider whether it can achieve an improvement to the economic, social and environmental well-being of an area as part of the procurement of these services. If so, the social value objectives identified must be written into the procurement process. All of this must be achieved with regard to value for money and in a way that is compliant with existing public procurement law. "Social value" objectives can include the creation of employment, apprenticeship and training opportunities for local people, trading opportunities for local businesses and the third sector through contract delivery.

## **5.91 Equalities and Diversity**

5.10.1 Under the 2010 Equality Act, the Council must have due regard to the need to: a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act: b) advance equality of opportunity between those with a protected characteristic and those without; c) promote good relations between those with

a protected characteristic and those without. The 'protected characteristics' referred to are: age; disability; gender reassignment; pregnancy and maternity; race; religion and belief; sex; sexual orientation. It also covers marriage and civil partnership with regards to eliminating discrimination.

5.10.2 The proposal is aligned with the Barnet 2025 Corporate Plan and does not raise any issues under the Council's Equalities Policy and does not have a bearing on the Council's ability to demonstrate that it has paid due regard to equalities as required by the legislation under the Equalities Act. No immediate equality impacts are anticipated as a result of this preliminary proposal and equality impact assessments will be undertaken at each stage of the development of the proposal as necessary.

5.10.3 An equalities assessment will be undertaken as necessary for each acquisition to be considered.

### 5.11 **Corporate Parenting**

5.11.1 None in the context of this report

### 5.12 **Consultation and Engagement**

5.12.1 Councillors will be consulted prior to the proposed acquisition of assets.

### 5.13 **Insight**

5.13.1 None in the context of this report.