

	<h2>Housing and Growth Committee</h2> <h3>5<sup>th</sup> September 2022</h3>
<b>Title</b>	<h2>Proposed Amendment to Asset Acquisition Strategy</h2>
<b>Report of</b>	Chair of Housing and Growth Committee
<b>Wards</b>	All
<b>Status</b>	Public
<b>Urgent</b>	No
<b>Key</b>	Key
<b>Enclosures</b>	Appendix A – London Borough of Barnet Acquisition Strategy
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<h2>Summary</h2>	
<p>This report seeks approval for proposed amendments to the London Borough of Barnet Asset Acquisition Strategy, which was approved by Housing and Growth Committee in January 2021, and is attached as Appendix A to this report.</p>	
<h2>Officers Recommendations</h2>	
<p>The Committee approves the changes to the Asset Acquisition Strategy document.</p>	

## **1. Why this report is needed**

1.1 To seek approval for the proposed amendments to the Asset Acquisition Strategy document. The aim of the revised strategy is to articulate why acquisitions and disinvestments / disposals are sometimes necessary and to detail how such transactions should be executed, when they are justified.

### **1.2 Background to the Proposal**

1.2.1 The council, as both the Local Authority and an existing landowner, can use its position in the borough to acquire assets for regeneration, which may create synergies with the council's existing estate and assets. An example of this is the systematic purchasing of land and interests around the Brent Cross Town (BXT) regeneration area, including the purchase of the Brent Cross South retail park for its strategic marriage value to the BXT scheme.

The London Borough of Barnet will, from time to time, have the opportunity to secure strategically important and / or distressed assets, which require public-sector interventions. On occasion, these may be income producing, as a secondary consideration.

Under certain circumstances, the council may also purchase assets outside the borough, as is currently the case via The Barnet Group's housing acquisition programme. There is also a similar case for a solar installation, providing green energy for the borough, whilst offsetting residual carbon emissions.

Good asset management requires that the performance of the built asset portfolio should be continually monitored, both as to the composition of the portfolio and its financial performance. An exercise is being constantly undertaken to review the current and future performance of the commercial assets to inform sell, retain or manage decisions.

From time to time, arising from the review process, there may be a requirement to sell properties, in particular to facilitate housing construction. The revised strategy also proposed how these should be identified and managed.

### **1.3 Governance Process**

- 1.3.1 An internal officer governance board has been 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. This board, which reports into Housing & Growth and Policy & Resources Committees as appropriate, has requested the preparation of this paper.
- 1.3.2 All acquisitions will be subject to the requirements for business case building and governance in line with the published Capital Strategy. A business case justification will be used, in compliance with the Treasury Green Book, which will include a financial appraisal to the Treasury Green Book standard and justification, signed off by the Section 151 Officer or their delegated officer. It will also include a management case, including risk management and the modelling of multiple exits.

## **2 Reasons for recommendations**

2.1 The market, particularly in Town Centres, has materially changed since the council last published its Asset Acquisition Strategy. This, along with policy changes effected after

the Local Elections in May 2022, have prompted officers to fundamentally review the previous strategy approved by Housing and Growth Committee in January 2021.

2.2 The revised Strategy set out by the council will continue to be compliant with the Prudential Code for Capital Accounting (“the Code”). The strategy will also continue to be compliant with the Department for Levelling Up, Housing and Communities (DLUHC) Statutory Guidance on Local Government Investments<sup>2</sup> (“DLUHC Guidance”).

### **3 Alternative options considered and not recommended**

3.1 The alternative is to continue to operate under the approved Asset Acquisition Strategy which does not cater for the changing market in Barnet’s town centres plus the potential acquisition of renewable energy, and does not cover disinvestment / disposals.

3.2 The other alternative is to not buy any additional land or property, which would potentially render LBB unable to deliver regeneration and infrastructure improvements to the Borough, unable to protect against market failure and potentially unable to invest in renewables for the financial and social value that brings.

### **4 Post decision implementation**

4.1 The following will occur:

Implementation of the amended 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 and the previously approved strategy document

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

All individual acquisitions and disposals will have their own business case prepared, to be taken to members for approval, as appropriate in accordance with the LBB constitution.

### **5 Implications of decision**

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

5.1.1 This Strategy supports the vision and objectives as set out in the 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.

5.1.2 This Strategy links to the key themes of:

- Thriving
- Clean, Safe and Well Run

### 5.1.3 This Strategy has links to other council documents:

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

5.1.4 The council will use this strategy to support wider strategic objectives in the Borough as outlined in the Barnet Plan.

5.1.5 The council aims to support the regeneration and economic vitality of the Borough in accordance with Corporate objectives

5.1.6 A Sustainability Strategy is currently being developed which will provide the overarching sustainability goals for the council and will pull together strategies and activities that support and promote sustainability. The Sustainability Strategy Framework was approved by Policy and Resources Committee on 9 December 2021 and lays the groundwork for the forthcoming Sustainability Strategy. It is anticipated that contained within that strategy there may be strategic priorities that support sustainability and require acquisitions. It is therefore considered that it is appropriate for this strategy to now cover this as well.

## **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

### **5.2.1 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 (SOF) and brought back to the relevant chief officer with existing delegation under Table A of article 10 of the constitution for approval. If the value of the acquisition exceeds £500,000 then pursuant to Table A of the constitution, a committee report will be required.

The council's SOF budget is currently £13m, funded by unsupported borrowing. This budget will not be increased, however it may be replenished when used to fund acquisitions that are self-financing and budgets are subsequently created for those assets following the proper governance mechanisms.

The aim is for all acquisitions to be General Fund neutral or accretive. There may be occasions where this may not be achievable, but there may be other social, economic or regeneration reasons for the acquisition. This would need to be justified by way of a business case to be taken to Housing and Growth Committee / Policy and Resources Committee for approval..

Compliance with the Prudential Code must be maintained whenever the council is financing acquisitions, irrespective of the rationale to invest.

If circumstances exist where market failure necessitates local authority intervention, or there are regeneration benefits, these benefits may be realised over the medium to long term when compliance with the Prudential Code can be proven.

It is proposed if any exception from the financial criteria set out in the Asset Acquisition strategy document is to be made, the case must be presented to the s151 Officer who will initially judge whether an exception can be made based on the following criteria:

- Whether there are regeneration benefits & what the timescale is of these
- Whether there is deemed to be market failure
- Justifications for purchase could include (but not exclusive):
- Whether essential town centre uses could be included (for example, workspace and other uses)
- There is a compelling case to provide property to meet inward investment requirements
- There is a compelling regeneration case
- There is a compelling sustainability case for renewable energy

### **5.2.2 Staffing**

On-going investment in and management of the commercial portfolio is equally important as the acquisition process for each asset. An Asset Portfolio Manager has therefore been appointed. This officer will appoint specialist managing agents and development or construction partners to manage each property by sector and tenant type, as appropriate.

## **5.3 Legal and Constitutional References**

- 5.3.1 Council constitution Article 7.5 states that the remit of the Housing and Growth Committee includes housing (including housing strategy; homelessness; social housing and housing grants; private sector housing and leasing; housing licensing and enforcement; HRA Revenue Account and capital programme); regeneration strategy and overseeing major regeneration schemes; asset management; development of council land; fire safety; economic development including employment strategy; business support and engagement; and town centres.
- 5.3.2 The Council Constitution, Article 10 Table A states that Housing and Growth Committee is responsible for authorising all acquisitions and disposals over 500K.
- 5.3.3 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 appropriate consents and approvals.
- 5.3.4 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, Executive Directors for Adults, Assurance, Children and 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.
- 5.3.5 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.

- 5.3.6 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.
- 5.3.7 In respect of any disposal of 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:
- 5.3.7.1 S123 (2) Of the Local Government Act 1972 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;
- 5.3.7.2 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, including section 123 (2) mentioned above.

## **5.4 Insight**

- 5.4.1 None in the context of this report.

## **5.5 Social Value**

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

## **5.6 Risk Management**

- 5.6.1 Investments will comply with the Prudential Code whilst generating returns for the General Fund and providing other socio-economic benefits for the Borough.
- 5.6.2 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 original Asset Acquisition Strategy, and include:
- Political
  - Economic
  - Social
  - Technological
  - Legal
  - Environmental
  - Property-related
  - Financial
  - Corporate & Governance
- 5.6.3 A comprehensive risk register will be maintained by the sub-Board and reported as part of the governance arrangements.

## **5.7 Equalities and Diversity**

- 5.7.1 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.

- 5.7.2 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.
- 5.7.3 An equalities assessment will be undertaken as necessary for each acquisition to be considered.

## **5.8 Corporate Parenting**

- 5.8.1 None in the context of this report

## **5.9 Consultation and Engagement**

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

## **5.10 Environmental Impact**

- 5.10.1 All acquisitions will be assessed as to their environmental impact – including source of heating and cooling, building fabric and insulation, and improvements will be made, where possible, to improve this. Existing commercial leases may constrain the improvement of properties, but for new leases, clauses will be included where possible to put reasonable obligations on the council's tenants to comply with environmental legislation and to allow the landlord to enter to comply with the same.

## **6 Background papers**

- 6.1 The Asset Acquisition Strategy paper is attached.

