

	<h2 style="margin: 0;">Housing and Growth Committee</h2> <h3 style="margin: 0;">5th September 2022</h3>
Title	<h3 style="margin: 0;">Strategic Opportunities Fund – amendment to the principles for use</h3>
Report of	Chair of Housing and Growth Committee
Wards	All
Status	Public
Urgent	No
Key	Key
Enclosures	No
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Summary

This report seeks approval for proposed clarifications to the principles of the Strategic Opportunities Fund (SOF), that was previously approved by London Borough of Barnet in 2017.

In summary, the revised principles are:

- The purpose of the fund is to facilitate the agile acquisition of sites for future housing and non-housing developments and / or to help unlock existing development opportunities.
- The available fund will vary, depending on in-year expenditure but where possible, any expenditure will be returned to the fund, once a dedicated budget has been created.
- The real estate must be suitable for development in its own right or must add value to an adjacent development.

- There must be a professional valuation, justifying the purchase cost, in line with the council's extant strategic objectives.
- There must be a financial model, approved by the Executive Director of Strategy and Resources (S151 Officer), that demonstrates that the proposed acquisition results in a positive impact on the General Fund, unless other benefits, such as wider social or economic impacts, provide sufficient justification.
- Once an acquisition has been made, at the next opportunity in the budget setting cycle, a dedicated capital budget is to be created and a recharge actioned to reimburse the SOF, unless the net impact to the council of the acquisition is to increase capital financing. In this case the SOF will not be reimbursed.
- There needs to be a clear exit strategy for any acquisition e.g., should a scheme not progress then the site could be resold on the open market. Should this be the case, the aim will be to ensure that the proceeds of disinvestment are to be at least equal to those the council expended in acquiring the asset.

Officers Recommendations

- 1. That the Committee approves the changes to the Strategic Opportunities Fund principles.**

1. Why this report is needed

1.1 To present proposed changes to the principles of the Strategic Opportunities Fund.

1.2 Introduction

1.2.1 The Asset, Regeneration and Growth Committee approved the establishment of a Strategic Opportunities Fund (SOF) in April 2017 [Strategic Opportunities Fund.pdf \(modern.gov.co.uk\)](#).

The purpose of this fund was to facilitate the purchase of sites to facilitate a sustainable pipeline for future housing and non-housing developments or to help unlock existing development opportunities. As part of the overall capital budget agreed by Policy & Resources Committee on 23rd February 2017, and Full Council on 7th March 2017, there was an approved SOF budget of £20m, for key real estate acquisitions.

1.2.2 The fund was created to make sure that the council could be agile and competitive when striving to acquire sites, with the rationale that the acquisition of viable development sites is a competitive business. It was recognized that the council needed to be in a position to make an offer in a much shorter timescale than normal budget approval processes would permit. Therefore a £20m generic budget was approved in the Capital Programme, for the acquisition of key real estate to enable development. The fund is a 'revolving' facility, not a long-term investment fund, in that spending power will be returned to the fund once properties have been transferred into a development scheme. In the case of a site being transferred to an external developer, this will be at best value. The principles for the use of the fund were originally:

- The real estate must be suitable for development in its own right or must add value to an adjacent development.
- There must be a professional valuation justifying the purchase cost in line with the Council's strategic objectives set out in this report. The cost must be within the budget agreed in the Capital Programme.

- There must be a business case that clearly sets out the financial rationale behind the purchase. This will describe the principles of the acquisition and the tangible benefits.
- There needs to be a clear exit strategy for the fund. This means that once a scheme reaches the stage where approval is sought to enter into a construction contract, development funding would be sought and the value of acquisition costs expended would be returned to the strategic opportunities fund. Should a scheme not progress then the site can be resold on the open market.
- Any acquisitions approved will be reported to the Assets, Regeneration and Growth (ARG) Committee as part of a regular Assets, Land and Property Transactions report. Once a scheme has been developed, the outline business case will also be submitted to ARG Committee for consideration.

1.3 Revised Principles

These principles have subsequently been revised, in order to better suit the current objectives. It is proposed that they now be:

- The purpose of the fund is to facilitate the agile acquisition of sites for future housing and non-housing developments and / or to help unlock existing development opportunities.
- The available fund will vary, depending on in-year expenditure but any expenditure will be returned to the fund, once a dedicated budget has been created, recognising that reimbursing the fund may not be possible in all cases, e.g. where the council acquires land because it has wider social benefits but doesn't bring a net gain
- The real estate must be suitable for development in its own right or must add value to an adjacent development.
- There must be a professional valuation, justifying the purchase cost, in line with the council's extant strategic objectives.
- There must be a financial model, approved by the Section 151 Officer, that demonstrates that the proposed acquisition results in a positive impact on the General Fund, unless other benefits, such as wider social or economic impacts, provide sufficient justification.
- Once an acquisition has been made, at the next opportunity in the budget setting cycle, a dedicated capital budget is to be created and a recharge actioned to reimburse the SOF. Exceptions to this recharging process are highlighted above.
- There needs to be a clear exit strategy for any acquisition e.g. should a scheme not progress then the site could be resold on the open market. Should this be the case, the aim will be to ensure that the proceeds of disinvestment are to be at least equal to those the council expended in acquiring the asset.

It is proposed that the total amount of the fund (currently c£13m in 22/23) will remain and that all the conditions for purchases, detailed above, remain.

1.4 Background

- 1.4.1 When the Strategic Opportunities Fund (SOF) was previously approved its purpose was to support regeneration and town centre activities – both of which are still relevant. However, it is now considered that there will be other priorities for the Council where the Strategic Opportunities Fund may be needed to be used for acquisitions, especially in this competitive market. More specifically, for acquisitions for operational property for Services within the Council, and also to support the emerging Sustainability Strategy.
- 1.4.2 The original budget of £20m was increased to £24m, and £11m of this budget has subsequently been repurposed to support urgent works pertaining to the Care Homes at Meadowside and Dellfield Court. The SOF currently stands at £13m and it is expected to support the council's aspirations in Town Centres and wider regeneration and sustainability. Whilst the SOF has not been used directly to 31 July 2022, the principles for which it was provided were tested successfully with the strategic acquisition of the Brent Cross South Retail Park.
- 1.4.3 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.
- 1.4.4 In addition, some Services require property to support their operations. Examples include property required for both Family Services and Adult services which tend to be urgent requirements that need to be fulfilled quickly
- 1.4.5 All acquisitions will comply with the Council's Asset Acquisition Strategy (appended in Appendix B) and the requirements contained therein.
- 1.4.6 It is therefore requested that the Strategic Opportunities Fund can be used for any property acquisitions, following the processes contained within the Asset Acquisition Strategy

1.5 **Governance Process**

Governance will follow the processes contained with the Asset Acquisition Strategy. 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 reports into Housing & Growth and / or Policy & Resources Committees as appropriate.

Acquisitions for the provision of council services will have an additional layer of governance where business cases will need to be prepared and presented to the Directorates' relevant governance board

2. **Reasons for recommendations**

- 2.1 Changes in the local area pertaining to available opportunities and the maturing Sustainability Strategy and focus on Town Centre investment necessitates a widened use of the Strategic Opportunities Fund to cater for the change in requirements since the previous paper was approved.

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

- 3.1 The alternative is to continue to operate under the existing Strategic Opportunities Fund paper. This will not allow for the quick purchasing of assets for Services and to fulfil the Sustainability agenda and is therefore not recommended.

4. Post decision implementation

- 4.1 The following will take place:

- Adoption of the amended principles
- All potential acquisitions will be tested against the parameters contained within this document and the Asset Acquisition Strategy.

5. Implications of decision

5.1 Corporate Priorities and Performance

- 5.1.1 These revised principles support the Thriving priority as set out in Barnet 2025 Corporate Plan i.e: a place fit for the future, where all residents, businesses and visitors benefit from improved sustainable infrastructure & opportunity.

- 5.1.2 A Sustainability Strategy is currently being developed which will provide the overarching sustainability goals for the council and will pull together objectives 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.

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

5.2.1 Finance and value for money

The available approved budget in 2022/23 for the SSOF is £13m. This is wholly funded by unsupported borrowing and the costs of borrowing are captured in the council's Medium Term Financial Strategy (MTFS). Any additional resources will be subject to capital budget bids as part of budget setting and submitted to P&R for approval.

Any additional capital bid will be subject to a business case for investment as outlined in the Asset Acquisition Strategy. The expectation is for any acquisition under the SOF budget heading to be cost neutral to the General Fund at a minimum. Whilst there are exceptions outlined in this paper, the council is constrained by revenue resources available for service delivery, and as such where the revenue costs of capital exceed any income generated, the investment will be borne within the current SOF budget and not be replaced.

The council has a legal obligation to set a balanced budget each financial year, and it is good financial management to also set a 3-5 year MTFS. Use of the SOF is not expected to cause pressure to the General Fund, however, where costs do exceed planned resources officers will provide mitigating actions to constrain costs within existing resources.

All potential acquisitions will be assessed against the criteria contained within this document, and the Asset Acquisition and Disinvestment / Disposal Strategy. Value for money considerations will form part of this assessment. If an acquisition is made under delegated powers, the property purchase will be funded from the Strategic Opportunities Fund 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 is beyond delegated powers, then a

committee report (usually tabled at a specially convened Urgency Committee) will be required.

The aim is for all acquisitions to be at least General Fund neutral if not positive. There may be occasions where this is not achievable, but there are wider social, economic or regeneration reasons to undertake the acquisition. Any such acquisition will be presented for decision to invest at a future Housing and Growth Committee or Urgency Committee if approved through the governance laid out in the Asset Acquisition Strategy. There will be ongoing compliance with the Prudential Code, Treasury Management Code and Minimum Revenue Provision (MRP) guidance.

5.2.2 Staffing

5.2.2.1 It is anticipated that this strategy can be implemented within existing staffing arrangements.

5.2.3 Extensive due diligence, including surveys, will be carried out prior to any acquisition and it will be incorporated into the portfolio and managed as per its business case, with regular reviews, governed by the Property Review Programme Board.

5.2.4 It is the council's objective that all properties within its portfolio are as sustainable as possible and improvements will be made to achieve this at the appropriate time.

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 responsibility for 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.

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

5.3.2 The council has the power to acquire and dispose of land in accordance with Sections 120 to 123 of the Local Government Act 1972, and subject to obtaining all appropriate consents and approvals.

5.3.3 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.

5.3.4 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.

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

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 detailed in supporting business cases.

5.6 Risk Management

5.6.1 Investments will comply with Prudential Code.

5.6.2 There are a number of risks that will sought to be mitigated prior to each purchase. These are listed in some detail in the original Asset Acquisition Strategy, and include:

1. Political
2. Economic
3. Social
4. Technological
5. Legal
6. Environmental
7. Property-related
8. Financial
9. 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 regardsto 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 Attached – previous Strategic Opportunities Fund paper.