



**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL
ACQUISITIONS POLICY**

21 January 2015

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1.0 Introduction

1.1 The purpose of this policy is to set out a transparent and fair framework to be adopted in connection with the acquisition of land and property in accordance with the corporate and Housing Revenue Account (HRA) Asset Management Strategies (AMS).

2.0 Reasons for the acquisition of Land or Property

2.1 Unless there are exceptional circumstances, the Council will only acquire land or property for one or more of the following reasons:

- its contribution towards the provision of the Council's services and/or delivery of corporate aims
- for economic development purposes
- to provide affordable housing
- revenue income generation
- strategic acquisition for regeneration, development or redevelopment purposes
- to improve performance of any investment portfolio

3.0 Market Research

3.1 Once a need to acquire property has been identified, or an opportunity arises, market research will be carried out by the relevant Director, in consultation with the Head of Finance/S151 Officer and the corporate Asset Management Group, to establish whether suitable land or property is available on the market to fulfil this need.

3.2 Criteria against which any decisions are made in respect of an acquisition will include, where appropriate:

- price
- condition of property / land
- planning policy
- development constraints
- availability (in terms of timing)
- nature of tenure being offered (freehold or leasehold)
- occupational tenancies/vacant possession
- locational advantages (where a strategic acquisition is under consideration)
- return on investment (where a revenue generating asset is being considered)
- restrictive covenants / easements

- costs in-use for premises for Operational purposes
- cost to build, adapt or improve any premises and other costs relevant to the purpose
- meeting the Council's strategic priorities as outlined in the Local Plan, HRA Business Plan, Asset Management Strategy and/or other Strategies
- conditions around the spending of any commuted sums (in lieu of a s106 agreement) for acquisitions
- the powers under which the Council is acquiring the asset which will influence future uses, and where the asset sits within the Council.

3.3 Where a number of potentially suitable properties exist in the marketplace, robust comparisons will be made to establish which is the most suitable for the Council's needs using the criteria set out in paragraph 4 et seq.

4. Financial Appraisal

4.1 When a suitable property or site has been identified, a financial/feasibility appraisal will be carried out to establish the financial/budgetary implications of acquiring the asset at the quoted asking price. The advice of Finance will be sought regarding the financing of the acquisition and current rates of interest on capital invested, to enable the opportunity cost of the acquisition to be fully assessed. The Director will undertake a financial appraisal in conjunction with the Head of Finance/Section 151 Officer taking into account the following matters, where appropriate:

- the capital cost of acquisition and relevant expenditure
- the opportunity cost of acquisition
- any revenue, or potential revenue, generated from the asset, both short and long term
- availability of external funding sources
- internal resourcing required
- development procurement options including joint ventures
- risk assessment
- the cost, in asset management terms, of owning the property or site, including:
 - immediate maintenance/refurbishment requirements
 - demolition costs, if appropriate
 - adaptation requirements
 - ongoing maintenance/life cycle costs
 - national non-domestic rates including empty rates liability

- insurance
- Council Tax
- the overall effect of the expenditure on the Council's budgetary position.

4.2 The proposal, setting out the reasons for the acquisition, together with the business case and any other pertinent details (including valuation), should be presented in the first instance to Asset Management Group for approval to proceed with negotiations. Any formal offer to acquire an asset must be approved by the Corporate Leadership Team. Any capital expenditure must also be included in the Council's Capital Programmes prior to any commitment being made.

5. Due Diligence

5.1 Prior to purchasing, appropriate investigations will be undertaken into matters relating to:

- The legal title of the property
- Planning and Building Regulation compliance for the existing use and proposed purpose, including the potential designated use in the Local Plan.
- Other relevant statutory consents
- Pollution
- Existing construction and Mechanical and Electrical plant

6. Valuation

6.1 Valuation advice will be provided by the District Valuer or other suitably qualified surveyor (RICS). Appropriate informal advice shall be obtained prior to that to assist with assessing options and recommendations.

6.2 Where an acquisition is in respect of a major or complex site, additional independent valuation advice may also be sought. Independent advice is to provide a safeguard for the propriety of the Council's transaction. The advice may include assistance with negotiations with the vendor.

6.3 Where independent advice suggests that the true Open Market Value of the property is below, or equivalent to, the asking price and / or there are overriding factors which justify the purchase, a report shall be prepared for Cabinet by the relevant Director, in consultation with the Head of Finance/S151 Officer, seeking approval to continue with the proposed acquisition.

6.4 Where the acquisition is to be by way of a long lease, Finance will be specifically consulted to assess the implications regarding VAT, Capital Controls and Treasury Management.

7. Negotiation

7.1 Following preliminary investigations and where the possibility of an acquisition has been established at a capital value of £100,000 or more, or a periodic payment of £20,000 or more per annum, and the acquisition is to be paid for from funds other than commuted sums taken in lieu of affordable housing, the relevant Director, in consultation with the S151 Officer will prepare a report for Cabinet to obtain agreement in principle to proceed, identifying a budget for the acquisition, prior to a formal offer being made. If approval to proceed is given by Cabinet, negotiations will be commenced with the vendor by the District Valuer or other suitably qualified surveyor (RICS) acting under the instruction of the relevant Director.

Where the sale is by auction or tender, bids will be formulated as appropriate.

NB. Any recommendations by the third party carrying out either the valuations and/or the negotiations must be included in any reports that are presented to the Asset Management Group, Cabinet, Council and/or Head of Finance/Section 151 Officer.

7.2 Acquisitions of a lower value may be approved by the relevant Director and the Head of Finance as Section 151 Officer, in consultation with the relevant Portfolio Holder, provided there is Capital Programme approval in place.

7.3 Approval of any acquisitions to be made using commuted sums taken in lieu of affordable housing shall be delegated to the relevant Director, in consultation with the Portfolio Holder for Housing, on a case by case basis¹.

8. Cabinet Approval

8.1 Any offer to the vendor, subject to the financial limits described in 7.1, will be made "*subject to contract, Cabinet approval and, where appropriate, survey*" and a report will be prepared for the next Cabinet, by the relevant Director in consultation with the Head of Finance as S151 Officer, recommending acceptance of the acquisition.

¹ At its meeting on 16 October 2007, Cabinet RESOLVED THAT: c) Until further notice, commuted sums taken in lieu of affordable housing be directed to support alternative provision of affordable housing with delegated approval to the Director of Community, in consultation with the Portfolio Holder for Housing, for scheme by scheme approvals.

Reason for decision: To address the shortage of affordable housing in the district.

- 8.2 For all acquisitions below the limits outlined in 7.1, a report will be prepared for the next Cabinet, by the relevant Director in consultation with the Head of Finance as S151 Officer, informing Cabinet of the acquisition.

9. Instructions

- 9.1 Once Cabinet approval has been received, and any surveys satisfactorily carried out (or earlier if appropriate), Legal Services will be instructed to complete the documentation associated with the acquisition

10. Completion

- 10.1 Once the acquisition has been completed, Legal Services will advise the relevant Director, the Head of Finance/S151 Officer, Financial Planning, relevant Members and such others as are appropriate. The Head of Finance as Section 151 Officer, after consultation with colleagues, will confirm whether the land and/or building will be designated as General Fund or HRA property.
- 10.2 Property Services will ensure the Asset is added to the Asset Database and surveyed, managed and maintained as identified in the relevant Asset Management Strategy. Legal Services will ensure that Land Registration information is provided to Property Services so that GIS database system can be updated.
- 10.3 Where appropriate or where requested as a requirement, the relevant officer will provide periodic update reports to Cabinet, Council and/or or the Corporate Leadership Team or Asset Management Group providing detail on the progress of the project for which the asset was acquired.

11. Exceptions

- 11.1 In exceptional circumstances, the Chief Executive, acting on the advice of the Head of Finance as S151 Officer, and in consultation with the Leader of the Council, may make offers to acquire land and property of a value in excess of £100,000 in accordance with, and to give effect to, the Council's strategies and corporate aims (subject to a report being prepared for the next Cabinet by the Chief Executive), This approach will only be utilised where flexibility for the Chief Executive is required in order to respond quickly to any time critical opportunities that arise.

12. Compulsory Purchase

- 12.1 The Council may consider, where appropriate the acquisition of land through its compulsory purchase powers. The S151 Officer will be notified at the earliest opportunity when consideration is being given to acquisition in this way.

- 12.2 Powers of Compulsory Purchase are conferred on public authorities by legislation. They enable the authorities authorised to compulsorily purchase land which is required to carry out a function which Parliament has decided is in the public interest. These powers will be used where the owner or occupier of the land required is not willing to sell by agreement or where agreement cannot be achieved.
- 12.3 There are a number of stages in the Compulsory Purchase Procedure and the approval of the relevant Government Minister is required before such powers can be used. When deciding whether or not to exercise Compulsory Purchase powers, the Council must take into account all relevant considerations (including, but not exclusively), the rights of the affected landowner(s) under the Human Rights Act 1998.
- 12.4 The detailed procedure for obtaining a Compulsory Purchase Order is already enshrined in legislation and therefore not set out in this policy. All decisions to enter into a Compulsory Purchase are reserved to Cabinet regardless of value. This Policy does not apply to Compulsory Purchase situations until an acquisition stage has been reached e.g.
- General vesting declaration
 - Notice of Entry and Notice to Treat
 - Agreed acquisition of title
- 12.5 At such stage the procedure set out in section 10 above shall apply with further administrative steps being taken as appropriate once the Notice to Treat crystallises as an acquisition of title.
- 12.6 Where Compulsory Purchase powers are used, the land owner or occupier is generally entitled to compensation.
- 13. Acquisition of land or property for service delivery and/or delivery of corporate aims**
- 13.1 Land or property may be acquired for the purpose of service delivery in line with the scheme of delegation and paragraphs 7 to 11 above, subject to the following criteria:
- i. Prior to any offer being made, Authority from Corporate Leadership Team (after considering any recommendations from Asset Management Group) confirming that the level of service delivery is required and/or the stated corporate aims need to be met.

- ii. Prior to any offer being made, an option appraisal has been carried and reported to the Asset Management Group, the result of which identifies the requirement for the land or property for service delivery.
- iii. The on-going revenue costs are contained within an approved budget which has been confirmed as appropriate by Financial Planning, or an appropriate additional budget is approved by Cabinet.
- iv. Where acquisitions will result in an asset to be recognised on the Council's Balance Sheet; the purchase must be subject to the Council's Capital Programme approval process and a capital budget approved by the Cabinet or Council in accordance with the Financial Procedure Rules.
- v. Advice on whether a leasehold or short tenancy should be included on the Balance Sheet must be obtained from Financial Planning
- vi. VAT has been considered and Financial Planning has been consulted on the implications on VAT and that these are included in the option appraisal.

14. Strategic Acquisition for Future Development in line with Council priorities and Objectives

14.1 Land or property may be acquired for the purpose of future strategic development in line with Council priorities and objectives and in line with the scheme of delegation and paragraphs 7 to 11 above, subject to the following criteria:-

- i. Prior to any offer being made, Authority from Corporate Leadership Team (after considering any recommendations from Asset Management Group) confirming that the acquisition meets the Council's strategic priorities and objectives
- ii. Prior to any offer being made, an option appraisal has been carried and reported to Asset Management Group, the result of which identifies the land or property as suitable for current or future strategic development in line with Council priorities and objectives.
- iii. The on-going revenue costs are identified as part of the review and contained within an approved budget which has been confirmed by the Head of Finance/S151 Officer or appropriate budget is approved by the Cabinet, in accordance with the Financial Procedure Rules.

- iv. VAT has been considered and the Head of Finance/S151 Officer has been consulted on the implications on VAT and that these are included in the option appraisal.

15. Acquisition of land or property for investment purposes

15.1 Land or property may be acquired for the purpose of investment in line with the scheme of delegation, if meeting the criteria set out in section 2 above and subject to appropriate measures under sections 3, 4, 7 and 8, subject to the following criteria:

- i. Net return of at least 5%
- ii. Minimal tenant risk and/or strong covenants
- iii. Modern properties in generally good condition on full repairing and insuring leases
- iv. Location of property - prime location potentially anywhere in the UK.
- v. Single let or multi let, but preference away from management intensive properties.
- vi. The on-going revenue costs are contained within an approved budget which has been confirmed as appropriate by the Financial Planning or an appropriate budget is approved by Cabinet.
- vii. Where acquisitions will result in an asset to be recognised on the Council's Balance Sheet; the purchase must be subject to the Council's Capital Programme approval process and a capital budget approved by the Cabinet or Council in accordance with the Financial Procedure Rules including any delegated authority.
- viii. Advice on whether a leasehold or short tenancy should be included on the Balance Sheet must be obtained from the Financial Planning.
- ix. VAT has been considered and Financial Planning has been consulted on the implications on VAT and that these are included in the Capital Appraisal Scheme and report for decision.

15.2 Prior to any offer being made, Authority from Corporate Leadership Team (after considering any recommendations from Asset Management Group) is required confirming that the acquisition meets the Council's investment purposes.

15.3 Prior to any offer being made, an option appraisal must have been carried out and reported to Asset Management Group, the result of which identifies the land or property as suitable for investment purposes in line with Council priorities and objectives

16. Adoption of Public Open Space

16.1 Some of the detailed requirements relating to the adoption of public open space may be set out in s106 agreements and should be considered by the three parties set out below prior to a report to Cabinet for approval. The adoption of land will also be reported to the next available Asset Management Group Meeting in the form of an update report.

16.2 The three parties will include Property and Asset Manager in the role of the Corporate Property Officer, Environmental Development Officer and an appropriate Planning Officer as required. The maintenance liability of each parcel of land must be considered in full before any adoption agreement will be agreed.

16.3 The Council will not adopt areas of Public Open Space unless;

- i. A payment is made by the developer to cover at least 5 yrs of maintenance, calculated in accordance with the Council's Play Area Design Guidance Note (Supplementary Planning Document) in force at the time of transfer; or
- ii. The Area is of interest to a charitable trust, which will maintain the land and to which the Council can transfer the ownership of the land; or
- iii. It has proven impossible to negotiate an agreement between the developer and owners of houses on the estate and/or local Parish Councils and/or management companies to adopt the areas of Public Open Space.

16.4 It is intended that the developer will liaise with the Council before and during the adoption process to ensure that any agreed works are being carried out to the correct standards and specifications.

16.5 Boundary, hedges, fences, ditches and trees should be conveyed where appropriate with the adjoining development to reduce future maintenance costs. This would normally be dealt with in any s106 agreement

16.6 Any adopted land parcel will be registered by the legal department with the Land registry and the GIS database system updated with the relevant information.

17. Acquisition by gift or possessory title

- 17.1 If such an acquisition opportunity arises, it will be considered if meeting the criteria set out in section 2 above and subject to appropriate measures under sections 3, 4, 7 and 8.

18. Leases and Licences

- 18.1 Entering into a lease or licence agreement shall be considered in the same terms as any property acquisition the Council makes. Therefore reasons for the purchase, property searches, financial and risk appraisals, independent valuation, negotiations and Council approvals should all be identifiable stages. Clear ownership of responsibilities will require agreement prior to assignment of a lease in terms of Health and Safety, maintenance requirements etc

19. Financial and other criteria for acquisitions

- 19.1 The Council needs to take a strategic approach to land and property acquisitions. The requirement to invest in land and property for any of the purposes identified in 12 - 14 should be identified as part of the Council's procedures for developing its Medium Term Financial Strategy, HRA Business Plan, Asset Management Strategy, Capital Programme, Corporate Plan and Service Delivery Plans.
- 19.2 Service Managers will be required to take a medium to long term view when planning delivery of their services and will need to identify any requirement to acquire land and property or any opportunities to dispose of surplus assets in order that planning these changes can be incorporated in the Council's service and financial planning processes.

20. Money Laundering

- 20.1 All transactions should be carried out in accordance with the Council's Anti-Money Laundering Policy.
- 20.2 All cash transactions must be within the limits set out in the Anti-Money Laundering Policy.
- 20.3 Legal Services must make checks for all vendors and ensure that vendors' solicitors have an up-to-date Anti-Money Laundering Policy and that they are registered with the Law Society.

21. Internal and External Audit

- 21.1 Audit trails of all acquisitions will need to be maintained and accessible by the Council's Internal Audit function and External Audit to verify actions/values and how the authority made the decision to acquire. Any appointment of a third party consultant must reserve the right of access to their records in relation to the transaction.