

Public**HUNTINGDONSHIRE DISTRICT COUNCIL**

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| Title/Subject Matter: | Disposal and Acquisition Policy: Change to the Constitution |
| Meeting/Date: | Corporate Governance Panel – 15 th July 2015 |
| Executive Portfolio: | Executive Councillor for Resources: Jonathan Gray |
| Report by: | Head of Resources: Clive Mason |
| Ward(s) affected: | All |

Executive Summary:

For the Panel to approve the change to the Council's Constitution to reflect the requirements of the Disposal and Acquisitions Policy that was approved by Cabinet on the 18th June 2015.

It is considered that the current thresholds and procedures within the Constitution are too restrictive to enable a more commercial approach to management of the Council's property portfolio, and therefore a new Policy and governance model is required. The new Policy sets out the legal context, principles and governance arrangements by which the Council will dispose and acquire land and property, including new monetary thresholds. The benefits that are expected to result following the introduction of the Policy are:

- to ensure that the changing needs of service requirements are managed effectively
- the rationalisation of assets are managed effectively
- the Council is transparent in its property dealings
- there is clarity of aim and consistency of approach between Officers, Members and other interested parties

The Policy itself will not have any direct financial or legal implications. However, the operation of the Policy will require adherence to prescribed Council strategies (e.g. Treasury Management) and any statutory provisions relating to a Council's use of assets. However, the operation of the Policy is expected to provide for medium-term support to the Council's revenue budget.

Recommendation(s):

That the Panel recommends to Council that the Constitution is amended to reflect the Disposal and Acquisition Policy attached in Annex A.

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1. PURPOSE

- 1.1 For the Panel to approve the change to the Council's Constitution to reflect the requirements of the Disposal and Acquisitions Policy that was approved by Cabinet on the 18th June 2015.

2. BACKGROUND

- 2.1 The Corporate Governance Panel has responsibility for the approving changes to the Constitution, which includes the Code of Financial Management and Code of Procurement.

- 2.2 The new Disposals and Acquisitions Policy that was approved by Cabinet on the 18th June 2015 includes a range of new requirements to enable the Council to be more agile in its approach to the disposal and acquisition of capital assets. For information a copy of the report that was presented to Cabinet is attached as Annex A. The report provides all relevant detail for the Panel to consider; however the main changes to the Constitution include new:

- thresholds for the disposal and acquisition of land and property.
- governance arrangements in respect of the aforementioned thresholds; including delegations to officers (following consultation with the relevant Executive Councillor) and the formation of, and reporting to the Treasury and Capital Management Group.

3. COMMENTS OF OVERVIEW & SCRUTINY PANEL

- 3.1 The Overview and Scrutiny Panel (Economic Well-Being) were consulted and relevant representations were made at Cabinet.

4. KEY IMPACTS/RISKS?

- 4.1 The Policy will introduce increased monetary thresholds compared to those currently included in the Constitution; however there will be appropriate safeguards to ensure that there is appropriate reporting of decisions.

5. LINK TO THE CORPORATE PLAN

- 5.1 The Policy will support the achievement of the Corporate Plan requirement of "Ensuring we are a customer focused and service led council" by "becoming more business-like and efficient in the way we deliver services".

6. CONSULTATION

- 6.1 None

7. LEGAL IMPLICATIONS

- 7.1 This policy will impact upon the current Constitution. A review of the Constitution is imminent and therefore consideration to this policy must be given and amendments to the Constitution made as necessary.

- 7.2 References to Acquisitions and Disposals within the Code of Procurement will need to either be reviewed or removed.

8. RESOURCE IMPLICATIONS

- 8.1 To put in place a “fit for purpose” approach to the disposal and acquisition of land and buildings that will support the Council’s Investment Strategy. This will then in turn assist the Council in generating additional revenue income through the development of a commercial asset portfolio.

9 REASONS FOR THE RECOMMENDED DECISIONS

- 9.1 To put in place a “fit for purpose” approach to the disposal and acquisition of land and buildings that will support the Council’s Investment Strategy. This will then in turn assist the Council in generating additional revenue income through the development of a commercial asset portfolio.

10. LIST OF APPENDICES INCLUDED

Annex A – Copy of the Disposal and Acquisition Policy: Land and Property report that was presented to Cabinet on the 18th June 2015.

CONTACT OFFICER

Clive Mason, Head of Resources,
☎ 8157 clive.mason@huntingdonshire.gov.uk

**Public
Key Decision - Yes**

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter: Disposal and Acquisition Policy: Land and Property

Meeting/Date: Overview & Scrutiny (Economic Well-Being) Panel – 4th
June 2015
Cabinet – 18th June 2015

Executive Portfolio: Executive Councillor for Resources: Jonathan Gray

Report by: Head of Resources: Clive Mason

Ward(s) affected: All

Executive Summary:

The main purpose of the Disposal and Acquisition Policy (see Appendix 1) is to provide a framework through which the Council will be able to effectively manage its estate of land and buildings within a commercial environment.

It is considered that the current thresholds and procedures within the Constitution are too restrictive to enable a more commercial approach to management of the Council's property portfolio, and therefore a new Policy and governance model is required. The new Policy sets out the legal context, principles and governance arrangements by which the Council will dispose and acquire land and property, including new monetary thresholds. The benefits that are expected to result following the introduction of the Policy are:

- to ensure that the changing needs of service requirements are managed effectively
- the rationalisation of assets are managed effectively
- the Council is transparent in its property dealings
- there is clarity of aim and consistency of approach between Officers, Members and other interested parties

Underpinning the Policy will be the Council's Investment Strategy and Capital Programme process and a detailed Code of Practice which sets out the processes that officers will follow to gain approval for disposal or acquisition. One of the main tenets of the Policy and supporting code and governance arrangements is the embedding of commercialisation within the disposal and acquisition decision making process. So commercial decisions can be made in the most efficient way possible, it is essential that the Council can "move quickly" so it can have in place the right balance of resource so it can maximise the commercial opportunities that present themselves.

The Commercial Investment Strategy is currently being developed and an early draft is expected to be presented to members in July 2015. The Strategy will set out the proposed investment levels, risk appetite and other factors that are essential in such a strategy.

The main criteria regarding the disposal and acquisition of assets is shown below:

- What constitutes an acquisition and the statutory powers of a Council to acquire an asset.
- The process of acquiring an asset.
- Budget responsibility.
- Estates service having responsibility for all asset acquisitions.
- Appropriate performance management assessments.

Thresholds for both Disposals and Acquisitions:

To ensure that the decision making process is as agile as possible; it is considered that the current thresholds within the Constitution are too restrictive. Consequently it is recommended that the following thresholds will allow the Council to make decisions in a more efficient and effective way.

| | |
|------------------------|--|
| £0 - £500,000 | Managing Director (as Head of Paid Service) & Head of Resources (as Section 151 Officer), following consultation with Executive Councillor for Resources |
| £500,000 to £2,000,000 | Treasury and Capital Management Group |
| £2,000,000 + | Cabinet |

Governance:

It is proposed that a Treasury and Capital Management Group (TCMG) will be a formally constituted sub-committee of Cabinet, including the Leader, Deputy Leader and the Executive Councillor for Resources as well as relevant members of Corporate Management Team and the Responsible Financial Officer. The primary role of TCMG will be to agree:

- Treasury Management investment decisions (including the acquisition and disposal of all types of assets)
- The Capital Programme and the undertaking of all capital development, including the approval of Business Cases.
- Comment on Treasury Management performance.
- Call officer's to account in respect performance relating to capital projects.

Resources

The Policy itself will not have any direct financial or legal implications. However, the operation of the Policy will require adherence to prescribed Council strategies (e.g. Treasury Management) and any statutory provisions relating to a Council's use of assets. However, the operation of the Policy is expected to provide for medium-term support to the Council's revenue budget.

Recommendation(s):

The Cabinet:

1. approves the:
 - i. Disposal and Acquisitions Policy; including the new monetary thresholds.
 - ii. creation of the Treasury and Capital Management Group.

2. recommends to the Corporate Governance Panel that it approves all required changes to the Constitution (including the Code of Financial Management) to reflect the requirements of the Disposal and Acquisitions Policy.

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1. WHAT IS THIS REPORT ABOUT?

- 1.1 Seeking approval for a new Disposal and Acquisition Policy: Land and Buildings (Appendix 1), and associated governance arrangements that will allow the Council to undertake, in a more efficient, effective and agile way, the disposal and acquisition of land and buildings in support of the Councils Treasury Management and Investment Strategies.

2. BACKGROUND

- 2.1 Members will recall, as reported to Council in February 2015, that over the medium term the Council faces considerable “revenue” financial challenges. Currently the Medium Term Financial Strategy is showing a revenue gap of £2.4m by 2019/20. However, as shown on the “Plan on a Page” (Appendix 2) if, as the Council is aiming to do, it removes its reliance on New Homes Bonus, the funding gap will increase to £8.2m.
- 2.2 The “Plan on a Page” also shows that the Council has in train a number of core business activities that will assist in bridging the funding gap. As well as alternative service delivery models and budget change programmes, the “Plan on a Page” recognises that income generation is one of those core business activities.
- 2.3 One of the main components of “income generation” will be the “Commercial Investment Strategy” (CIS); a draft of this is expected to be reported to members in July 2015. The aim of the CIS will be for the Council to invest in a wider portfolio of commercial type properties than it currently has to provide a long-term revenue stream. To enable this activity to be undertaken it is essential that the Council has in place a decision-making process that is appropriately agile that will support the disposal and acquisition of assets. Consequently, the Policy will include new procedures, monetary thresholds and governance arrangements.

3. SUMMARY PROPOSALS WITHIN THE POLICY

Disposals Policy

- 3.1 The aim of the disposals Policy is to ensure that the Councils current asset portfolio is disposed of in the most cost effective way possible; thereby ensuring that the best return is achieved. The main requirements of the disposal policy include:
- Land and property will only be declared surplus if it no longer meets corporate and/or investment priorities.
 - Land and property will only be disposed of when it is concluded that no other use can be made of the asset, within statutory provisions.
 - Land and property will be sold for the best consideration or where disposal by other means best meets corporate objectives.

Acquisition Policy

- 3.2 The aim of the acquisition Policy is to ensure that the Council only adds to its current asset portfolio for specific purposes; namely Service delivery, investment and future development in line with objectives and the Corporate Plan. The main requirements of the acquisition policy include:

- All acquisitions of land and property will be in respect of freehold, leasehold or licence.
- Land and property will only be acquired where it benefits service delivery and/or maximises investment opportunities and/or future strategic development.

Thresholds

3.3 As noted within the Constitution, the current thresholds for the disposal and acquisition of assets are:

- Up to £50,000, the Managing Director may grant/assign leases; approve variation in leases or their surrender and approve sub-lettings, restrictive covenants, grant licences, easements and way leaves etc.
- Approval of Corporate Management Team for all disposals and acquisitions between £50,000 and £200,000
- Approval by Cabinet for all disposals and acquisitions in excess of £200,000, for recommendation to Council as a “key decision”.

3.4 It is considered that the above thresholds will not give the Council the required agility needed for it to effectively operate within the commercial asset environment; this is primarily due to the length of time required for reports to pass through to Cabinet. Disposal and Acquisition decisions, although “not made overnight” will need to be made relatively quickly to enable the Council to maximise receipts or take advantage of assets that are for sale. Therefore, it is proposed that the thresholds noted in Table 1 are adopted.

| Table 1 | New Thresholds of the Disposal and Acquisition of Land and Buildings |
|------------------------|--|
| £0 - £500,000 | Managing Director (as Head of Paid Service) & Head of Resources (as Section 151 Officer), following consultation with Executive Councillor for Resources |
| £500,000 to £2,000,000 | Treasury and Capital Management Group (TCMG) |
| £2,000,000 + | Cabinet |

The financial thresholds to be reviewed in 12 months following approval (see para 4.1).

Governance

3.5 The thresholds proposed in paragraph 3.4 are a considerable change to those currently included within the Constitution. However, there will be tight governance around these new thresholds, this is illustrated below:

- Up to £500,000, these will be officer lead decisions. However, the officers concerned will be those at the strategic level within the Council. In addition, all decisions will only be made following consultation with the relevant Executive Councillor.
- Between £500,000 and £2,000,000, decisions will be made by the Treasury and Capital Management Group (TCMG). TCMG is not currently constituted as one of the Council's member decision-making

committees, but it is intended that it will be when the review of the Constitution is completed. Key aspects of TCMG are that:

- It will be a sub-committee of Cabinet.
 - It will have powers to make decisions in respect of both Treasury and Capital Asset Management.
 - Core members of the group will be the Executive Leader, Deputy Leader and the Executive Councillor for Resources, with co-opts as required by the Core members.
 - Officer support will be the Managing Director and the Head of Resources.
- In excess of £2,000,000 decisions will be made by Cabinet.

Disposal and acquisition decisions will be retrospectively reported to the Overview & Scrutiny (Economic Well-Being) Panel (see para 4.1).

4. COMMENTS OF OVERVIEW & SCRUTINY PANEL

4.1 The Overview & Scrutiny (Economic Well-Being) Panel held on the 4th June 2014 recommended that:

- Where disposal and acquisition decisions are made, that these are retrospectively reported to the Panel.
- The new financial thresholds are reviewed 12 months following approval.

In both respects the Policy attached at Appendix 1 has been updated accordingly.

5. KEY IMPACTS/RISKS?

5.1 The key impact of the introduction of the Policy will be to allow the Council to be more agile in its decision making around the disposal and acquisition of land and buildings. In this way it will be able to react more quickly to opportunities that arise. All investment decisions will be subject to appropriate business cases and where necessary due diligence.

The risk of not having a more agile decision making process is that the Council may lose investment opportunities. This could mean that the Councils ability to meet the current gap in the revenue budget will be curtailed; and therefore any gap could have to be met from cuts in services.

6. LINK TO THE CORPORATE PLAN

6.1 The Policy will support the achievement of the Corporate Plan requirement of “Ensuring we are a customer focused and service led council” by “becoming more business-like and efficient in the way we deliver services”.

7. CONSULTATION

7.1 None

8. LEGAL IMPLICATIONS

8.1 This policy will impact upon the current Constitution. A review of the Constitution is imminent and therefore consideration to this policy must be given and amendments to the Constitution made as necessary.

8.2 References to Acquisitions and Disposals within the Code of Procurement will need to either be reviewed or removed.

9. RESOURCE IMPLICATIONS

9.1 The Policy itself will not have any direct resource implications. However, the operation of the Policy:

- will require adherence to prescribed Council strategies (e.g. Treasury Management) and any statutory provisions relating to a Council's use of assets.
- is expected to assist the Council in bridging the revenue funding gap as detailed within the Council's Medium Term Financial Strategy.

10 REASONS FOR THE RECOMMENDED DECISIONS

10.1 To put in place a "fit for purpose" approach to the disposal and acquisition of land and buildings that will support the Council's Investment Strategy. This will then in turn assist the Council in generating additional revenue income through the development of a commercial asset portfolio.

11. LIST OF APPENDICES INCLUDED

Appendix 1 – Disposal and Acquisition Policy.

Appendix 2 – Plan on a Page.

BACKGROUND PAPERS

Held with Resources

CONTACT OFFICER

Clive Mason, Head of Resources,

☎ 8157 clive.mason@huntingdonshire.gov.uk

Colin Luscombe, Estates Strategic Assessment

☎ 8049 collin.luscombe@huntingdonshire.gov.uk

Bill Tilah, Estates Management Surveyor

☎ 07881 857224 bill.tilah@huntingdonshire.gov.uk

Huntingdonshire District Council

DISPOSAL AND ACQUISITION

Policy 2015

Date Approved: xx/xx/2015

Review Date: xx/xx/2017

Version 9

Definition

The Council defines the “disposal and acquisition” of land and property as the means by which it can either disinvest and dispose of land and property that it considers are surplus to its service or investments needs or invest in land and property that will allow the Council to benefit from service efficiency or investment opportunities.

Risk management

All activity relating to land and property will be undertaken within an environment that minimises risk to both services and the capital, or revenue, investment that is made. This includes impacts on reputation. There will be appropriate reporting to ensure that all parties are aware of the risk that is being faced by any disposals or acquisitions.

Value for Money

Value for Money is at the heart of how the Council delivers its services; regardless of whether these are front-line or back-office. In respect of the management of land and property, the Council will develop an Asset Management Plan that will ensure that the Council is only holding to an optimum balance of assets to meet both its service and investment requirements.

Disposals Policy

- Land and property will only be determined as surplus if it no longer meets corporate and/or investment priorities.
- Land and property will only be disposed when it is concluded that no other use can be made of the asset, within statutory provisions. There are two distinct processes relating to:
 - Medium to large areas of land, their disposal is dependent on public benefit and corporate aims and objectives.
 - Small areas of open space, their disposal is dealt with through the “Sales of Small Areas of Land Policy and Procedures”.
- Prior to sale, partners of the Council will be contacted to determine if there is an alternative use for the land and property.
- Subject to legislative requirements, the Council will sell any surplus land and property for the best consideration, where this is not possible or where corporate objectives are not being met, appropriate activity will be undertaken to ensure that the Councils maximises any capital receipts.
- Surplus land will be disposed of as expeditiously as possible and follow appropriate methods of disposal.

Public Engagement Considerations

- The Council's communication team will be consulted to ensure that any disposal of land and buildings is undertaken in a proportionate way.
- Consideration will be given to the statutory requirements of the Local Government Act 1972 and the Town and County Planning Act 1990

Performance Management

Capital Receipts targets will be assessed annually and progress will be reported to the Corporate Management Team and Cabinet as part of the routine budget monitoring cycle.

Acquisitions Policy

- All acquisitions of land and property are in respect of freehold, leasehold or licence.
- Land and property will only be acquired where it benefits service delivery and/or maximises investment opportunities and/or future strategic development, subject to meeting strict criteria; such as, need for asset to meet service delivery levels, option appraisal, on-going revenue costs are appropriately budgeted for, tenure is determined and VAT considerations (especially Opt to Tax).

Powers to Acquire Land and Buildings

The acquisition of land and buildings is enshrined within the requirements of the Local Government Act 1972 and to invest within the requirements of the Local Government Act 2003.

Performance Management

There will be ongoing monitoring of acquisitions between the responsible officers and the parties selling or otherwise concerned with the acquisition. There will be appropriate reporting to Corporate Management Team where performance is in question.

Overarching Policy

All valuations of land will be undertaken by suitably qualified professionals.

VAT implications will always be considered.

Resources

The resource implications, including Legal, Finance and Procurement will be considered for every disposal or acquisition of land and buildings and the both members and officers will be required to comply with the pertinent requirements of both the Code of Procurement and the Code of Financial Management. The financial thresholds for both disposals and acquisitions are as follows:

| | |
|------------------------|--|
| £0 - £500,000 | Managing Director (as Head of Paid Service) & Head of Resources (as Section 151 Officer), following consultation with Executive Councillor for Resources |
| £500,000 to £2,000,000 | Treasury and Capital Management Group |
| £2,000,000 + | Cabinet |

The financial thresholds to be reviewed in 12 months following approval.

Governance

The Council will have regard to all statutory and local regulations, including reporting to Corporate Management Team and in line with the Constitution, including the Treasury and Capital Management Group.

All disposal and acquisition decisions will be retrospectively reported to the Overview & Scrutiny (Economic Well-Being) Panel.

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Plan on a Page

Appendix 2

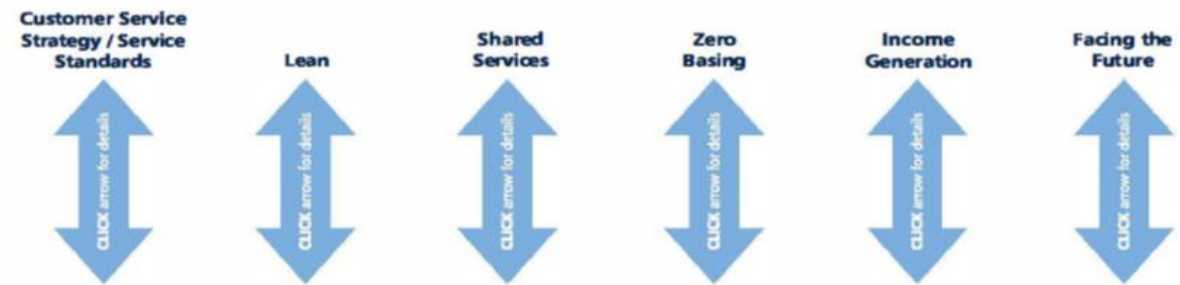
VISION

To improve the quality of life for the people of Huntingdonshire and work towards sustainable economic growth whilst providing value for money services

STRATEGIC PRIORITIES

- A strong local economy
- Enabling sustainable growth
- Working with our communities
- Ensuring we are customer focused and service led council

CURRENT SERVICES



FINANCIAL

Financial ambitions

To reduce the Council's reliance on Central Government Funding and in so doing create a sustainable financial platform

| | 2015/16 | 2016/17 | 2017/18 | 2018/19 | 2019/20 |
|-----------------|-----------|----------------|----------------|----------------|----------------|
| Approved MTFs | £18.881m | £19.870m | £20.671m | £21.259m | £21.721m |
| % cut from MTFs | 0% (-£0m) | 19.2% (-£3.8m) | 28.6% (-£5.9m) | 35.1% (-£7.5m) | 37.6% (-£8.2m) |
| Modified budget | £18.881m | £16.059m | £14.750m | £13.805m | £13.553m |