

## CABINET

19 September 2017

<b>Title:</b> Investment and Acquisition Strategy Update	
<b>Report of Cabinet Member for Finance, Growth and Investment</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> All	<b>Key Decision:</b> Yes
<b>Report Author:</b> Andrew Sivess: Head of Assets and Investment	<b>Contact Details:</b> Tel: 0208 227 5732 E-mail: <a href="mailto:andrew.sivess@lbbd.gov.uk">andrew.sivess@lbbd.gov.uk</a>
<b>Accountable Strategic Directors:</b> Claire Symonds, Chief Operating Officer and John East, Strategic Director Growth and Homes	
<b>Summary</b> <p>In November 2016, Cabinet approved the establishment of an Investment and Acquisition Strategy (IAS). Cabinet also approved an initial £250m investment budget and £100m land and property acquisition budget to support delivery of the IAS.</p> <p>The purpose of the IAS is to support the Borough's growth opportunities and to ensure that the Council, and future generations, benefit by increasing the Council's ownership of long-term income producing assets. Importantly, the IAS has an income objective and a target of delivering £5.12m by 2020/21. The investment programme will be delivered primarily by the Council's new development vehicle, Be First; a further report on this agenda provides an update on the establishment of this company.</p> <p>This report provides an update on progress in ensuring the target £5.12m is achievable. In addition, members are updated as to the creation of an advisory Investment Panel, constituted by the Chief Operating Officer (COO), to scrutinise and advise the COO in respect of investment decisions, and to oversee the effective implementation and delivery of the IAS. This report also seeks approval of a decision framework which will guide the Investment Panel and ultimately the Council's decisions to invest in new development and regeneration schemes.</p>	
<b>Recommendation(s)</b> <p>The Cabinet is recommended to:</p> <ul style="list-style-type: none"><li>(i) Note the progress being made in meeting the investment and acquisition income target;</li><li>(ii) Approve the future Pipeline Regeneration Programme, as set out at Appendix 1 to the report;</li><li>(iii) Agree to receive a twice-yearly report on the Investment and Acquisition Strategy and Business Plan, to approve the investment programme and schemes and to</li></ul>	

enable effective land acquisitions and investments;

- (iv) Approve the principle to establish a Special Purpose Vehicle to hold properties under the street properties purchasing programme as required;
- (v) Approve the Terms of Reference of the advisory Investment Panel, established pursuant to the Chief Operating Officer's delegated powers, as set out at Appendix 2 to the report;
- (vi) Note that the Investment and Acquisitions Decision Framework at Appendix 3 to the report, which will be used to consider and assess each investment decision and land acquisitions, will be reviewed in consultation with Be First and advisors and any material resultant changes will be reported to a future Cabinet meeting;
- (vii) Note that the Investment Panel will be supported by external advisors in respect of property, tax and investment considerations as required;
- (viii) Delegate authority to the Chief Operating Officer, in consultation with the Director of Law and Governance and the Cabinet Members for Finance, Growth and Investment and Economic and Social Development, to negotiate terms and agree investment proposals and land and property acquisitions for projects included in the Investment and Acquisition Strategy and Business Plan, subject to the endorsement of individual projects by the Investment Panel;
- (ix) Note that investment and acquisition proposals not included within the Investment and Acquisition Strategy and Business Plan shall be presented to Cabinet for approval following consideration by the Investment Panel, in accordance with the 'key decision' provisions in Part 2, Chapter 16, paragraph 3.2 of the Council Constitution;
- (x) Authorise the Director of Law and Governance, or an authorised delegate, to execute all the legal agreements, contracts and other documents on behalf of the Council required to implement the investment programme identified in this report.

## **1. Introduction and Background**

- 1.1. The context within which the Council operates has changed radically over the last decade and will continue to evolve. Austerity is set to continue, coupled with significant population growth and government policy changes. This combination of factors means that the way we deliver services also needs to change. The Council faced a simple choice: it could do nothing and continue to cut services which would affect our ability to improve outcomes for residents, or it could embrace new opportunities and stay ahead of the curve by finding new ways of delivering public services.
- 1.2. The Council has chosen to own and drive change and growth in the borough. The Council's plans are about accepting that the status quo cannot continue and that it must evolve as an organisation in order to ensure the needs of residents are met and that it continues to provide the place-based leadership required to deliver the Council's vision for the borough.

- 1.3. The rate of cuts in funding mean that by 2020 the Council will have roughly half the amount of money that it had to spend on public services in 2010. At the same time, the Council needs to meet the significant pressures caused by a growing population and more complex needs of residents.
- 1.4. It was acknowledged that managing budgets by using a cuts-based approach, through the reduction of services or staff, will not deliver the ambitions the Council, and residents, have for the Borough. The Council's plans for the next four years are focused on investment to deliver the Council's objectives, sustainable financial returns and long-term capital growth. The IAS and Be First are key delivery agents in delivering this vision.
- 1.5. Agreeing the new Investment and Acquisition Strategy (IAS) was a bold step to help the Council benefit from and influence the expected level of new residential and commercial development in the borough. The Borough's growth is at the heart of its ambition to change and gives the Council a real opportunity to invest in the regeneration of Barking and Dagenham and to generate a financial return.
- 1.6. The IAS supports the Council to fundamentally change its approach to investment and regeneration. Going forward the Council will need to become a proactive developer and investor, helping to support growth opportunities and ensure that the Council and future generations benefit by increasing its ownership of long-term income producing assets. Also on this Agenda is a report on the creation of Be First which will play a fundamental role in bringing forward the borough's growth potential.
- 1.7. In simple terms, the objective of the IAS is to produce £5.12m net annual income by 2020/21, at acceptable levels of return for each asset class identified in the IAS, and in a manner which support achievement of the Council's growth and regeneration agenda. This will be described in detail in the following sections.

## 2. **Achieving the IAS income target**

- 2.1. The initial £5.12m net income primarily consists of rental income and as such this falls in to the following categories:
  - **Completed schemes:** (William Street Quarter/ Eastern End Thames View and Abbey Road)
  - **Schemes in construction:** Gascoigne Phase 1 and Energy Services Company schemes (Gascoigne and Becontree)
  - **Pipeline regeneration programme:** 44 regeneration schemes to be developed on behalf of the Council by Be First

In addition, a small amount of revenue in the initial years will come from income derived from the purchase of street properties.

## 2.2. **Future Pipeline Regeneration programme and long-term net income**

2.3. The current pipeline regeneration programme comprises of 44 schemes (in some cases phases of one larger development) that have been appraised on a scheme by scheme basis to determine an indicative delivery and financial profile for each project. Attached as Appendix 1 is the current list of schemes expected to be delivered over the next 15 years.

2.4. The following significant schemes are expected to be constructed within the next 5 years. Each scheme is under review to determine the optimum mix of rental levels that could be provided in line with the Council's housing supply ambitions.

Scheme	Total Units	Units		
		Rent	Shared Ownership	Private Sale
Becontree Heath	173	41	46	86
Marks Gate Phase 1	150	150	nil	nil
Gascoigne West	574	121	80	373
Gascoigne East Phase 2	449	226	111	112

## 2.5. **Net income and potential capital borrowing requirement**

2.6. Appendix 1 of this report outlines the Future Pipeline Regeneration Programme. The total capital expenditure is estimated at £2.37bn were the whole programme to be funded by the Council. It is expected that the net capital expenditure, which is the capital spend less any money received from private sales and Shared Ownership.

2.7. Whilst the Council will use, where possible, any capital receipts it may generate from land sales to help finance acquisition costs, the main source of financing of the full programme would be from borrowing.

2.8. In November 2016, Cabinet approved the establishment of an Investment and Acquisition Strategy (IAS). Cabinet also approved an initial £250m investment budget and £100m land and property acquisition budget to support delivery of the IAS. This will be funded from the Public Works Loan Board (PWLB), other Local Authorities and from cash balances and will be used for the initial schemes in Appendix 1.

2.9. Due to the scale of the planned regeneration programme beyond the schemes funded from the £250m above, the PWLB will still be considered but in addition, institutional funders, the Municipal Bonds Agency or, subject to availability following the EU referendum decision, from the European Investment Bank will also be considered. In addition, it may be more advantageous to consider raising further finance through the issuance of a bond. Bond rates are at historically very low

rates and are predicted to stay low for the foreseeable future. In addition, a range of borrowing periods will be used based on cashflow requirement, ensuring that not all borrowing is long term and that the debt repayment is linked to the income generated from both the rental returns and the sales receipts. The Chief Operating Officer, advised by the Investment Panel and external advisors, will consider the optimum funding mix for each investment to meet the investment return objectives.

- 2.10. The Council's MTFs currently sets aside £1m as net carry costs of existing schemes the Council has purchased. The revenue borrowing costs of the Investment Strategy to this scale (£250m) would require £3.75m to be set aside during the construction period until each of the schemes becomes cash flow positive and is in a position to fund its debt financing costs. This will need to be set aside in the MTFs or to be funded from reserves.
- 2.11. In addition to the interest cost, the Council will need to make a Minimum Revenue Provision (MRP) in order to repay the borrowing requirement. The Council's current strategy for MRP, which is approved annually as part of the budget process, allows for charging the borrowing principal over the expected useful life of the relevant assets in equal instalments or as the principal repayment on an annuity with an annual interest rate, starting in the year after the asset becomes operational. So for example, if an asset was anticipated to have a remaining useful life of 50 years the Council could decide to charge MRP at 2% per annum.
- 2.12. In order to complete and develop the 44 schemes, the additional gross debt that the Council will need to undertake (above the £250m already agreed) will be £2.12bn to develop and construct c7,400 units. This would be a considerable level of investment and debt for the Council to undertake and will require a significantly increase the council's debt ceiling, which is currently £902m. In addition, the additional interest costs would be £32m per year.
- 2.13. The Council's balance sheet is currently £1bn in value. To fund the Investment Strategy, the Council will be heavily geared and the debt to asset ratio could be as high as 3:1 during the development period (this ratio includes the Council's current debt). In line with the prudential code, the Council will need to demonstrate it can afford to carry the cost of borrowing to fund for both the construction period as well as the initial years before each of the schemes become cash flow positive and then to repay the debt.
- 2.14. Depending on the size of the scheme, the cost of construction and the tenure mix of the units, the breakeven point could be between 3 to 5 years or possibly longer in some instances.
- 2.15. The financial exposure to the Council will be significant, however, schemes will be considered on a case by case basis on their merits, focusing on the achievement of positive investment returns. Where possible, partnerships would be sought to both reduce the cost and share the risks. In addition, some of the schemes will be sold when they are established, with the profit generated used to fund further projects and / or repay debt.
- 2.16. In order to generate a positive cash surplus on the Street Property purchase scheme, the financial model currently assumes that no debt will be set aside or repaid for the first 10 years of the scheme due to the potential market growth and

capital appreciation of these assets. The debt repayment will begin from year 11 to maximise the initial cash returns in the early years.

- 2.17. Property acquisitions may be held directly on the Council's balance sheet or, where more financially advantageous, acquired through a Barking and Dagenham Reside SPV. Acquisitions will be supported by detailed legal and tax advice for each proposal.

### **3. Street Property Purchasing**

- 3.1. To meet wider Council and investment objectives as well as reducing financial pressures, the acquisition of a street purchasing programme has commenced. The intention is to acquire a portfolio of existing units to provide accommodation for the following groups:

- Care Leavers
- Adults with Mental Health issues
- Key workers (Teachers and Social Workers)
- Homeless households

- 3.2. The target street property portfolio is based on a study of median rent and sales values in Barking & Dagenham in January to April 2017. An acquisition and financial feasibility has been undertaken which indicates that £192,000 p.a. would be generated if 150 properties were acquired.

- 3.3. The net income position of the street property purchasing programme has been optimised by financing the scheme on an interest-only basis for the first 10 years and by deferring the start of major works sinking fund by 5 years. One issue that has arisen from this new investment opportunity is the management of these properties and, subject to further advice, it may be advantageous to hold this portfolio within a new Special Purpose Vehicle (SPV) as a stand-alone vehicle or as a B&D Reside SPV. The Cabinet is asked to approve the principle to establish a Special Purpose Vehicle to hold properties acquired under the street properties purchasing programme, if and when required.

### **4. Housing Supply and housing investment**

- 4.1. To provide increased housing choices for all income groups in the borough, a detailed housing supply study and options analysis is currently being undertaken.

- 4.2. The objective of the study is to provide housing choices that meet the affordability challenges of wider range of income groups ordinarily not provided for by Council housing. This reflects the challenge that the cost of housing is now so high that the range of households that cannot afford housing is increasing. For example, households with income of £95k are eligible for shared ownership housing.

- 4.3. A report to the October 2017 meeting of Cabinet will set out the Council's response to this challenge. In addition, there will also be a report which will consider the future of Reside and which may also link to the street property acquisition and management requirements.

## 5. **Investment Governance**

- 5.1. Alongside the agreement of the IAS, Cabinet agreed the creation of a new Investment Panel. The Panel has now been constituted by the Chief Operating Officer under her delegated powers and will be responsible for advising in respect of commissioning land acquisitions, construction and management of the investment portfolio to ensure that the target investment returns are achieved. It will, in effect, also influence the work of Be First, including oversight and funding of new development opportunities identified and proposed to the Council by Be First through its Business Plan. The Investment Panel comprises a number of senior Council officers and will ensure that there is adequate scrutiny of investment decisions and that controls are in place to manage the delivery of IAS. The Panel will consider all new investment opportunities and will procure external technical support, as and when required. The Terms for Reference, which Cabinet are asked to approve, are attached as Appendix 2.
- 5.2. The work of the Panel will be guided by a Decision Framework which will be used to appraise each investment decision. This is attached as Appendix 3. This will be reviewed on a regular basis and will be used to assess investment proposals proposed to the Council using the Gateway approval process to be utilised by Be First which is detailed in a report elsewhere on this agenda.
- 5.3. Alongside the Framework, before any property acquisition or investment decision is made, professional advice would be sought as appropriate from legal, financial, property, commercial, architectural and planning advisors. Technical advice would include an assessment of the risks attached to the proposed schemes to support and ensure the robustness of our internal risk assessment procedures.
- 5.4. The following factors are likely to require specialist advice:
- There is no restriction on our ability to “land bank” if it is carried on during our normal business of either the Council or a Barking and Dagenham Reside vehicle
  - Careful consideration needs to be given to ensure that sales of land, if the site cannot be developed as intended, do not attract corporation tax because it was viewed as trading
  - The taxation implications (Corporation Tax, Value Added Tax and Stamp Duty Land Tax) of each purchase will need to be assessed on a case by case basis
  - A Barking and Dagenham Reside vehicle could be utilised to hold and manage part of the land bank or outright sale elements to minimise corporation tax and maximise payments of profits to the Council.

## 6. **Financial Implications**

Implications completed by: Kathy Freeman, Finance Director

### **Establishment of Investment and Acquisition budget**

- 6.1. Due to the scale and timing of the development programme the initial schemes will be funded by borrowing £250m. This will be from the Public Works Loan Board (PWLB), institutional funders, the Municipal Bonds Agency or, subject to availability following the EU referendum decision, from the European Investment

Bank. The Chief Operating Officer, advised by the Investment Panel, will consider the optimum funding mix for each investment to meet the investment return objectives.

- 6.2. Due to the scale of the planned investment programme beyond the schemes funded from the £250m above, it may be more advantageous to consider raising further finance through the issuance of a bond. Bond rates are at historically very low rates and are predicted to stay low for the foreseeable future. Officers are considering this option and may bring a further report back to Cabinet for approval to fund identified projects.
- 6.3. The Council's MTFs currently sets aside £1m as net carry costs of existing schemes the Council has purchased. The revenue borrowing costs of the Investment Strategy to this scale (£250m) would require £3.75m to be set aside during the construction period until each of the schemes becomes cash flow positive and is in a position to fund its debt financing costs. This will need to be set aside in the MTFs or to be funded from reserves.
- 6.4. In order to complete and develop the 44 schemes, the additional gross debt that the Council will need to undertake will be £2.4bn to develop and construct c7,400 units. This would be a considerable level of investment for the Council to undertake and will require a significantly increase the council's debt ceiling, which is currently £902m. A further report will be brought to Cabinet setting out options to finance this scale of development to minimise financial risk. The financial exposure to the Council is significant, however, schemes will be considered on a case by case basis on their merits, focusing on the achievement of positive investment returns.
- 6.5. The Council's balance sheet is currently £1bn in value. To fund the Investment Strategy, the Council will be heavily geared and the debt to asset ratio could be as high as 3:1 during the development period. This ratio will decrease as assets are built up and are then included on the Council's balance sheet.
- 6.6. In line with the prudential code, the Council will need to demonstrate it can afford to carry the cost of borrowing to fund for both the construction period as well as the initial years before each of the schemes become cash flow positive. All borrowing will be profiled against the individual schemes, ensuring that the cash is available during the construction stage but that the repayment of the debt is included as the schemes generate income from rental and sales. Borrowing will also be made over a period of time and will be dependent on the requirement but may also be made as and when rates are low. Depending on the size of the scheme, the cost of construction and the tenure mix of the units, the breakeven point could be between 3 to 5 years or possibly longer in some instances.
- 6.7. The Investment Panel will review all schemes and investment proposals individually based on the Terms of Reference outlined in Appendix 2 of this report.
- 6.8. In order to generate a positive cash surplus on the Street Property purchase scheme, the financial model currently assumes that no debt will be set aside or repaid for the first 10 years of the scheme due to the potential market growth and capital appreciation of these assets. The debt repayment will begin from year 11 to maximise the initial cash returns in the early years.

- 6.9. Property acquisitions may be held on the Council's balance sheet or, where more financially advantageous, acquired through a Barking and Dagenham Reside SPV. Acquisitions will be supported by detailed legal and tax advice for each proposal.

## 7. **Legal Implications**

Implications completed by Suzan Yildiz, Deputy Head of Legal (Commercial)

### **General powers of competence, investment and prudential borrowing**

- 7.1. The Council has a wide range of powers concerning borrowing, investment and dealings with property which would empower the Council to pursue the proposed Investment Strategy.
- 7.2. Section 1 of the Localism Act 2011, the general power of competence ("GPC") empowers local authorities to do anything that an individual can lawfully do provided that the activity is not expressly prohibited by other legislation. Activities authorised by the GPC can include investment, trading or charging decisions which may be undertaken through commercial (corporate) vehicles with the primary aim of benefiting the authority, its financial management, its area or its local communities. The power is wide and provided that the specific investment activity is not expressly restricted or proscribed by other legislative provisions, it will encapsulate the primary objectives of the Investment Strategy which are predicated upon ensuring the effective management of the authority's finances to optimise outcomes for the development and regeneration of its areas for the benefit of local communities.
- 7.3. Whilst the General Power of Competence will permit the Council to invest in property for a return, such activity is likely to be deemed as '*activity for a commercial purpose*' which cannot be undertaken directly by the authority and must be undertaken through a company structure within the meaning of Section 1(1) of the Companies Act 1996 (s.4 Localism Act 2011). Operating through a company structure will have the advantage of ring-fencing financial risks, however, there are also attendant corporation and income tax liabilities which will need to be addressed in a full business case as individual investment decisions are pursued by wholly owned company vehicles, such as Reside and Be First. The formation of each investment company vehicle has been the subject of a detailed business case which will consider the financing of the company, tax and any state aid implications. Notably, the Investment Strategy proposes that Be First, a regeneration vehicle which has been created by the Council and will go live on 1<sup>st</sup> October, will act as development manager and the main vehicle for implementing and delivering development focused elements of the Investment Strategy. The creation and governance arrangements of Be First are not the subject of this report, but a full business case has been approved by Cabinet and a detailed Business Plan, identifying cross-dependencies with the IAS and any other development opportunities to be pursued by Be First, is expected to be presented for decision by Cabinet by March 2018. To the extent that any other special purpose vehicle companies (SPVs), being subsidiaries of the parent company, are created their purpose, creation and activities would be the subject of future decisions.

- 7.4. Section 12 of the Local Government Act 2003 (“Power to Invest”) enables a local authority to invest for any purpose relevant to its functions under any enactment, or for the purposes of the prudent management of its financial affairs. Speculative borrowing to invest purely for profit will not be deemed directly relevant to fulfilling the authority’s functions and will not, therefore, be authorised under this power, however, investment in land or property, for example with a view to regeneration, and in line with CIPFA’s Prudential Code for Capital Finance would enable the prudential investment of funds borrowed for the purpose of expenditure in the reasonably near future. The CIPFA Code contains detailed recommendations in the context of prudent borrowing practice, which should be considered as individual investment decisions are made. In exercising the power to invest under s.12(b) the Council should have regard to the CLG Guidance on Local Government Investments. The Guidance advocates the preparation of an investment strategy which the Council is expected to follow in decision making unless sensible and cogent reasons exist for departing from it.
- 7.5. Section 1 of the Local Government Act 2003 (“Power to Borrow”) provides local authorities with the power to borrow for any purpose relevant to their functions under any enactment or for the purpose of the prudent management of its financial affairs. The Power to Borrow has similar constraints to the investment power under the 2003 Act. Borrowing primarily to achieve a return is unlikely to be deemed connected to the functions of the Council or prudent financial management. Caution should be exercised in making individual decisions to ensure that new investments financed with borrowing do further the functions of the Council and are consistent with prudent management of the Council’s financial affairs.
- 7.6. Section 111 of the Local Government Act 1972 (“Incidental Power”) enables a local authority to do anything (whether or not involving the expenditure, borrowing or lending of money) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.
- 7.7. Investment and borrowing for the sole purpose of creating a return would not be deemed pursuant to the functions of the authority as required under the above powers. However, the report has clearly set out the primary objectives of the investment activity are connected with shaping the strategic growth and economic development of the area to meet the needs of a growing local demographic and to shape local communities. Therefore, investment and borrowing in respect of property assets would be prudent and authorised pursuant to the authority’s functions, when used as regeneration tools, alongside other financial measures, to provide a suitable diversified housing mix for the growing local population, to regenerate local areas and to create employment and education opportunities. It is critical that the primary policy objectives of any investment activity, such as building new homes, regenerating an area or the creation of employment opportunities, are furthered and public funds are not exposed to unnecessary or unquantified risks.

### **Property Acquisition Powers**

- 7.8. The Investment and Acquisition Strategy (IAS) is a critical element of the Council’s overall Investment Strategy. The aims of IAS are to increase the Council’s income generating assets to a target net investment return of 5% in order to support the

long-term financial sustainability of the Council. The aim of IAS is not merely to generate a commercial return, the primary aims are to support regeneration and economic development programmes in the Council's area by reinvesting net yields within the borough and potentially outside the borough. Therefore, the IAS strategy has a double bottom line of generating a return on investment for the purposes of securing the sustainable financial management of the Council for the regeneration and economic development of the Council's area. As such the IAS and investment decisions pursuant to the Strategy are likely to fall within the parameters of the General Power of Competence providing that its core aims of supporting regeneration and economic development are progressed. The Department for Communities and Local Government has produced Guidance on Local Government Investments (2010 edition) which advises that local government investment priorities should be based on security, liquidity and yield in that order.

- 7.9. Notably, many individual investment and acquisition decisions will be made in implementing the various strands of the Investment Strategy. Individual decisions will be taken by the Chief Operating Officer, advised by the Investment Panel, pursuant to delegated powers in respect of 'corporate and strategic finance, treasury management, investments, and the capital programme...' (Part 3, Chapter 1, paragraph 8.1(g) of the Constitution). To the extent that such decisions are key decisions, or urgent action is taken to acquire land (under paragraph 4, chapter 16, Part 2 of the Constitution) such decisions will be reported or notified to Cabinet in future reports. At all times, full consideration will be given to the Council's powers of investment and acquisition, any relevant guidance such as the CIPFA Code and the overall aims of this Investment Strategy.
- 7.10. To the extent that strategic land required for regeneration supported by planning policy cannot be assembled through voluntary acquisitions, which forms a key part of the Investment Strategy, the Council may also consider recourse to its various compulsory purchase powers. However, acquisitions by compulsory purchase are beyond the remit of this report which is focused on voluntary acquisitions. Suffice it to say that such decisions would be individually reported for decision following careful consideration of the relevant enabling powers and constraints imposed by public law and relevant guidance.
- 7.11. For the sake of completeness, in addition to the General Power the following land acquisition powers are relevant and available to pursue individual projects in line with IAS:

Section 111 of the Local Government Act 1972 enables the Council to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions, whether or not involving expenditure, borrowing or lending money, or the acquisition or disposal of any rights or property.

- 7.12. In accordance with the Local Government Act 1972, Section 120, the Council is empowered to acquire by agreement
- (a) any land situated inside or outside its area for the purposes of any of its functions stipulated by the 1972 Act or other statutory provisions or
  - (b) for the benefit, improvement or development of its area, and notwithstanding that the land is not immediately required for that purpose. Until the land is

required for the purpose acquired, it may be used for any purposes associated with of any of the Council's functions.

## **Governance Implications**

- 7.13. The Council's Constitution, Part 4, Chapter 4 sets out the Land Acquisition and Disposal Rules. In accordance with paragraph 2.1, Part 2: Articles, Chapter 6 of the Constitution all key decisions and strategic decisions falling within the Land Acquisition and Disposal Rules as to the use, acquisition and disposal of land and property assets are generally within the remit of the Cabinet. Formulation of strategic decisions is, at this time, overseen by the Property Advisory Group (PAG) and the Cabinet. Given the creation of the Investment Panel, to the extent that acquisition decisions are taken for investment purposes pursuant to the IAS, the Panel will advise and make recommendations as to such decisions either to COO (to the extent of the delegated powers available) or to Cabinet. Such investment driven acquisition decisions, depending on the value of assets to be acquired may also be key decisions which would be publicised on the Council's forward plan ahead of the decision. Decisions on strategic acquisitions pursuant to the Investment Strategy / IPA would be made by Cabinet or COO, advised by the Investment Panel, in accordance with the Council's Constitution and its Land Acquisition and Disposal Rules and the Scheme of Delegation. For the sake of efficiency, Cabinet is expected to approve an investment programme on a rolling basis (as set out in Appendix 1) and to delegate any necessary authority to the COO, advised by the Investment Panel, to implement individual decisions in respect of individual schemes within the investment programme.
- 7.14. Section 9D(2) of the Local Government Act 2000 as amended establishes the functions of Executive Cabinets. This enables a Cabinet to carry out decisions on any function unless reserved by order of the Secretary of State. Investment decisions of an Authority are not a reserved function. Under part 3 Chapter 1 paragraph 1.2 of the Council's Constitution, the Cabinet can in turn delegate its functions to an officer if it so determines or authorise the officer to take investment decisions subject to established parameters, such as the need to consult prior to making a decision. In the case of investments there can be a need to move quickly to make the best of opportunities. Therefore, authorising the section 151 Local Government Act 1972 Chief Financial Officer to make relevant investment decisions is wide spread practice.
- 7.15. The current recommendations authorise the Chief Operating Officer (previously the Strategic Director of Finance and Investment) to allocate the required investment budgets and make arrangements for borrowing up to £100m. Nevertheless, the need to observe the recording of key decisions and use of the forward plan remains and will be subject to the overview and scrutiny committee.

## **8. Other Issues**

- 8.1 **Risk Management** – each potential investment and land acquisition opportunity will be subject to a full evaluation and risk analysis process as part of the IAS approvals process and scheme development Gateway review mechanism. This will be managed on behalf of Cabinet by the Investment Panel. The Investment Panel will be supported by external professional advisors

- 8.2 **Contractual Issues** – sites acquired in advance of planning permission being granted would be acquired under a Call Option arrangement or through outright purchase depending on the commercial evaluation and opportunity provided by each site. Each such proposed acquisition will be subject to the review process set out in Appendix 3.
- 8.3 **Staffing Issues** – additional staff may be required to implement and manage the anticipated level of investment and consequent investment portfolio. Any additional staffing costs would be funded from investment returns.
- 8.4 **Corporate Policy and Customer Impact** – the proposals in this report would help to achieve the Council’s growth objectives and would help to achieve financial sustainability of the Council. In addition, the investment and regeneration programme facilitated by the IAS will underpin the creation of new communities within the borough and will increase housing choices and housing affordability. In turn, this will help to address fuel poverty and help improve household health and educational outcomes.
- 8.5 **Safeguarding Children** – Purchase of land in advance of planning permission could potentially lead to the development of additional family housing which could improve help improve the life chances of children through a healthier environment and better domestic space in which to study.
- 8.6 **Crime and Disorder Issues** – successful implementation of the Investment and Acquisition Strategy would lead to developments being influenced by or in the Council’s control where ‘designing out crime’ can be an explicit objective.
- 8.7 **Property / Asset Issues** – The proposals in this report will help the Council increase its affordable housing and income generating asset base. The proposals would also help to address physical and social obsolescence asset management challenges within the Council’s existing property holdings and in the private sector

**Public Background Papers Used in the Preparation of the Report:** None

**List of appendices:**

- Appendix 1: Future Pipeline Regeneration Programme
- Appendix 2: Investment Panel: Terms of Reference
- Appendix 3: Investment Decision Framework