

1. Disposal, Investment and Acquisition Policy

This policy sets out the Council's policies for the disposal, Investment in and acquisition of land and property. The scope of the policy includes sales, Leases, licences, occupation agreements, SLA linked property use and change of use. The policy is structured as follows:

- Corporate and Legal context & definitions
- Decision making and delegation
- Implementation - procedures and guidance on disposal, Investment or acquisition of assets

2. Corporate and Legal Context

2.1 As a creature of statute, the Council's powers to acquire, appropriate and dispose of land are governed by statute. Section 120 of the Local Government Act 1972 permits the Council to acquire by agreement any land whether situated inside or outside its area for the purpose of any of their functions under that or any other enactment or for the benefit, improvement or development of their area. Under Section 121 that Act the Council may be authorised (subject to specified restrictions), for any purposes for which they are authorised by that or any other public general act to acquire land, by the minister concerned with that purpose, to purchase land compulsorily within or outside their area. Under Section 122 of the Local Government Act 1972 the Council may (subject to certain procedural requirements relating to common land and land forming part of an open space) appropriate for any purpose for which they are authorised by that or any other enactment to acquire land by agreement to appropriate its land which is no longer required for the purpose for which it was acquired. Apart from these general provisions, Acts conferring specific functions on authorities normally confer specific powers of acquisition of land and where a specific power is given it is usual for that power to be used rather than any more general power.

2.2 Within its legal constraints, Slough Borough Council holds property in order to carry out its functions, meet its corporate objectives and to deliver services. The policy should be considered alongside the Asset Management Plan and the Capital Strategy which together set the overall framework within which the Council manages its asset portfolio. The property portfolio is held in accordance with the Asset Management Plan the aims of which are:

- being managed in an efficient, effective, economic and sustainable manner; and
- To develop a co-ordinated approach to asset management that links with the corporate objectives of the Council.

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- 2.2 The Council should only hold property to support the achievement of the goals and objectives set out in the Corporate Plan. Consequently property will be held in one of the following classes:

Operational Assets

These properties are held, occupied, used or contracted to be used on behalf of the Council to provide services, whether statutory, discretionary or to meet the corporate objectives of the Council

Investment Assets

Investment (commercial) assets are held, where legally permissible, for the purpose of generating rental income and/or capital appreciation.

- 2.3 The Council will consequently seek to dispose of property, where legally permitted, which:
- Will provide land to support corporate strategies,
 - Will secure capital that is earmarked to support specific planned projects or support other core priorities,
 - Can no longer accommodate the delivery of services in an economically, environmentally or culturally sustainable manner,
 - Constitute significant future risk to the Council, e.g. through accrued liabilities,
 - Are longer required for delivery of a partnership programme, or
 - Offer no real potential for long-term realisable capital appreciation.
- 2.4 The Council will seek to invest in improvements to property where this satisfies the objectives in paragraph 2.2. above, and where:
- Investment will enable the property to accommodate or deliver services in an economically and environmentally sustainable fashion and
 - Investment in the property offers the optimum solution in terms of value for money and service delivery or
 - Expenditure will improve the assets performance through an improved income return and capital growth.
- 2.5 The Council will seek to acquire property where this satisfies the objectives outlined above, and where:
- There is no alternative property readily available within the Council or a partner agency's portfolio; or
 - Acquisition offers a more advantageous solution than conversion or refurbishment of property already held within the portfolio; or
 - The land is required to facilitate highways, education development

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and expansion needs that result in a need to acquire land and property by way of negotiation or CPO (see separate policy for CPO)

- The property is to be acquired as part of a partnership programme.

2.6 All proposals for retention, disposal, investment and acquisition of property assets should be submitted for initial consideration to The Capital Strategy Board.

3. Decision Making and Delegated Authority

3.1 Proposals for property disposal, acquisition or investment will be submitted to the Capital Strategy Board, for preliminary consideration and, if the Board considers the proposal is within the terms of this policy, the Board will either make a recommendation to Cabinet or make a decision under delegated powers. In accordance with the Asset Management Plan and the adopted Corporate Landlord Model, all investments with a property implication must be signed-off by the Assistant Director Assets, Infrastructure and Regeneration.

3.2 No acquisition, disposal or investment shall be progressed unless the proposal fully accords with the Council's Financial Standing orders and, where appropriate, the Council's Contracts Code of Practice. It will also be necessary that any proposed disposal at an undervalue shall comply with the consent provisions set out in s123(2) LGA 1972 and any exceptional expenditure not otherwise justified shall be within the council's statutory powers under either s137 LGA 1972 or s2 LGA 2000 or with approval from the Secretary of State where less than best value applies.

3.3 Further details of key issues to be included in any proposal are set out below:

- Where the proposal involves expenditure or receipts over £250,000 or a disposal at less than best consideration the matter must be passed to Cabinet for decision. Once the proposal has been approved, the transaction will be managed by Asset Management reporting to the Capital strategy Board as appropriate.
- Where the proposal involves expenditure or receipts of up to £250,000 and is a disposal at best consideration the decision can be taken under delegated authority by a Strategic Director, in respect of the land and property for which they are responsible, after consultation with the Head of Legal Services and the Strategic Director of Regeneration, Housing and Resources.

3.4 Notwithstanding the above, where Heads of Terms agreed for a transaction are significantly different from the initial proposal or where the consideration falls outside budgetary parameters, the matter should

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be referred back to Cabinet (or Chief Officer/ where the decision was taken under delegated authority).

4. Implementation

Identifying Assets for Disposal

- 4.1 Assets may be identified as potentially surplus by service departments in the course of normal business and through the Asset Challenge process.
- 4.2 Where an asset is identified as potentially surplus, Asset Management will notify the Capital Strategy Board providing brief details of the accommodation, tenure and condition sufficient to enable other service departments to consider their utility..
- 4.3 Where a Service Department identifies a potentially surplus asset, this should be notified to the Head of Asset Management to enable this interest to be considered alongside other options.
- 4.4 The Head of Asset Management will report to the Capital Strategy Board setting out proposals for the disposal (or retention) of the asset in sufficient detail to enable the Board to make a decision on the proposal. The report will (as a minimum) provide a brief description of the asset, the current ownership, the reason for it becoming surplus, the current use, an assessment of value, the link to corporate objectives, anticipated capital receipt (if applicable) and a recommendation on disposal or retention. .
- 4.5 Where the report recommends disposal, it will include a recommendation on:
 - The approach to alternative development where this is appropriate.
 - Whether there would be sufficient merit to warrant applying for planning permission before disposal, and
 - The method of disposal and anticipated time taken to dispose together with any significant holding costs/risk.
- 4.6 Where the proposal recommends disposal at less than best consideration this should be supported by a detailed business case identifying:
 - The corporate objectives supported by the proposed disposal,
 - The rationale for disposal at less than best consideration,
 - The shortfall against best consideration and the consequential value foregone, and
 - The value of the benefit in kind to the Council in terms of revenue savings or added social value.

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4.7 Where the proposal recommends retention for long-term investment or disposal at a later date, e.g. where development potential is not yet realisable but will be available in the foreseeable future, the report should also include:

- An analysis of investment return or long term capital appreciation,
- A summary of holding costs,
- A plan for securing capital appreciation including relevant planning and land assembly considerations,
- An indicative timetable to disposal where relevant, and
- Details of payback periods in respect of the invested amount against income or revenue savings.

Identifying Assets for Acquisition

4.8 Potential property requirements may be identified in a number of ways including:

- By services in the course of normal business,
- By Asset Management and Service Departments during the Asset Management Planning process,
- By partnership programme managers, and
- By the Capital Strategy Board.

4.9 Once a property requirement has been identified this should be notified to the Capital Strategy Board with a valuation and basic specification to enable this requirement to be considered against surplus properties and the existing portfolio.

4.10 The Head of Asset Management will then refine the specification with the Service Department/Partner and undertake searches both within the Council's portfolio and on the open market on receipt of the relevant recharge code.

4.11 The Head of Asset Management will report to the Cabinet in sufficient detail to enable the Cabinet to make a decision on the proposal. The report will include:

- summary of the specification and the key characteristics of suitable property
- A brief explanation of the new requirement
- A report on suitable properties (including asking prices) within the portfolio, if any.

4.12 Cabinet approval should be sufficiently detailed and robust:

- To allow the Council to compete in the open market enabling those

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with delegated authority to make decisions at speed where required.

- To set clear parameters outside of which further reference to Cabinet is required.
- To enable democratic oversight without compromising the Council's response to commercial situations.

4.13 The Asset Management Plan is prepared annually and any investment identified will be put forward through the capital programme bidding process which takes place in autumn each year. Both the Asset Management Plan and the capital strategy are agreed together, usually in February of each year as part of the budget approval process.

Methods of Disposal and Acquisition

4.14 SBC will select the method of disposal best suited to maximising the corporate objectives. This may include, but not be limited to the following:

- Auction,
- Private treaty,
- Private treaty with a special purchaser, and
- Private treaty followed by either a closed formal or informal tender.

4.15 However, sale by private negotiation will only normally be appropriate where there is a special purchaser, who might be a tenant or adjoining owner and where:

- The special purchaser may outbid the market.
- The special purchaser will offer social, environmental or economic benefits that would not be attained through open competition.

4.16 Where properties are offered for sale and negotiations are with a single party, the Council should ensure that:

- Appropriate legal advice has been obtained to ensure that the proposed arrangement satisfies the Council's responsibilities for financial prudence
- A third party valuer has been instructed to:
 - a) provide an initial valuation of the property to reflect the circumstances,
 - b) conduct negotiations on the Council's behalf, if required
 - c) confirm recommendations as to the proposed disposal

If deemed appropriate, the Council will seek an independent assessment from the District Valuer for auditing purposes.

Heads of Terms and Final Approval

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4.17 Once Heads of Terms have been concluded for any transaction the Head of Asset Management should report to the relevant delegated authority:

- Confirming detailed Heads of Terms are agreed between the parties
- Reporting any departures from the indicative Heads of Terms anticipated in the initial proposal
- Confirming the recommendation to proceed and the anticipated timetable.

4.18 Where the negotiated terms are significantly different from those originally reported the matter should be referred back to the original decision making for approval with a supporting statement.

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Transfer of Assets to Third Sector Organisations

4.19 As identified in the Quirk Review 1 in 2007, there are occasions when transfer of assets from Councils to Third Sector Organisations can draw down funding and bring benefits to local communities in terms of local management arrangements and community empowerment.

4.20 In such circumstances the Council will comply with the Voluntary and Community Sector Funding Policy approved in 2010 to ensure:

- That any disposal is made subject to long term reservations that protect the Council's interests and requirements to create or retain easements
- That where disposal is by grant of long lease rather than freehold sale that the Council do not inadvertently retain long term liabilities with the property
- That the terms of the disposal do not compromise the recipient organisation's ability to secure grant aid or other support for operating the property
- That the recipient organisation has sufficient resources to sustain the property
- That a business case supports the decision.

4.21 Any proposal for transfer of assets at less than best consideration should be supported by a detailed business case. Items to be included in a business case will generally include:

- An Options Appraisal
- A revenue budget/ viable business plan
- Details of funding mechanisms
- Confirmation of proposed management arrangements
- Confirmation of any benefits in kind that will off-set the undervalue
- Timescales and Action Plan

4.22 Where the Council continues to hold assets for use by Third Sector Organisation it may be asked to provide this accommodation at less than market rent or in some cases at uneconomic rents and less than best value rules will still apply.