

Report to	-	Cabinet
Date	-	4 December 2017
Report of the	-	Executive Director of Business Operations
Subject	-	Property Investment Panel - Terms of Reference

Recommendation to COUNCIL: That the:

- 1) Terms of Reference for the Property Investment Panel as set out in Appendix 1 be approved; and
 - 2) Head of Paid Service be granted delegated authority to purchase the investment properties, following approval of the Property Investment Panel, within the overall Commercial Property Investment Strategy parameters.
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Service Manager: Brenda Mason

Lead Cabinet Member: Councillor Lord Ampthill

Introduction

1. On 2 October 2017, Cabinet referred to Council a recommendation that an initial budget of £7M for acquisitions of investments properties be agreed (Minute CB17/28 refers).
2. If approved by Full Council on 18 December 2017 a Property Investment Panel will be set up to make recommendations to the Head of Paid Service on those properties to be acquired.

Property Investment Panel

3. In accordance with the Constitution, Executive functions can be discharged by an officer of the Council. To enable the Council to purchase investment properties in an efficient and timely manner, it is recommended that the Head of Paid Service is granted delegated authority to purchase the investment properties, following the approval of the Property Investment Panel, within the overall Commercial Property Investment Strategy parameters.
4. A proposed decision making structure and Terms of Reference are attached for the Property Investment Panel at Appendix 1 for Cabinet approval. This panel will meet as and when required, when properties become available.

Legal Implications

5. The increase in local authority investment in property as a means of generating income is coming under scrutiny from Government and it maybe that in the future, changes in legislation will impact on this activity. Advice has therefore been procured from our Treasury Advisors, Capita Asset Services and from external legal advisors Bevan Brittan, to ensure the Council remains with the existing powers available to it. This advice is commercially sensitive.

6. There are wide powers, principally within the Local Government Act 1972 and the Housing Act 1985 to purchase land and property both inside and outside the area, provided the Cabinet can demonstrate the benefit or improvement to the area. There are other powers that enable a local authority to invest in land and property for various purposes. These tend to be related to a specific service or function that the Council wishes to deliver.
7. The advice received is that the Council can rely on its investment powers under section 12 Local Government Act 2003 that allow local authorities to invest both for treasury management purposes (including investment of Council funds); and for any purpose relevant to their functions. Investment powers are used on the strength of financial return irrespective of location and appear to be most relevant to the Councils purposes.
8. The initial investment from Council reserves is proportionate to the other investments the Council makes with its cash reserves. It will however be necessary to amend the Council's annual investment strategy to reflect this investment activity. It is important that Members recognise that direct investment in property is a long term investment and not part of managing the day to day cashflow of the Council, i.e. the investment is not liquid. Whilst Council sets the overall investment strategy, the Audit and Standards Committee will be responsible for monitoring throughout the year the performance of any investments made using the Councils treasury management powers. The Audit and Standards Committee at its meeting on 11 December 2017 will need to consider this report, in particular the governance and risk management arrangements. Any recommendations arising will be made directly to Council at its December meeting.
9. Beyond this initial investment of £7m from use of the Council's own reserves, it is likely that the Council will need to establish a separate company to undertake further investment if the Council ventured into borrowing. Further reports will be made to Members as proposals are progressed.

Conclusion

10. The setting up of an Investment Panel will enable swift decision making but also sufficient representation to enable due diligence of those properties considered.

Dr Anthony Leonard
Executive Director of Business Operations

Risk Assessment Statement

The setting up of a panel to make recommendations reduces the risk to ensure challenge of any properties acquired.

The risk is if due diligence by the Panel is not undertaken when acquiring properties then RDC could be see the loss of its cash resources

Rother District Council**PROPERTY INVESTMENT PANEL - TERMS OF REFERENCE****1. PURPOSE**

The Property Investment Panel is set up by Cabinet to make recommendations to the Head of Paid Service on matters of property investment under powers as set out in Rother District Council Constitution to further the aims and objectives of the Rother 2020 Plan in increasing revenue income for the delivery of Council services.

The Head of Paid Service has been given delegated powers to acquire properties for investment purposes subject to the guidance of the Panel.

The Panel will:

- i. receive investment prospectuses and evaluations of potential property acquisitions;
- ii. set the parameters, within the overall Commercial Property Investment Strategy parameters, for bidding on each property.
- iii. make recommendations to the Head of Paid Service on the acquisitions of properties; and
- iv. oversee the due diligence and acquisition process in accordance with the Property Investment Strategy.

2. CONSTITUTION, DUTIES AND POWERS

- i. The Panel shall comprise 5 elected Members nominated by the Leader of the Council, with one vote each:
 - three Executive Councillors, one of whom must be the Portfolio Holder with responsibility for Finance; and
 - two other Councillors.
- ii. Council Officers attending will be the Executive Directors and s151 Officer. Other Council Officers and external advisors may attend the Group, in an advisory capacity (e.g. the Economic Development Manager).
- iii. The s151 Officer will attend in an advisory capacity. However, if he/she disagrees with the Panel's recommendation he/she can refer the decision to the next scheduled meeting of Cabinet.
- iv. The Panel shall appoint the Portfolio Holder with responsibility for finance as Chairman. In his/her absence, the Panel can appoint a chairman for that meeting.
- v. The quorum of the Panel shall be three. One Executive Director (who need not necessarily be the Head of Paid Service) and the s151 Officer (or his/her deputy) must be in attendance.

- vi. There will be no substitution arrangements.
- vii. Recommendations made to the Head of Paid Service will be made by majority vote of all those present and entitled to vote. In the event of an equal number of votes for and against a proposal, the matter will be referred to Cabinet.
- viii. The financial performance of the investments will be reported to the Audit and Standards Committee as part of its treasury management responsibilities. In addition the Panel will report its activities through the Overview and Scrutiny Committee to Cabinet.
- ix. The frequency of the Panel meetings will be as and when required.