

Report To:	CABINET	Date:	18 FEBRUARY 2019
Heading:	CAPITAL STRATEGY		
Portfolio Holder:	CABINET MEMBER (INWARD), COUNCILLOR ROBERT SEARS-PICCAVEY		
Ward/s:	ALL		
Key Decision:	YES		
Subject to Call-In:	YES		

Purpose of Report

1. The Chartered Institute of Public Finance and Accountancy (CIPFA) updated the Prudential Code for Capital Finance in Local Authorities in December 2017. The framework established by the Prudential Code supports local strategic planning, local asset management planning and proper option appraisal.
2. The objectives of the Prudential Code are to ensure that the capital expenditure plans of local authorities are affordable, prudent and sustainable and that treasury management decisions are taken in accordance with good professional practice and in full understanding of the risks involved.
3. The Prudential Code requires authorities to look at capital expenditure and investment plans in the light of overall organisational strategy and resources and ensure that decisions are made with sufficient regard to the long term financing implications and potential risks to the authority.
4. The Prudential Code sets out that in order to demonstrate that the authority takes capital expenditure and investment decisions in line with service objectives and properly takes account of stewardship, value for money, prudence, sustainability and affordability, authorities should have in place a Capital Strategy.
5. The Capital Strategy should set out the long term context in which capital expenditure and investment decisions are made and gives due consideration to both risk and reward and impact on the achievement of priority outcomes.

Recommendation(s)

Cabinet recommends to Council:

- 1) Approval of this proposed Capital Strategy;**
- 2) Approval of the proposed non treasury Investment Strategy contained within Appendix 1 to this report, and the annex which documents the process and responsibilities in respect of Commercial Property Investment; and**
- 3) That it notes that subject to the receipt and evaluation of expected CIPFA guidance in respect of Commercial Investment Property acquisitions it may be necessary to submit a revised Capital Strategy for Council approval (see Capital Strategy paragraph 6.2).**

Reasons for Recommendation(s)

The Capital Strategy provides an overarching framework on how capital investment decisions should be undertaken by the Authority. It is a statutory requirement to produce a Capital Strategy from 2019/20.

Alternative Options Considered

To not have a Capital Strategy is not an option as this is a requirement of the CIPFA Prudential Code which all Local Authorities need to observe.

Detailed Information

The proposed Capital Strategy is contained in Appendix 1 and the Investment Property Acquisition Process 2019-2023 is included as Annex 1 to Appendix 1.

It should be noted that currently Local Authorities are awaiting further Guidance from CIPFA in respect of the acquisition of Commercial Investment Properties. Subject to the receipt and evaluation of this guidance it may be necessary to subsequently revise this proposed Strategy and resubmit for Council approval.

A key concern around Local Authorities acquiring Commercial Investment Properties is 'proportionality' – the degree of reliance on rental income to support the provision of local service delivery. Taking into account the net income from these types of investment (after allowing for Minimum Revenue Provision (MRP) and Interest costs), it is considered that the Council's current and proposed investment into Commercial Properties is 'proportionate'. The guidance, once received may provide further clarification around this.

There is always a degree of risk associated with investments, however the Council is risk aware and has robust procedures in place to manage these risks (See Appendix 1 and Annex 1).

Implications

Corporate Plan:

This Capital Strategy will allow delivery of the priorities in the Capital Plan.

Legal:

It is a statutory requirement to produce a Capital Strategy from 2019/20. Relevant statutory powers and requirements are described in the Appendix to this report.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	No direct Financial Implications as result of adopting this Capital Strategy.
General Fund – Capital Programme	
Housing Revenue Account – Revenue Budget	
Housing Revenue Account – Capital Programme	

Risk:

Risk	Mitigation
The detailed Capital Strategy is not fit for purpose.	May need refinement over time to reflect potential changes in direction not currently captured by the existing proposed Capital Strategy.

Human Resources:

Not Applicable

Equalities:

Not Applicable

Other Implications:

Not Applicable

Reason(s) for Urgency

Not Applicable

Reason(s) for Exemption

Not Applicable

Background Papers

- CIPFA Prudential Code 2017 Edition
- CIPFA Treasury Management Code 2017 Edition
- Statutory Guidance on Local Government Investments (3rd Edition) Issued under Section 15(1)(a) of the Local Government Act 2003.

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ASHFIELD DISTRICT COUNCIL CAPITAL STRATEGY 2019/20 – 2022/23

1 Introduction

- 1.1 Ashfield District Council's Corporate Capital Strategy is the policy framework document that sets out the principles to be used to guide the allocation of capital investment across all the Council's services and informs decisions on capital spending priorities contained within the Council's 5-year Capital Programme.
- 1.2 Capital investment is technically described as "Expenditure on the acquisition, creation, or enhancement of 'long term assets'". Capital investment seeks to provide long-term solutions to the Council's priorities and operational requirements. Expenditure for capital purposes therefore gives rise to new assets, increases the value and/or useful life of existing assets or, generates an income stream to the Council via non-treasury investments. Expenditure outside this definition will be, by definition, 'revenue' expenditure.
- 1.3 Most of the Council's long term assets are properties that are used in service delivery. The Council's land, buildings and infrastructure asset base of some 7,600 properties (of which currently 6,698 are Council Dwellings) has a current use Balance Sheet value of approx. £300m (2017/18 published accounts).
- 1.4 The Capital Strategy is presented to Council as a Policy Framework document, and links with the Treasury Management Strategy, Medium Term Financial Strategy (MTFS) and the Corporate Asset Management Plan. Although this Strategy focuses on the Council's management of its own investment in assets, a wider view of capital investment throughout the area by both the public and private sectors will have a major influence on meeting Council aims and objectives.
- 1.5 The Capital Strategy (and specifically the Commercial Investment Strategy element of the Capital Strategy) are key drivers to secure the future financial sustainability of the Council.
- 1.6 The legal background to Capital Expenditure is contained in the Local Government Act 2003, particularly the following sections:
 - S1 – power to borrow
 - S3 – affordable borrowing limit
 - S12 – power to invest
 - S15 – regard to Guidance issued

- 1.7 Guidance is also issued by Government, the latest guidance issued by the Ministry of Housing Communities and Local Government - MHCLG (formerly the Department of Local Government (DCLG)) being Investment Guidance (2018) and Minimum Revenue Provision (MRP) Guidance (2018). At the time of writing this Strategy, Guidance is awaited from CIPFA in respect of Investment Properties and subject to the receipt and evaluation of this Guidance, an updated Capital Strategy may need to be brought for Cabinet/Council consideration and approval.
- 1.8 Council's should also comply with professional codes that are issued, the key ones being:
- CIPFA Prudential Code (2017)
 - CIPFA Treasury Management Code of Practice (2017).
- 1.9 The Capital Strategy sets out a number of guiding principles. In considering the principles, the Council needs a balance between guidance and prescription to allow a flexible approach to be taken but reflective of times of uncertainty. This Strategy focuses on the key policies for the allocation of capital resources to schemes in line with Council priorities and statutory responsibilities. The management of the Council's operational Capital Programme which 'sits' under this Capital Strategy is also supported by the Council's approved Financial Regulations.
- 1.10 CIPFA Treasury Management Code 2017 states:
- 'Where a capital strategy is produced by a local authority this may include the setting of detailed treasury management policies, while being clear that overall responsibility remains with full Council.'
 - 'This organisation will ensure that all the organisation's investments are covered in the capital strategy, investment strategy or equivalent, (*that is this strategy for Ashfield District Council and contains both*) and will set out, where relevant, the organisation's risk appetite and specific policies and arrangements for non-treasury investments. It will be recognised that the risk appetite for these activities may differ from that for treasury management.'

2 Identifying Need

- 2.1 There are a number of internal and external influences that will affect the Council's Capital Strategy in the short, medium and long term.
- 2.2 External influences will include, but are not limited to potential partners such as central government, priorities of the Local Enterprise Partnership (LEP), County Council and the private sector.
- 2.3 Internal influences will be driven by the Council's Strategic Direction which sets out the Council's values and can be found on the Council's website <https://www.ashfield.gov.uk/media/3900/strategic-direction-2017-2022-updated.pdf> and the Corporate Plan which sets out the Council's vision and priorities for the District and is also available on the Council's website <https://www.ashfield.gov.uk/your-council/about-the-council/corporate->

plan/. It should be noted the current Corporate Plan priorities may change following the District elections which are to be held in May 2019.

2.4 The Council's Corporate Plan 2016-2020 sets out the following five strategic priorities;



2.5 Aligned to the Corporate Plan are a number of subsidiary and complementary plans and strategies. Examples include;

- Medium Term Financial Strategy
- 30 Year HRA Business Plan
- Housing Strategy
- Digital & Services Transformation Strategy
- Commercial Investment Strategy
- Asset Management Plan
- People Strategy
- Service Plans

Capital investment will therefore be made in a range of areas to support the Council's core activities and priorities including asset investment to support its Asset Management Plan and service plans, ICT and business improvement investment to support its Transformation Programme. Investment in other delivery vehicles such as a Housing Company are being considered to deliver priorities regarding housing units.

3 Capital Scheme Prioritisation

3.1 Due to competing demands for limited resources, the Council prioritises capital investment based on a number of different factors such as:

- Its contribution to corporate priorities
- Whether it facilitates delivery of statutory or non-statutory and essential/non-essential services.
- The ability of the project to leverage additional funding, or secure a future income stream – therefore preference will be given to those projects with:
 - A payback of 10 years or less

- A positive net present value over the life of the asset based on a discount rate reflecting use of capital resources (Treasury Green book figure 3.5 %)
- The affordability of the revenue implications of the project
- The risk of not undertaking the capital expenditure, e.g. Health and Safety implications or legislative requirements.

3.2 Non financial indicators can also be used, for example, there are many benefits to including sustainability or environmental criteria in the decision-making process when it comes to allocating capital resources. Outcomes (for example jobs created or safeguarded) and outputs (for example, number of new homes built) should also be considered.

4 Prudential Approach

4.1 The Prudential Code requires Councils to consider six things when it agrees its Capital Programme:

- Service objectives – are spending plans consistent with our aims and plans?
- Stewardship of assets – is capital investment being made on new assets at the cost of maintaining existing assets?
- Value for money – do benefits outweigh the cost?
- Prudence and sustainability – can the Council afford the borrowing now and in the future?
- Affordability – what are the implications for council tax? (revenue implications)
- Practicality – can the Council deliver the programme?

4.2 Prudence is a difficult concept to define. In deciding whether an investment decision is prudent there should as a minimum be an initial consideration of the relationship between:

- the capital cost and
- the business cost (being the revenue costs associated with the use of the asset).

4.3 The authority needs to consider whether this choice represents the best use of resources having looked at all available options. Above all, the authority should be confident that the preferred option is the best value for money, and the quality is sufficient to meet the Council's needs.

4.4 Investments in property are seen as medium to long term investments therefore the value for money is assessed on this basis to ensure that over a longer period of time the investment is value for money and provides a return to the Council which, as a minimum exceeds what could be earned through investing in Money Markets.

4.5 The question of affordability in relation to capital projects is easier to address as the list of cost components is easier to define. Whilst the list is not exhaustive, it will typically include:

- Capital Costs
 - Feasibility costs
 - Initial build/purchase
 - Disposal/demolitions/decommissioning costs
 - Project management costs - internal and external
 - Fees: Surveyors, Clerk of works

- Revenue costs
 - Ongoing rental charges
 - Ongoing facilities management charges
 - Utilities costs
 - Maintenance (planned and reactive)
 - Financing costs (where appropriate, Minimum Revenue Provision (MRP) and Interest costs)
 - staffing implications
 - Business Rates

4.6 Feasibility costs may be capitalised provided the scheme leads to the eventual construction of an asset, if not, any such costs incurred must be charged to revenue.

4.7 In assessing whether an investment is sustainable, the authority should consider:

- how it fits into any future policy or environmental framework
- the future availability of resources to implement and continue to maintain any capital asset arising
- the potential for changes in the need for the asset, e.g. demographic developments
- the potential for changes in the nature of the driver, problem, or policy the capital expenditure is seeking to address.
- The security on loans made
- The liquidity of investments

4.8 In terms of Practicality, the Council must ensure it has the right skills and resources available at the right time to be able to fully resource and deliver its Capital Programme ambitions. Some of the projects may be specialist in nature and, as such, will require external expertise and support in order to deliver the schemes, including good project management skills.

5 Capital Funding

5.1 Capital Funding Sources:

- 5.1.1 The Council's Capital Programme is currently funded from the following sources;
- Capital Receipts
 - Prudential Borrowing
 - Developers Contributions e.g. s106 receipts
 - Partner contributions
 - Revenue Contributions/Reserves
 - Capital Grants e.g. Disabled Facilities Grant
 - Proportion of Housing Right to Buy receipts
 - Major Repairs Reserve (for Council Housing investments)
- 5.1.2 The Council can recycle capital receipts generated from the disposal of assets back to fund both General Fund and HRA capital projects. The Council also has in place a Flexible Use of Capital Receipts Strategy (Approved October 2018) which may be used to support delivery of the Council's Transformation Programme.
- 5.1.3 However with limited property available for sale capital receipts are gradually being eroded. And with continuing budgetary pressures being placed on the Council's General Fund the ability to use Direct Revenue Financing (use of reserves) is reducing and consequently the Council may need to either find alternative sources or curtail its ambitions for capital spend in future years.
- 5.1.4 The Council owns a number of assets including investment properties and through the Asset Management Plan the continuation of holding such assets is reviewed in the light of suitability and sufficiency and decisions are taken on whether to:
- Hold and continue to maintain and refurbish them, or
 - Dispose of and generate a capital receipt for funding the Capital Programme.
- 5.1.5 The Council has entered into an agreement with the MHCLG in which the authority will recycle within a rolling 3 year period Right to Buy (RTB) receipts arising from retaining "additional" receipts from RTB disposals into new social housing dwellings within the District. There are some rules relating to the total sum allowed per new social housing build project from this new funding source. However, the Council currently anticipates all receipts will be utilised on eligible schemes as and when they arise.
- 5.2 Prudential Borrowing
- 5.2.1 Under the Prudential Framework local authorities are free to make their own judgements as to whether new borrowing is affordable and prudent, subject to a duty to follow agreed professional principles, which are contained within the Prudential Code
- 5.2.2 Prudential borrowing to fund capital projects may, depending on the nature of the capital investment bring with it the need to make a charge to revenue to reflect the cost of borrowing. The basis for this charge, known as Minimum

Revenue Provision (MRP) is set out within the Council's Treasury Management Strategy.

5.3 S106 Developer Contributions

5.3.1 Developer contributions are sought to mitigate the impact of development and overcome what would otherwise be a potential reason to potentially refuse a planning application. These S106 Developer Contributions are a means of supporting infrastructure costs such as play areas, transport networks, schools, etc.

5.4 Housing Revenue Account

5.4.1 Capital commitments are funded via surpluses from within the Council's Housing Revenue Account (HRA). The production of a 30 year HRA Business Plan, which is regularly reviewed, enables the funding needs of the Council's housing stock to be planned for and accommodated.

5.4.2 The HRA originally had a debt cap which was set at £80.081m in 2012. However, the Government recently announced the removal of this cap allowing Councils to once again borrow against the value of its housing stock for improving the existing stock as well as delivering new stock.

5.4.3 The HRA Capital Programme is to a large extent driven by the amount of surplus generated which in turn is influenced by:

- The amount of income raised from rents which for four years from 1/4/2016 has been limited by Government to a year on year decrease of 1%. Increases of CPI plus 1% will again be permissible from 2020/21.
- The number of Right to Buy sales that take place and the impact on the HRA stock and therefore future rent income receivable.

5.4.4 The resulting HRA Capital Programme provides for renovation and improvement of existing housing stock, refurbishment and limited estate regeneration.

6 New Delivery Models

6.1 In response to reducing capital resources the Council has looked to new delivery models to continue its capital investment in the District which levers in other partners and innovative financing. These include a Housing Company which the Council may establish to deliver new affordable rented properties in the District.

6.2 At the time of writing the Council also currently has a portfolio of 'investment properties' of around £24m generating investment income of @£1.75m per annum. The purchase of the investment properties were funded by prudential borrowing and will attract both the cost of capital and also MRP in future years following new guidance issued by MCHLG in 2018. The Council is currently awaiting new guidance to be issued by CIPFA in relation to

investment properties to determine whether this may impact on the Council's aspiration to acquire further investment properties to sustain delivery of much needed services to the residents of Ashfield.

7 The Current Capital Programme 2018/19 – 2022/23

7.1 A copy of the current 5-year Capital Programme can be found on the Council's website and the latest update to the Capital Programme is being reported to Cabinet at this meeting in a separate report. The programme covers the following key areas:

- Investment Properties
- Area schemes & General Fund Schemes
- Housing Revenue Schemes

7.2 In assessing what schemes are included in the Capital Programme, the Council will ensure all schemes are properly appraised and prioritised through a scoring matrix as agreed by Council. This appraisal process will take account of the key criteria set out in this Strategy.

8 Commercial Property Investment Strategy

8.1 In the context of the Capital Strategy, the Council is using capital to invest in property to produce a revenue return to sustain the delivery of key services to the District's residents. This capital will, where available, be in the form of capital receipts and/or prudential borrowing.

8.2 Outlined below is the Commercial Property Investment Strategy which proposes a formal approach to invest in property that provides a positive surplus/financial return.

8.3 This is achieved by buying property that has a tenant who pays rent to the owner of the property – the landlord. The tenant needs to be of good financial standing and the property and lease must meet certain standards such as being in a commercially popular location and have a number of years left on the lease providing a certain and contractually secure rental income into the future.

8.4 The Council funds the purchase of the property by borrowing money – potentially from the Public Works Loans Board (funded by the Central Government). The rental income paid by the tenant must exceed the cost of repaying the borrowed money each year. The annual surplus then supports the Council's budget position, and enables the Council to continue to provide services for local people.

8.5 Historically, property has proved to be one of, if not the best, investment in terms of capital growth over the last 50 years. If the Council owns the property for 20 years plus, and the property is managed and maintained appropriately, the Council can expect to see an increase in the value of the property as well as a net annual surplus of revenue.

8.6 The Property Investment Strategy:

- Clarifies the legal powers used to operate the Strategy and ensure continued compliance.
- Sets out what the Council wants to achieve when acquiring property assets for investment purposes – primarily financial gain.
- Identifies criteria for acquiring and owning property assets for investment purposes to ensure risks are minimised.
- Includes an outline of the process involved in acquiring property assets for investment purposes.
- Is part of a wider policy framework supporting what the Council does and why.

9 Legal Powers

9.1 Local authorities have very wide powers to acquire, sell, appropriate and develop land, such that it is rare to need to use the powers in the Localism Act 2011. Specific property related powers are very wide and include the following:

- Sections 120 to 123 of the Local Government Act 1972
- Section 227, Town and Country Planning Act 1990
- Section 233, Town and Country Planning Act 1990
- Local Authorities (Land) Act 1963 (development)
- Housing Act 1985
- Sections 24-26 Local Government Act 1988

9.1.1 Under the prudential financial regime, a local authority also has the power to invest monies under section 12 Local Government Act 2003, for either:

- (a) “any purpose relevant to its functions under any enactment”, or
- (b) “for the purposes of the prudent management of its financial affairs”.

9.1.2 This investment must have regard to proper accounting practices and the relevant CIPFA guidance. As the Council has a number of different powers that enable it to acquire, develop and sell land, should it so wish, they form part of the Council's "functions" for the purposes of section 12 above.

9.1.3 There are various powers that would usually be sufficient for the Council to undertake any property acquisition, sale or related project in its area where at least part of the motivation is connected with the broad benefit or improvement of its area, as it is in the case of this strategy.

9.1.4 Each acquisition will be evaluated on its merits to consider the relevant purpose(s), legal powers, financial powers and any other implications. The evaluation will address the potential within the market place for future uplift or

loss in value of the asset being considered for acquisition, as well as the security of income from the tenant in occupation.

9.2 Objectives of the investment activity

9.2.1 Acquisition for investment and treasury management purposes, to generate an income stream is a natural progression from acquisition for regeneration purposes. The two can also be combined – an example of this is if an acquisition is made which offers a secure income stream and the option for future regeneration of a site. Therefore, the reasons for buying and owning property investments are primarily in this order:

1. Financial gain to fund our services to local people
2. Market and economic opportunity – the time is right
3. Economic development and regeneration activity in Ashfield

9.3 Operating in the Property Investment Market

9.3.1 The UK commercial property investment market is very well established, attracts global investors and is defined as a ‘mature asset class’. It has a wide range of new and established investors including institutions, pension funds, specialist property companies, charities, family trusts and individuals.

9.3.2 The Chartered Institute of Public Finance and Accountancy (CIPFA) defines investment property as “...used solely to earn rentals or for capital appreciation or both...”.

9.3.3 Returns from property ownership can be both income driven (through the receipt of rent) and by way of appreciation of the underlying asset value (capital growth). The combination of these is a consideration in assessing the attractiveness of a property for acquisition.

9.3.4 Property prices and returns are a function of the property type, condition, use and location, together with the lease structure and covenant strength of the tenant (in the case of a let property). Lease contracts will reflect all liability and outgoings being the responsibility of the tenant.

9.3.5 What should be sought by the Council are property investments which produce the best returns possible, whilst carrying an acceptable level of risk. The main mitigation measure in managing risk is to target investments which are let to ‘blue chip’ tenants, on relatively long leases with little or no landlord management involvement – typically the tenant is responsible for all property costs such as repair, maintenance and outgoings. In this way, the Council will be primarily buying a secure income stream and the buildings themselves become almost secondary considerations.

9.3.6 Any property asset coming onto the market could be for a number of reasons. Investors seek to buy and sell in many different circumstances - rebalancing

their portfolio, seeking cash to influence balance sheet or share price, requirement for a more “liquid” asset, short-term investment taking advantage of small capital growth, moving into different property classes, etc.

9.4 Priorities & Risk in Property Investment

9.4.1 The Priorities for the Council when acquiring property interests for investment purposes are (in order of importance):

- **Covenant Strength** - in the case of a let property, the quality of the tenant and, more importantly, their ability to pay the rent on time and in full. The Council’s primary reason and objective for this strategy is financial gain. The underlying principles of a Property Investment Strategy imply, assume and default to nothing taking higher priority than financial gain. It is however worth noting that the Council, as a public body, may not wish to invest in properties where the occupiers are generally seen to be undertaking a business which is contrary to its corporate values.
- **Lease length** - in the case of a let property, the unexpired length of the term of the lease or a tenant’s break clause is of key importance in ensuring that the landlord’s revenue stream is uninterrupted. The Council will take into consideration the risks associated with a tenant vacating and the potential to attract good quality replacements tenants at acceptable rental levels. Generally, occupiers are moving away from 25 year leases which were more common back in the late twentieth century with 10 to 15 years now becoming more acceptable unless some form of lease break provisions are included in favour of the tenant.
- **Rate of return** - the rate of return from the property (for example through annual rental incomes) will need to be equivalent or better to the returns that could be earned from alternate investments, such as placing monies on deposit, following adjustment for risks and potential growth. The property will also need to produce an annual return in excess of the cost of PWLB borrowing (interest only).
- **Risk** – rate of return is one side of the coin; risk is the other. In general, the higher the sought level of return from an investment, the higher level of risk that it carries. For example, if a property is let at an attractive rent which would create a good return, it could still be risky if the tenant does not possess good covenant strength and could default at any time.
- **Lease Terms** – The terms of leases vary and even those held on an “Institutionally acceptable basis” can be very different in nature particularly as such leases have developed over time. The Council is seeking to invest in modern leases with full repairing and insuring obligations on the Tenant and a full Service Charge recovery to include any management fees where applicable. This will ensure a certain income/return to the Council.
- **Growth** - property has the potential for both revenue and capital growth. The Council will take into account that potential when assessing the strength of the investment opportunity. Property values can fall as well as rise and mechanisms to minimise revenue reductions should be identified. Generally,

the nature of standard, institutional leases is that rent review clauses are upward only which protects landlords from any downward pressure on rental income giving some security as to the level of income.

- **Location** - should a tenant default or vacate, the location of the property is the key factor in influencing the ability to re-let and find another tenant. Location is also important when considering future redevelopment or regeneration opportunities. Ideally the Council will be able to undertake inspections and to deal with any management issues without the need to employ specialists or agents. When appropriate opportunities surface in Ashfield, they will be evaluated against the same criteria as those opportunities located outside of the District. In this way, this investment activity does not discriminate against location. Any investment decision is subject to the appropriate justification, business case and governance.
- **Sector** - information as to the sector of use of the property (e.g. office, retail, industrial, leisure) will assist in deciding on the risks associated with specific properties and the mix of sectors within the portfolio.
- **Building Age and Specification** - in the case of a let property, whilst the Council, as an investor, may be principally concerned with the characteristics of the tenant and lease, the age and specification of the property will also affect the ability of the Council to let or sell the property in the future. It must also be taken into consideration in respect of the cost of protecting the investment. An example of this would be the undertaking of repairs and refurbishment if the cost cannot be fully recovered from the tenant.

9.4.2 In summary, the strategy for acquiring investment property assets is therefore to:

- Seek property let to tenants who are of strong covenant strength and sound financial standing with at least more than five years remaining on an FRI lease.
- Minimise risk.
- Maximise rental income and minimise management costs to ensure the best return is generated.
- Identify opportunities for future growth, redevelopment or regeneration via property in commercially popular or development areas.
- Prioritise the Ashfield area.

Pursue opportunities to increase returns and improve the investment value of commercial assets

9.5 External Advice

9.5.1 The Council's Commercial Property team has the relevant investment and management knowledge/experience to manage the investment property portfolios. Nevertheless, officers take external advice on a number of occasions such as:

- Appointing a representing agent in line with Contract Procedure Rules to represent and advise Ashfield in acquisitions
- Seeking external legal advice, via the Legal Shared Service, on various matters during conveyancing and indeed, to represent Ashfield directly, in complex transactions or in jurisdictions where English Law does not apply.
- Commissioning external Chartered Surveyors to carry out surveys on properties prior to purchase, with their reports forming a key part of the decision-making process and to carry out valuations of investment properties.

9.6 Governance

9.6.1 Where time constraints allow, a collective Cabinet decision will be sought; however a faster, robust decision-making process must be available to ensure Ashfield's competitiveness is maintained. In most, if not all, circumstances where the Council is negotiating an acquisition by Private Treaty, the Vendor is likely to want to proceed swiftly with the transaction for financial reasons. Furthermore, where the Council may purchase at auction, the contract is signed at the end of the auction; therefore, authorisations/delegations must be in place in advance. As such, the Officers will to use existing provisions within the Scheme of Delegation and Access to Information Procedure Rules to ensure a decision can be taken expediently. In all cases, a full written report and decision record will be prepared and required notices will be published in accordance with Governance requirements. Specifically:

1. Where timeframes do not allow a collective Cabinet decision, the Leader of the Council will take a delegated Executive Decision.
2. Where a potential purchase is a key decision and/or will contain exempt information but the full 28 days' notice cannot be given due to the urgency of the matter it is anticipated that a General Exception will be applied (Rule 15). This will give five clear days' notice of the decision which is about to be made. The Monitoring Officer will inform the Chairman of the Overview and Scrutiny Committee and publish the required notices.
3. Where there is a greater urgency and 5 clear days' notice cannot be given, the Special Urgency provisions will be used (Rule 16). In this case, the permission of the Chairman of the Overview and Scrutiny Committee (or if they are unable to act, the Chairman of the Council or, in their absence, the Vice Chairman of the Council) will be obtained before making the decision. The Rule 16 notice will be published.
4. In such cases it is expected that the decision will need to be implemented without delay and therefore it is anticipated that the decision will not be subject to call in.
5. The report will explain the reasons in each case as to why a decision is not to be called in.
6. The Leader must report to the next available Council meeting any decisions, which are made pursuant to Rule 16.

9.7 Risk Mitigation in acquisition

- 9.7.1 In order to mitigate the risks of investing in commercial property, a process has been defined and implemented to ensure roles and responsibilities are clearly defined, outcomes are understood, and unnecessary risk has been avoided. This process is included in Annex 1 of this Strategy.
- 9.7.2 The Council has invested in a number of investment property assets already and is seeking to make further property investments over the life of this Strategy. A fair value assessment was conducted on purchase and provides sufficient security for the underlying capital invested. These assets will be revalued per the Council's revaluation programme and appropriate provision will be made if there is a fall in the value of the assets.

10 Service Enhancements & Building Asset Maintenance

- 10.1 The Council has a property land and buildings portfolio utilised for service delivery (e.g. leisure centres) and for operational delivery (offices and depots). It is important that these are maintained on a regular basis and receive upgrades and replacement if required when resources allow. This programme will be informed by the Asset Management Plan alongside any service developments that may be proposed. It may also be required that some surplus assets are either disposed of (including demolition) if no longer fit for purpose or required.
- 10.2 As part of the agile working initiative opportunities for rationalisation of operational land and buildings may be identified. Equally, the retained operational land and buildings may require enhancement.

11 Grants & Contributions

- 11.1 The Council will make contributions to 3rd party schemes (including Disabled Facility Grants) as partner funding contributions to schemes not being directly delivered by the Council, to meet statutory grant requirements or to support particular initiatives.
- 11.2 The Council will also, where appropriate, seek grant funding and contributions to support the delivery of capital schemes.

12 Vehicles and Fleet

- 12.1 The Council has a significant fleet in order to deliver its operational services. The Council has traditionally purchased outright all of its fleet including refuse collection vehicles, which require a significant up-front investment. Whilst this Strategy continues with this approach, other funding methods may also be utilised (e.g. lease, Contract Hire with Maintenance, etc.) in order to achieve the most cost effective approach to vehicle provision.

13 Service Transformation & Invest to Save

13.1 The Council still faces significant shortfalls in its revenue budget in the Medium term. Therefore, it will continue to invest in technologies and programmes which deliver ongoing savings to the Council's finances. These schemes will require initial Capital investment but must demonstrate a payback and ongoing savings as part of the evaluation process. These schemes can range from enhancements to buildings to make them more energy efficient to ICT investment to service transformation programmes. Where available, capital receipts will be used to fund one-off revenue costs associated with the Transformation Programme, in accordance with the Flexible Use of Capital Receipts Strategy.

14 Capital Project Delivery and Investment Risk Management

14.1 The Council, like all Council's is exposed to a broad range of risks:

- **Financial risks** related to the investment of the Council's assets and cash flow, market volatility, currency etc.
- **Macroeconomic risks** related to the growth or decline of the local economy, interest rates, inflation and to a lesser degree, the wider national and global economy amongst others.
- **Credit and counterparty risks** related to investments, loans to institutions and individuals and counterparties in business transactions.
- **Operational risks** related to operational exposures within its organisation, its counterparties, partners and commercial interests
- **Strategic risks** related to key initiatives undertaken by the Council such as significant purchases, new ventures, commercial interests and other areas of organisational change deemed necessary to help the Council meet its goals.
- **Reputational risks** related to the Council's dealings and interests, and the impact of adverse outcomes on the Council's reputation and public perception.
- **Environmental and social risks** related to the environmental and social impact of the Council's strategy and interests.
- **Governance risks** related to ensuring that prudence and careful consideration sit at the heart of the Council's decision-making, augmented by quality independent advice and appropriate checks and balances that balance oversight and efficiency.

14.2 The Council must manage and mitigate these risks where possible but there is inherent risk in undertaking major Capital Projects (particularly acquisition of Investment Properties) and this needs to be recognised. Therefore, for each scheme, risk assessments and risk registers need to be prepared and monitored to ensure, as far as possible, risks are managed.

15 Governance & Monitoring

- 15.1 The Prudential Code sets out a clear governance procedure for the setting and revising of a Capital Strategy and Prudential Indicators i.e. this should be done by the same body that takes the decisions for the local authority's budget – i.e. Full Council.
- 15.2 The Prudential Code also states that decisions around capital expenditure, investment and borrowing should align with the processes established for the setting and revising of the budget. The Financial Procedure Rules (FPR) set out clear procedures for the approval of capital expenditure, including:
- approval of the capital programme – Full Council (FPRs para B.1)
 - additions/changes to the capital programme – Cabinet/Council (FPRs para B.8)
- 15.3 The Audit Committee has delegated powers responsible for Governance and Treasury Management within the Council. They scrutinise and recommend an annual Treasury Management Strategy (incorporating an Investment Strategy and Borrowing Strategy) to Council for approval as part of the annual approval of budget. They also receive monitoring reports on Treasury activity and a year-end Annual Report.
- 15.4 The S151 Officer is responsible for ensuring that all matters required to be taken into account are reported to the decision-making body for consideration. They also have to declare that they consider the strategy to be prudent and affordable, are integrated into the Treasury Management Strategy and other Strategic Plans, and that the all the revenue implications are included in the MTFS.

16 Knowledge and Skills

- 16.1 In order to deliver this Capital Strategy it is important that the Council employs and /or has access to competently skilled people in order to manage the delivery of the Capital Programme. The Council's S151 Officer has the overall responsibility for the Capital and Treasury Management activities so needs to be professionally qualified and undertake ongoing CPD in these areas. This should be underpinned by experienced staff who can support the S151 Officer in meeting these requirements. Additionally, professional advice can be bought in from external providers. The Council currently retains Link Asset Services as its Treasury Management Advisors.
- 16.2 Training should also be provided to those Members and Officers that are involved in the monitoring and delivery of the Capital Strategy and Programme and this should be regularly updated. Appropriate project management training should also be provided to project leads, Officers and Members responsible for each of the Capital schemes.

**Investment Property Acquisition Process
2019-2023**

Process and Responsibilities for Commercial Property Investment

As a process, the investment portfolio will require work from various services within Ashfield District Council due to the complex nature of property selection, evaluation and acquisition. Adhering to this process will minimise risk and ensure adherence to Statute and the Prudential Code.

This document should be read alongside the Investment Property Acquisition process map found at the end of this document.

Stage 1 – Identification Stage

Stage 1 may be repeated several times in identifying suitable properties for purchase. The steps required help to ensure that only suitable properties are brought forward as potential investments. The due diligence undertaken here includes, and is not limited to, the tenant covenant, location, the overall market, assessment of risks and the details within the lease.

Step	Element	Document(s) Involved	Responsibility
1	Opportunity identified - This can be either by way of direct research by ADC employees or by outside approach from agents. Once a property is identified, an initial financial investment model is produced to determine if the minimum income target can be met.	<ul style="list-style-type: none"> Property Brochure 	Service Manager – Commercial Development
2	Min NIY possible? - The initial financial appraisal outlines the yield that would be obtained with the target of achieving at least 3.5% net initial yield (NIY). All evaluation is done on the basis of external borrowing from the PWLB at the rates current on the given day.	<ul style="list-style-type: none"> Financial appraisal 	Service Manager – Commercial Development
3	Collate available documents and send to finance and legal – Title(s) and Lease(s) may not be available in the first instance for every opportunity.	<ul style="list-style-type: none"> Brochure Financial appraisal Dunn and Bradstreet reports Titles and Leases 	Service Manager – Commercial Development
4a	Preliminary Finance due diligence – Finance will examine the appraisal and credit reports to determine if there is any reason not to proceed; these reasons will be documented and circulated.	<ul style="list-style-type: none"> Record of issues (email or otherwise) 	Corporate Finance Manager
4b	Preliminary Legal due diligence – Legal will examine the available documents (and undertake their own research) to determine if there is any reason not to proceed; these reasons will be documented and circulated.	<ul style="list-style-type: none"> Record of issues (email or otherwise) 	Director of Legal and Governance
5	Inspect Property – Officers will undertake a visual inspection of the property and surrounding area. This inspection informs the	N/A	Service Manager –

	creation of the Briefing note and the Evaluation Matrix.		Commercial Development
6	<p>Appraise property against matrix and write briefing note – Taking feedback received from Legal and Finance in conjunction with other sources, the Briefing note and risk assessment are completed and the Evaluation matrix is completed. These documents encapsulate the meaningful aspects of the work thus far and are prepared in order to submit the property for consideration by the Leader / Deputy Leader.</p>	<ul style="list-style-type: none"> • Briefing note • Evaluation Matrix 	Service Manager – Commercial Development
7	<p>Meet with leadership to present and obtain authority to make an offer – a meeting will held to table the property as an option and discuss the findings of work to date. Normal attendees (at a minimum) are The Chief Executive Officer, the Service Manager – Commercial Development, the Corporate Finance Manager, and Director of Legal and Governance. After the meeting, and if agreed, the Leader will formally cascade approval to offer on the property. A maximum offer is approved after discussion; although opening offers are always placed below.</p>	<ul style="list-style-type: none"> • Authority to bid 	Service Manager – Commercial Development
8	<p>Place offer – After receiving approval, offer letters are drafted, approved and submitted to the vendor’s agent. The offer letter contains ADC’s offer and terms , such as:</p> <ul style="list-style-type: none"> • The proposed time for signed Executive Decision Records, surveys, completion • Conditions to be included in the Heads of Terms (HoT), such as receipt of a full legal pack before the process starts. • Exclusivity from agreed HoT. <p>An accepted offer is notified normally by telephone and is followed by receipt of an email with Draft HoT attached.</p>	<ul style="list-style-type: none"> • Offer letter 	Service Manager – Commercial Development

Stage 2- Conveyancing Stage

This stage begins once a bid has been accepted for an investment property. The ongoing due diligence in the first stage would also be brought forward to mitigate risks. Further analysis of the tenant, the building, the lease etc, are evaluated to ensure risk is mitigated.

Step	Action	Document(s) Involved	Responsibility
9	Agree the Heads of Terms – After reviewing the received Draft Heads of Terms and making any required amendments, the revised Heads of Terms are returned to the vendor’s agent. This process will repeat until both parties are satisfied that the Heads of Terms reflect the agreed position, at which point they are formally approved by both sides. These will then be sent to the Service Manager – Commercial Development and the Director of Legal and Governance.		Service Manager – Commercial Development
10	Make contact with Vendor's solicitors; receive and verify Legal pack – Once received by Legal, the appointed solicitor will make contact with the Vendor’s solicitor via email or phone to indicate that they are representing ADC in the transaction. ADC Legal will provide the necessary details for receipt of the legal pack; upon receiving the Legal pack, the ADC’s solicitor will verify its contents and raise any queries with the other side’s solicitor whilst awaiting instructions from the Commercial Property team following a signed Executive Decision Record from the Leader.		Director of Legal and Governance
11a	Instruct surveys (external) – After agreeing Heads of Terms, quotes will be sought for conducting building surveys of the property in question. Generally, the property brochure provided at the beginning of the process is provided to at least three Survey firms, with the deadline by which inspections and reports must be completed and received by ADC (this element of the process has a 10 working day time limit from the date of Agreed Heads of Terms being received). Quotes are generally received within 24 hrs and the quote that represents best value for money (taking price, quality and time into account) is selected.		Service Manager – Commercial Development
11b	Write Urgency Notice/ Report for the Executive Decision Record – An urgency notice is required for these transactions which must be signed by the Chair of the Scrutiny Committee. The Leader, or delegated person, is obligated to contact the Chair to explain the details of the transaction prior to gaining a		Service Manager – Commercial Development

	<p>signature. An urgency notice is required due to the Decision being Key and the constrained timeframe for the process to be completed. The Report for the Executive Decision Record is the briefing note written earlier with the addition of Recommendations, Implications, Reasons for Urgency, and Exemptions, as per the standard ADC report format. Once a draft is produced by the Service Manager, it is circulated to Legal and Finance for review/amends until it is finally complete and approved by all parties.</p> <p>Then the Leader, Chief Exec and the Service Manager will meet to review the report and answer any remaining questions. Once the Leader is satisfied, the EDR is signed by the Leader and forwarded to Democratic Services, along with the report. A copy of both should also be supplied to Legal for the case file.</p>		
12a	<p>Notify other side of the EDR – Once the EDR is signed, an email should be sent to the other side’s solicitor noting that the EDR has been signed, meaning that the purchase is officially approved.</p>		Director of Legal and Governance
12b	<p>Instruct legal – The Estates Manager will complete the official instructions for Legal to undertake the conveyancing process.</p>		Service Manager – Commercial Development
13	<p>Conveyancing process – The conveyancing process is distinctly different for every property purchase, given the unique circumstances that each purchase presents, though each has common activities, i.e. examining titles, searches and queries, contract/Lease examination and amendment, etc.</p>		Director of Legal and Governance
14	<p>Determine level of borrowing and source / Option to tax (if applicable) – Finance will determine the level of borrowing need for the purchase as well as whether this should be internal or external borrowing. Finance work closely with their Treasury Management Advisers. They will seek advice to determine whether it is preferable to externally borrow now and risk the cost of carry i.e. interest payable being greater than the interest payable or whether it is best to borrow internally of temporarily if affordable.</p> <p>If the property is being sold as a Transfer of a Going Concern (TOGC), finance will complete a</p>		Corporate Finance Manager

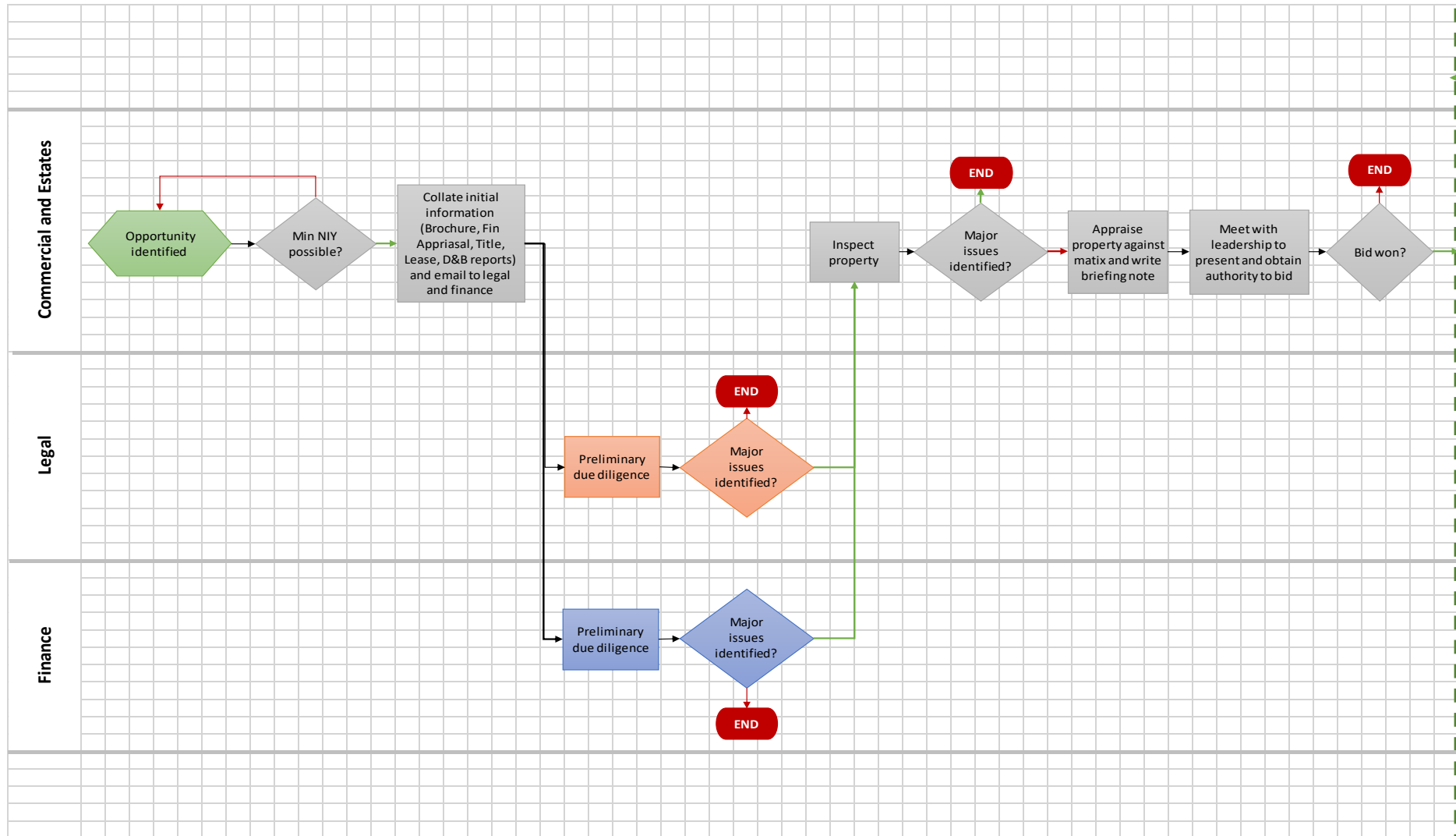
	form to Opt to Tax the property (VAT 1614A). When granted by HMRC, VAT must be paid and passed to HMRC on rents, but VAT will not apply on the purchase of the property. If for whatever reason the purchase does not complete then this can be rescinded by simply informing the HMRC.		
15	Arrange Insurance – Once the Surveys have been returned, the values provided therein by the Surveyor will be passed to Finance to arrange appropriate insurance cover for the property, with the date of commencement to be the completion date.		Corporate Finance Manager
16	Secure funds – Having previously determined the source of funding, Finance will take steps to secure the funds in anticipation of making payment.		Corporate Finance Manager
17	Transfer payment – Once Legal is satisfied that completion can occur, the solicitor will notify Finance that the money can be transferred. Funds will be transferred <u>no later than 1700hrs on the day prior to completion.</u> Failure to meet this deadline risks incurring additional costs in penalties as noted in the sale contract.		Corporate Finance Manager
18	Complete – At the agreed date/time, ADC's solicitor and the Vendor's Solicitor will carry out the completion process.		Director of Legal and Governance

Stage 3- Post-Completion Stage

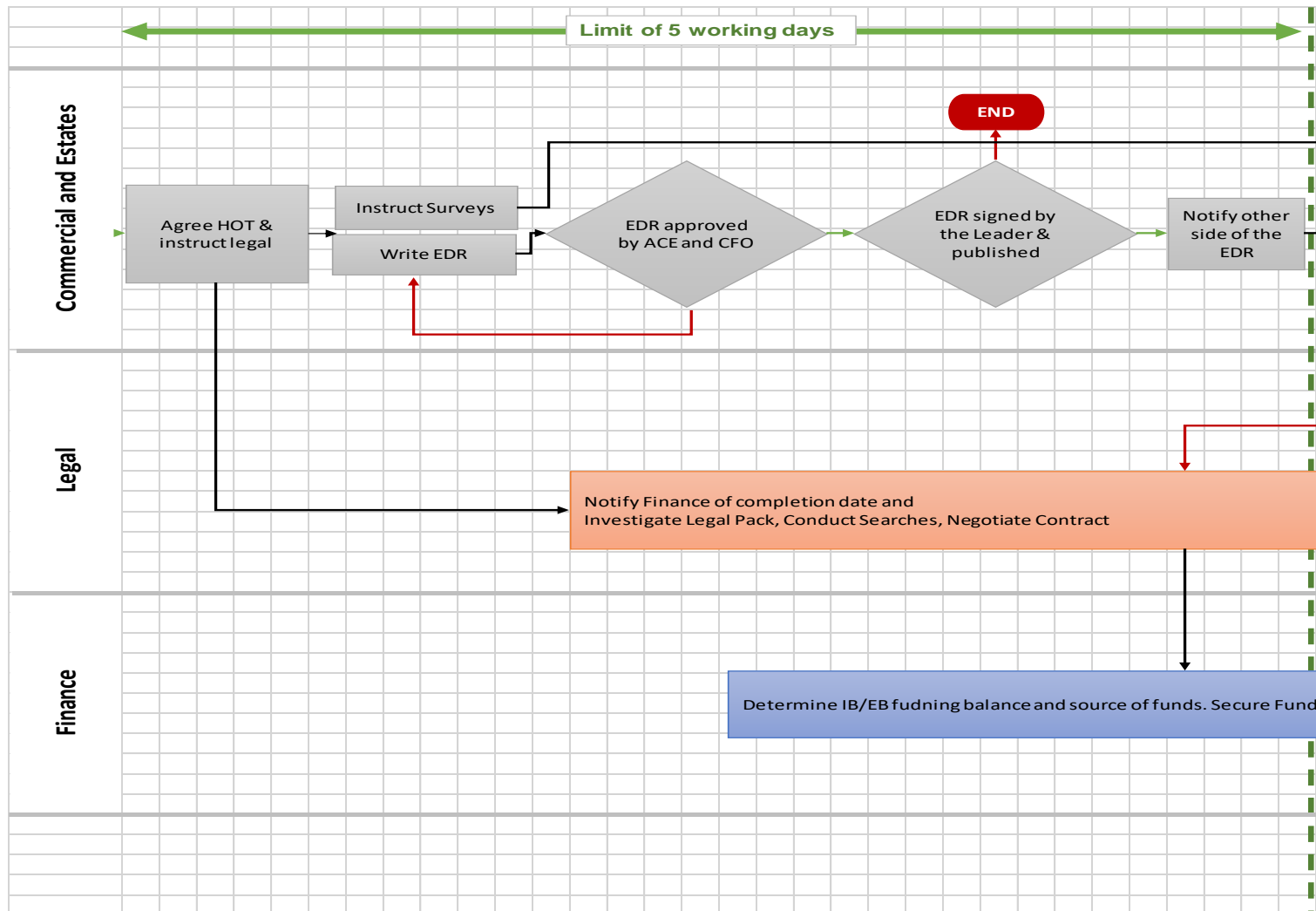
After completion, work remains to complete the entire process before day-to-day management and monitoring begins.

Stage	Action	Document(s) Involved	Responsibility
19	Post completion		Director of Legal and Governance
20	Authorise Stamp Duty payment to HMRC		Service Manager – Commercial Development
21	Update Budget – The budget will be updated at the next available opportunity to include the expected Rental Income, Minimum Revenue Provision and Interest Payable, if applicable.		Corporate Finance Manager

Investment Property Acquisition Process Map - Stage 1: Identification & Bid



Investment Property Acquisition Process Map - Stage 2: EDR and Instructions



Investment Property Acquisition Process Map - Stage 3: Due Diligence, Completion and Post-completion

