

**ASHFIELD DISTRICT COUNCIL
CAPITAL STRATEGY 2022/23 – 2025/26**

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 has a current use Balance Sheet value of £385m as at 31 March 2022 (£357m as at 31 March 2021.)
- 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 approved Capital Programme. 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 historic Commercial Investment Strategy element of the Capital Strategy) are/have been key drivers to secure the future financial sustainability of the Council.
- 1.6 The legal background to funding Capital Expenditure is contained in the Local Government Act 2003, particularly the following sections:
 - S1 – power to borrow
 - S3 – affordable borrowing limit
 - S15 – regard to Guidance issued
- 1.7 Guidance is also issued by Government, the latest guidance issued by the Department of Levelling Up, Housing and Communities (DLUHC), (formerly the Ministry of Housing Communities and Local Government (MHCLG)) being

Investment Guidance (2018) and Minimum Revenue Provision (MRP) Guidance (2018).

- 1.8 Council's should also comply with professional codes that are issued, the key ones being:
- CIPFA Prudential Property Investment (November 2019).
 - CIPFA Prudential Code (December 2021)
 - CIPFA Treasury Management Code of Practice (December 2021).

The codes issued in December 2021 are to be fully applied from the financial year 2023/24.

- 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 2021 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.'

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, Discover Ashfield Board and the private sector.

- 2.3 Internal influences will be driven by the Council's Corporate Plan which sets out the Council's vision and priorities for the District and is available on the Council's website:

<https://ashfieldintranet.moderngov.co.uk/documents/s19404/Enc.%20%20Corporate%20Plan%20Refresh%20202122.pdf>

A new Corporate Plan is developed every four years, the current Corporate Plan was approved by Council on the 26th September 2019 and the latest refresh of the plan was approved by Cabinet on 21st June 2022.

- 2.4 The Council's Corporate Plan 2019-2023 sets out the following six priorities;
- Health & Happiness
 - Homes & Housing
 - Economic Growth & Place
 - Cleaner & Greener

- Safer & Stronger
- Innovate & Improve

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

- Medium Term Financial Strategy
- Treasury Management Strategy
- 30 Year HRA Business Plan
- Housing Strategy
- Digital Transformation Strategy
- Commercial Investment 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 existing asset base and service plans, ICT and business improvement investment to support its Transformation programme. Investment in other delivery vehicles such as a Housing Company continue to be 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, eg 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 and social value 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, Future High Streets Fund, etc
 - 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 (Originally approved October 2018) which may be used to support delivery of the Council's Transformation Programme. New statutory guidance regarding the flexible use of capital receipts was issued 2nd August 2022 and covers financial years that begin on 1 April 2022, 1 April 2023 and 1 April 2024.
- 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 need to either find alternative sources through grants and contributions, pursue schemes that are self-financing (i.e. generate an income scheme to cover prudential borrowing and other on-going revenue costs) 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 ongoing monitoring of assets and stock condition information, 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 Following national changes during 2021, the Council has entered into a new agreement with the DLUHC in relation to how retained Right to Buy (RTB) receipts can be applied. The authority will recycle within a rolling 5-year period (changed from a 3-year period) Right to Buy (RTB) receipts arising from retaining "additional" receipts from RTB disposals into new social housing dwellings within the District. The RTB receipts retained, must be applied to fund up to 40% (previously 30%) of the capital costs of new build and acquisitions of affordable housing. A cap will be introduced on the use of RTB receipts for acquisitions with effect from 1 April 2022 and phased in over 2022-23 to 2024-25. The first 20 units of delivery in each year will be excluded from the cap and therefore, the cap is not expected to impact on our acquisition programme. If the retained receipts are not spent within 5 years, they must be returned to Government with interest. If future actual expenditure matches the budgeted expenditure in the capital programme, the spend requirement will be exceeded up to 31st March 2029. This position will continue to be monitored.

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. This includes Minimum Revenue Provision (MRP) and interest. The MRP policy that applies to capital decisions funded by prudential borrowing is set out within the Council's Treasury Management Strategy.

5.3 S106 Developer Contributions

5.3.1 Developer contributions are sought, as part of the planning application process to mitigate the impact of development and overcome what would

otherwise be a potential reason to 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 has removed the 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 was limited by Government policy, to a year on year decrease of 1%. Maximum increases of CPI plus 1% are permissible from 2020/21.
- The number of Right to Buy sales that take place and impact on the HRA stock and therefore the amount of 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 consideration of developing a Housing Company, which the Council may establish to deliver new rented properties in the District.

6.2 In the context of the Capital Strategy, the Council has invested in property to produce an on-going revenue stream to contribute to the funding of the Council's revenue budget to sustain the delivery of key services to the District's residents. This capital expenditure has been funded through prudential borrowing. The prudential borrowing costs result in revenue costs of MRP and potentially interest. Prudential borrowing can be internal borrowing, against cash-backed reserves and working capital or external borrowing, loans from a third party. Interest costs are incurred where external borrowing is undertaken. The MRP and interest costs are funded from the on-going revenue stream from the property.

6.3 At the time of writing the Council currently has a portfolio of 'investment properties' of £61.770m (this is based on acquisition cost including associated

costs) and comprises of 15 properties. The portfolio is forecast to generate gross investment income of £4.589m in 22/23. The prudential borrowing costs are estimated to be £1.521m in 22/23, which includes interest on £22.3m, which is the additional external debt taken as a consequent of the investments made, with the remainder being funded with internal borrowing.

- 6.4 The Council's strategy in respect of 'investment properties' is detailed in the Commercial Investment Strategy (Non- Treasury Management Investment Strategy) included at Annex 1. Following the Public Works Loan Board (PWLB) Consultation outcome which was announced in November 2020 the Council has taken the decision to not acquire any further Investment Properties in order that it has continued access to the PWLB as a funding source for its Capital Programme.
- 6.5 The revised CIPFA Prudential Code issued in December 2021 states that authorities "must not borrow to invest primarily for financial return". It also says that it is not prudent for them to make any investment or spending decision that could increase the need for borrowing, unless related to the functions of the authority and where financial returns are "either related to the financial viability of the project in question or otherwise incidental to the primary purpose". Therefore, the changes in the code are aligned to the decision to remove any further investment property purchases from our Capital Programme and Capital Strategy.
- 6.6 Following a bidding process, the Council has been awarded funding of £6.27m from the Future High Street Fund, for four schemes in Sutton-in-Ashfield. All four schemes are included on the approved capital programme. All four schemes have commenced, and funding has been received based on the annual spending profiles submitted as part of the business cases.
- 6.7 The Council has successfully secured a Town Deal for both Kirkby-in-Ashfield and Sutton-in-Ashfield from the Towns Fund, securing £62.7m for 17 schemes. The Council is developing full business cases for each scheme, in accordance with the timeframes set by Central Government. The Council has already received accelerated funding of £1.5m (£750k each for Sutton and Kirkby) in 2020/21 and £3.150m, a 5% upfront payment in 2021/22, to enable the schemes to progress and a further £4.772m received in 2022/23. All of these funding amounts have been included on the approved capital programme.

7 The Current Capital Programme 2022/23 – 2026/27

- 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 to be reported to Cabinet in February 2023. The current programme covers the following key areas and major schemes:

- Area schemes & General Fund Schemes

- Towns Fund Programme
- Future High Street Fund Programme
- Other Leisure Transformation schemes
- Purchase of Vehicles
- Housing Revenue Schemes
 - Decent Homes schemes
 - New Build and acquisitions of affordable housing
 - Affordable Housing developments

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 Service Enhancements & Building Asset Maintenance

8.1 The Council has a property land and buildings portfolio utilised for service delivery (eg 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 stock condition surveys 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.

8.2 As part of the agile working initiative which has significantly expanded due to the Coronavirus pandemic, opportunities for rationalisation of operational land and buildings may be identified. Equally, the retained operational land and buildings may require enhancement.

8.3 Included in the land and buildings portfolio are a number of Commercial Properties, which are providing an income stream to the Council. They are not deemed to be investment properties as they are held to support the economic development of Ashfield and are not held solely for returns or capital appreciation. The Council's risk exposure to be managed, in relation to these Commercial Properties include loss of income stream due to void periods and maintenance costs.

9. Grants & Contributions

9.1 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.

9.2 The Council will also, where appropriate, seek grant funding and contributions to support the delivery of capital schemes.

10 Vehicles and Fleet

- 10.1 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 the current capital programme continues with this approach, other funding methods will be evaluated and may also be utilised (e.g. lease, Contract Hire with Maintenance, etc) in order to achieve the most cost effective approach to vehicle provision.

11 Service Transformation & Invest to Save

- 11.1 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 Councils finances. These schemes will require initial Capital investment but must demonstrate a payback and ongoing savings as part of the evaluation process. A business case will need to be made for all proposals, which must include a financial appraisal.
- 11.2 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 up to 31 March 2025.

12 Economic and Regeneration Projects

- 12.1 The Council is seeking to secure additional external funding to support economic and regeneration schemes to maximise Ashfield's assets to support business growth and investment and to make Ashfield a destination of choice to work and to live.
- 12.2 In some cases the funding of the schemes may also have a commercial aspect where it generates income which may be used to fund on-going revenue costs including borrowing costs.
- 12.3 A detailed business case will need to be made for all proposals, which must include a financial appraisal.

13 Loans to third parties

- 13.1 A local authority may choose to make loans to local enterprises, local charities, wholly owned companies and joint ventures as part of a wider strategy for local economic growth. The Council's current capital plans do not include making any loans to third parties. The Minimum Revenue Provision Guidance consultation ended on the 8th February 2022. The results of the consultation are still to be published, once published, this may result in changes that would impact on the viability of local authorities giving loans funded by borrowing to third parties.

14 Capital Project Delivery and Investment Risk Management

14.1 The Council, like all Councils 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 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 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's current Treasury Management Advisors are Link Asset Services.
- 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.

**ASHFIELD DISTRICT COUNCIL
COMMERCIAL PROPERTY INVESTMENT STRATEGY**

This Commercial Property Investment Strategy document outlines the rationale, process and risk management in relation to previous Commercial Property Investment acquisitions and the on-going management of the Commercial Property Investment portfolio.

The current capital programme (to be approved February 2023) does not include any plans for further Commercial Property Investment, the last acquisition was made on 2nd April 2020.

1. Key Principles

- 1.1 The core function of the Council is to deliver statutory and other services to local residents. Reductions in government funding has required local authorities to look at the options for balancing the budget. Investing in property helps the Council to generate an additional on-going revenue income stream that it can then use to reduce its net costs of providing services.
- 1.2 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 stream into the future.
- 1.3 The Council funds the purchase of the property by prudential borrowing and/or use of Capital Receipts where these are available. The rental income paid by the tenant must exceed the cost of capital (MRP and interest). The annual surplus then supports the Council's budget position and enables the Council to continue to provide services for local people.
- 1.4 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.
- 1.5 The increase in value is realised when the property is sold. The sales proceeds from the sale of property result in a capital receipt for the Council. The capital receipt will be used to extinguish the debt outstanding in the Capital Financing Requirement in relation to the property sold, and the remaining capital receipt can be used to fund further capital investments or applied to revenue transformation costs under the Flexible Use of Capital Receipts Policy. In both cases, the additional capital receipt will support the delivery of services for local people.

Purpose

- 2.1 The Commercial 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 to provide an income stream with a margin over the cost of capital.
 - 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.
- 2.2 Each acquisition is evaluated on its merits to consider the relevant purpose(s), legal powers, financial powers and any other implications. The evaluation addresses 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.

3. Legal Powers

- 3.1 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
- 3.2 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.
- 3.3 Section 120 of the Local Government Act 1972 to acquire land (inside or outside of their area) for the purposes of any of their functions, and then this gives us the power to borrow as contained in Section 1 of the Local Government Act 2003 - A local authority is empowered to borrow money for any purpose relevant to its functions under any enactment.

4. **Objectives of the investment activity**

- 4.1 Acquisition 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
- 4.2 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.
- 4.3 The Chartered Institute of Public Finance and Accountancy (CIPFA) defines investment property as “...used solely to earn rentals or for capital appreciation or both...”.
- 4.4 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.
- 4.5 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.
- 4.6 The Council has pursued 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.
- 4.7 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.

5. **Priorities & Risk in Property Investment**

- 5.1 The priorities the Council had considered 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 to sustain delivery of key services to residents. 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 replacement 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 than 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 capital (Interest and MRP).
- **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 has sought 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 ensures a certain income/return to the Council.
- **Growth** - property has the potential for both revenue and capital growth. The Council has taken 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. As from the end of November 2020 the Council will no longer acquire out of District Investment Properties.

- **Sector** - information as to the sector of use of the property (e.g. office, retail, industrial, leisure) has assisted 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.

5.2 In summary, the strategy for previously acquiring investment property assets was 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

6. Reporting Requirements and Governance

6.1 Commercial Property Investment Strategy

6.1.1 In accordance with the DLUHC revised Statutory Guidance on Local Government Investments (2018), each financial year, a local authority should prepare an Investment Strategy, which should be approved by full Council. The investment strategy must include non-treasury management investments.

6.1.2 This Commercial Property Investment Strategy, which is incorporated into the Capital Strategy is this Council's non-treasury management investment strategy.

6.1.3 The DLUHC Statutory Guidance on Local Government Investments (2018) requires the Commercial Property Investment Strategy to include quantitative

indicators to allow risk exposure as a result of its non-treasury management investments to be assessed. The indicators are included as Annex 2.

6.2 Acquisition, Re-assignment and Regear Decision Making and Reporting

6.2.1 The acquisition process was 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 3 of this Strategy.

6.2.2 Where time constraints allowed, which is more often not the case, a collective Cabinet decision has been 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 has negotiated an acquisition by Private Treaty, the Vendor has wanted 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 have used 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 has been prepared and required notices published in accordance with Governance requirements. Specifically:

1. Where timeframes have not allowed a collective Cabinet decision, the Leader of the Council has taken a delegated Executive Decision.
2. Previously, 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, a General Exception has been applied (Rule 15). This gives five clear days' notice of the decision being made. The Monitoring Officer informs the Chairman of the Overview and Scrutiny Committee and has published the required notices.
3. Where there is a greater urgency and 5 clear days' notice could not be given, the Special Urgency provisions has been 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) has been obtained before making the decision. The Rule 16 notice has then been published.
4. In such cases it is expected that the decision has been implemented without delay and therefore not been subject to call in.
5. The report has explained the reasons in each case as to why a decision is not to be called in.
6. The Leader has reported to the next available Council meeting any decisions, which are made pursuant to Rule 16.

6.2.3 This process is also followed where decisions are needed to be made urgently in relation to re-assigning and regears.

6.3 **Post Acquisition Monitoring Arrangements**

6.3.1 A Commercial Investment Working Group operates within the Council and is attended by:

- Chief Executive/Deputy Chief Executive
- Director of Resources and Business Transformation
- Monitoring Officer/Deputy Monitoring Officer
- Section 151 Officer/Deputy Section 151 Officer
- Commercial Development Service Manager

6.3.2 The Group meets quarterly and discusses:

- Progress of commercial investments being pursued (will not be applicable in line with current capital plans)
- New opportunities for commercial investments (will not be applicable in line with current capital plans)
- Factors impacting or influencing opportunities for commercial investments (will not be applicable in line with current capital plans)
- Performance of and factors impacting or influencing existing commercial investments

6.3.3 A quarterly Commercial Property Performance Report is presented to the group which details:

- the rentals payment performance of the Commercial Property Investment tenants;
- financial performance of Commercial Property (as defined in 8.3 of the Capital Strategy) and Commercial Property Investments;
- the state of the market which covers how each sector e.g. industrial, office, retail, leisure is performing;
- Tenant Covenant, which covers default risk (payments not being made), failure risk (business failure) and delinquency risk (payments being late).

6.3.4 A mid-year report and outturn report on Commercial Property Investment Performance detailing the information in 6.3.3 is reported to Audit Committee.

6.3.5 A Council representative, primarily the Council's Property Agent and/or the Commercial Development Service Manager will periodically visit and inspect Commercial Property Investments. The Council's Commercial Adviser inspects the Investment properties on a regular basis. They advise the Authority on any potential issues which they include on their quarterly monitoring report. Regular contact is also maintained between the Council's

Property Agent and the tenants, this informs the quarterly report to the Council.

7. Risk Management

7.1 Risk Mitigation on acquisition

7.1.1 In order to mitigate the risks of investing in commercial property, the considerations outlined 5.1 have always been evaluated and the processes in 6.2. undertaken. The acquisition 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 3 of this Strategy.

7.1.2 A fair value assessment has been conducted on purchase and provides sufficient security for the underlying capital invested.

External Advice

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

- Appointing a representing agent in line with Contract Procedure Rules to represent and advise Ashfield on potential 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.

7.2 Risk Mitigation post acquisition

Annual Review of Fair Value

7.2.1 An annual review will be undertaken of the Commercial Property Investment portfolio fair value as per the Council's revaluation programme as outlined in the accounting policies and agreed with the external auditors. The fair value will be compared to the debt outstanding and appropriate provision will be made if there is a fall in the value of the assets.

Commercial Property Investment Earmarked Reserve

7.2.2 The Council has established a Commercial Property Investment Earmarked Reserve, which is to mitigate against the risk of business failure and lease events.

7.2.3 The reserve will be used to cover:

- Loss of investment return

- Capital financing costs (MRP and interest costs are still incurred, if the income stream is lost)
- Business Rates (the Council will be liable to pay the Business Rates, if the property is vacant)
- Capital Expenditure (may be necessary to fund dilapidation works to get the property to a standard to enable re-let.

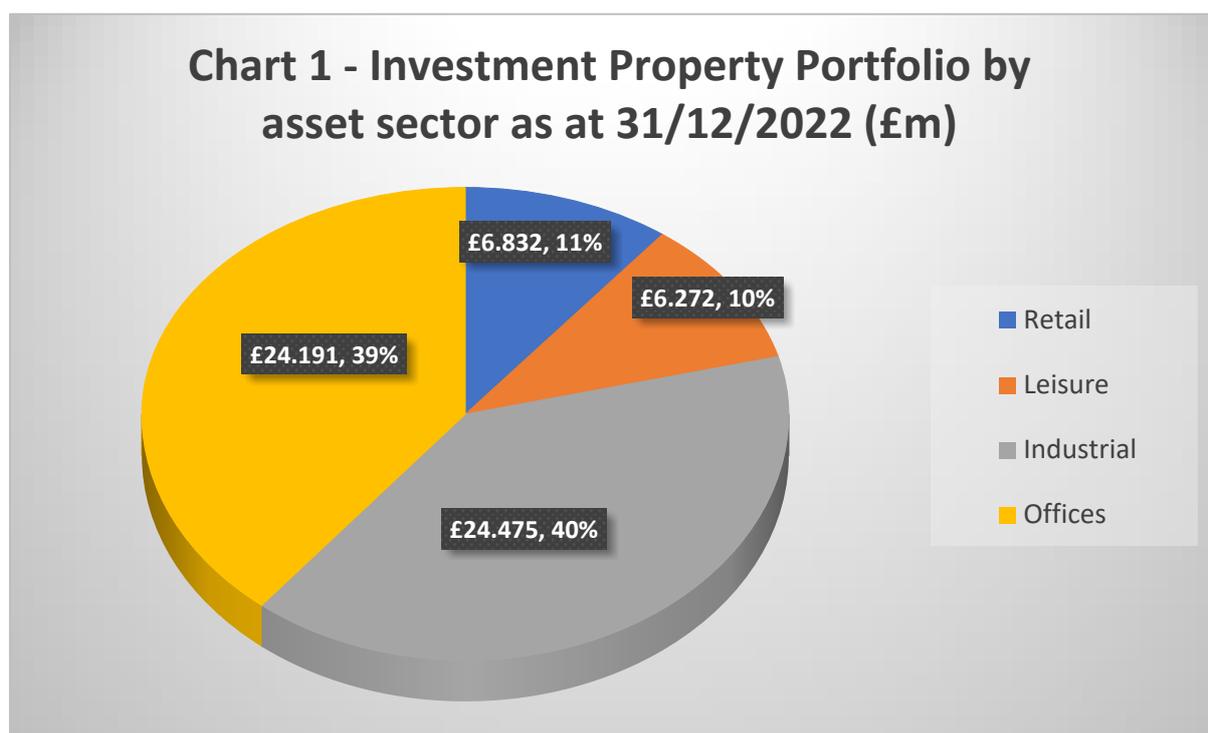
7.2.4 It will also be used to fund any debt outstanding following the sale of a Commercial Property Investment where the capital receipt does not extinguish the debt outstanding for the property.

7.2.5 An annual review of the Commercial Property Investment Earmarked Reserve will be carried out as part of the Medium Term Financial Strategy to assess whether there are sufficient resources held in the Reserve. Where it is deemed there are insufficient resources, provision will be made to top up the reserve over a period of time as part of the budget setting process (through the Medium Term Financial Strategy).

Commercial Property Investment Portfolio and Indicators

Commercial Property Investments Portfolio

The total investment property portfolio of £61.770m (this is based on acquisition cost including associated costs) and comprises of 15 properties. Chart 1 shows the investment portfolio by asset sectors.



The current capital programme (to be considered by Cabinet February 2023 and approved by Council March 2023) does not include any plans for further Commercial Property Investments.

The DLUHC recommend the following indicators for non-treasury investments e.g. Commercial Property Investments.

a) Debt to Net Service Expenditure

Table 1 shows the gross external debt on Commercial Property Investments at the end of each financial year divided by the Net Service Expenditure for each financial year. It assumes all future planned Commercial Property Investments are funded from external borrowing and therefore increases the debt in the indicator.

Table 1 demonstrates how many times greater the Commercial Property Investments debt is to the estimated Net Service Expenditure.

Table 1 Debt to Net Service Expenditure

The Debt to Net Service Expenditure is decreasing as there are no plans to purchase further investment properties, therefore the level of debt outstanding reduces as MRP is charged to the General Fund.

b) Commercial Income to Net Service Expenditure

	2021/22 (Actual)	2022/23 (Forecast)	2023/24	2024/25	2025/26
Debt to Net Service Expenditure	5.04	4.06	3.79	3.70	3.53

Table 2 shows the expected income from Investment Properties divided by the Net Service Expenditure. As there are no plans to purchase further investment properties this ratio is forecast to maintain reasonably constant, with changes due to annual rent increases and changes to the Net Service Expenditure.

Table 2 Commercial Income to Net Service Expenditure

	2021/22 (Actual)	2022/23 (Forecast)	2023/24	2024/25	2025/26
Commercial Income to Net Service Expenditure	37.70%	31.76%	31.63%	29.64%	28.94%

This highlights the reliance on Commercial Property Investment income in delivering Council services. The strategy for risk mitigation to manage and maintain the income stream is set out in Section 7 of the Commercial Property Investment Strategy.

c) Investment Cover Ratio

Table 3 shows the expected net income from Commercial Property Investments divided by the Interest Expense. It has been calculated on the basis that all the Commercial Property Investments have been funded by external borrowing, and interest is being incurred

The increases in the ratio year on year in the table is due to forecast increases in the net income based on the lease agreements in place for the existing portfolio. The significant increase in 2022/23 is due to the forecast increase in income from the hotel in line with the terms of the new lease.

The Council uses the annuity method to calculate its MRP for Investment Properties. The annuity method charges less MRP in the early years following purchase and more MRP in the later years. The total amount of MRP charged over the life of the asset will equal the amount of prudential borrowing. Therefore the increasing MRP will reduce the investment income cover, if the ratio is maintained or increases it demonstrates the income increases are matching or exceeding the increasing MRP charges.

Table 3 Investment Cover Ratio

	2021/22 (Actual)	2022/23 (Forecast)	2023/24	2024/25	2025/26
Investment Cover	1.40	1.38	1.56	1.36	1.36

d) Loan to Value Ratio

Table 4 shows the Capital Financing Requirement (debt to be funded) for the Investment Properties divided by their estimated valuations.

Table 4 Loan to Value Ratio

	2021/22 (Actual)	2022/23 (Forecast)	2023/24	2024/25	2025/26
Loan to Value Ratio	117.92%	115.90%	113.97%	111.98%	109.95%

In the early years, the loan value is expected to exceed the asset value. The main reason for this is due to acquisition costs e.g. stamp duty, agent fees etc. being included in the cost of the Commercial Property Investments that have been funded by borrowing, these costs are not included in the property valuation.

The loan to value is expected to continue to reduce as the capital financing requirement (unfunded debt) reduces as MRP payments are made. The investment properties will be valued regularly. Any increase in Investment Property values will reduce the loan to value ratio and consequently any decrease in value is likely to increase the loan to value ratio.

e) Target Net Income Returns

Table 5 compares the Target Net Income Return with the Actual Net Income Return. The Actual Net Income Return is calculated by dividing the Estimated Investment Property Income less MRP and Interest Costs by the Investment Property Purchases. Similar to c) above the estimated net income return is increasing due

forecast increases in income based on the existing lease agreements, being in excess of the increasing MRP charges.

Table 5 Target Net Income Returns

	2021/22 (Actual)	2022/23 (Forecast)	2023/24	2024/25	2025/26
Target Net Income Return	2.50%	2.50%	2.50%	2.50%	2.50%
Estimated Net Income Return	3.40%	3.35%	3.79%	3.30%	3.29%

f) Gross and Net Income

Table 6 compares the estimated gross income with the estimated net income. The net income is the estimated gross income net of interest and MRP charges. As per e) above the net income assumes that interest on external borrowing will be paid for all investments.

Table 6 Gross and Net Income

	2021/22 (Actual)	2022/23 (Forecast)	2023/24	2024/25	2025/26
	£000s	£000s	£000s	£000s	£000s
Gross Income	£4,473	£4,590	£4,822	£4,541	£4,562
Net Income	£2,101	£2,073	£2,343	£2,038	£2,034

Note: In all of the above indicators where net income returns are included, the estimate assumes that interest on external borrowing will be incurred. The Council, depending on its cash reserve position, may choose to use internal borrowing to finance part or all of its investment property purchases. If internal borrowing is used the net income will increase as interest payable costs are saved.

To date actual external debt of £22.3m has been taken as a consequence of the property investments made, with the remainder being funded with internal borrowing. Table 7 below shows the net income after the actual external interest costs on the additional debt and the MRP charges. This is the actual impact on the MTFs.

Table 7 Gross and Net Income – impact on MTFs

	2021/22 (Actual)	2022/23 (Forecast)	2023/24	2024/25	2025/26
	£000s	£000s	£000s	£000s	£000s
Gross Income	£4,473	£4,590	£4,822	£4,541	£4,562
Net Income	£3,055	£3,028	£3,297	£2,993	£2,989

g) Break Clauses or Lease Expiries

All of the investment property leases have either i) a break clause which gives the lessee the option to either continue leasing the property or to end the property lease or ii) an expiry date where the tenant vacates the property unless a new lease contract is signed.

There is a risk for the Council with both break clauses and lease expiries, if the existing tenant chooses to leave the property. The risks this exposes the Council to, and risk mitigation are, detailed in the Commercial Investment Property Strategy. Risk mitigation includes spreading the dates when break clauses and lease expiries occur across the Council's Commercial Property Investment portfolio.

Table 8 below shows the years when the Council has a break clause or expiry on its current Commercial Property Investment portfolio.

Table 8 Break Clauses or Expiries

Financial Year	Number of Breaks or Expiries
2021/22	0
2022/23	1
2023/24	0
2024/25	3
2025/26	1
2026/27	0
2027/28	0
2028/29	4
2029/30	2
2030/31	1
2031/32	1
2032/33	3
2033/34	0
2034/35	1
2035/36	1
2036/37	1
2037/38	0
2038/39	0
2039/40	1
2040/41	0
2041/42	0
2042/43	0
2043/44	0
2044/45	0
2045/46	0

This information is used when negotiating with tenants to re-gear leases at the appropriate time, the negotiations can include changing the options for break clauses and lease expiry.