Milton Keynes City Council

Acquistion and Investment Policy.

Corporate Property Strategy 2024-2029

13 August 2024
Version 4

1. Introduction

This policy applies to the acquisition of all interests in any non-residential property. It sets out procedures that are designed to be open, transparent and consistent, to ensure maximum benefit from the effective purchase and subsequent management of the Council's assets.

Within this context, the policy will ensure the Council achieves best value, acts within the appropriate legal framework, considers whole life costs, and operates in a demonstrably fair and open manner.

Milton Keynes City Council's (MKCC's) powers to acquire land are governed by law. Section 120 of the Local Government Act 1972 permits Councils to acquire land whether situated inside or outside their areas for the purpose of any of their functions or for the benefit, improvement, or development of their area. Within this legal framework, the Council holds property in order to meet its corporate objectives and to deliver services for the borough of Milton Keynes.

Local authorities also have the ability to invest for a commercial purpose under the "general power of competence", a free-standing power afforded by section 1 of the Localism Act 2011. This power enables Local Authorities (LA's) to do anything an individual may do, subject to a number of limitations such as financial regulations and legal obligations.

The Property and Development Team will lead on all property acquisitions on behalf of MKCC.

We will:

- Work within the guidelines of this policy at all times.
- Ensure that the Council has the correct powers to acquire any interest in land.
- Ensure the Council's Constitution is correctly followed, ensuring acquisitions are made in accordance with the Council's Financial Regulations, Officer Scheme of Delegation, and Leader's Executive Scheme of Delegation.
- Seek opportunities that will further the corporate aims and objectives of MKCC.
- Ensure the local property market and relevant external influences are monitored for market risk.
- Ensure MKCC's property portfolios exploit opportunities with partner organisations to maximise opportunity benefits.
- Work strategically with our partners to ensure that we learn from our common experience and share best practice.

2. Investment

MKCC holds an investment property asset base which both supports the local economy and delivers a significant income stream for the Council.

The Council has the ability to rationalise the existing portfolio, particularly low yielding assets, in order to reduce holding costs and generate capital for investment into new higher yielding assets where there is a wider social or economic benefit, subject to financial regulations.

Investment opportunities will only be considered where:

- A gap in the market exists which is not being fulfilled by the private sector.
- There is a strategic social or economic business case for the investment – for example, for regeneration purposes.
- There is an identified need to acquire land or assets for operational purposes.

Strategic Review of the existing portfolio

A strategic review of the council's commercial property portfolio was undertaken in October 2023 and will be refreshed again within the lifespan of the Corporate Property Strategy (2024-2029).

The review is intended to stimulate discussion and form the basis for a longer-term property investment strategy and pipeline and to de-risk the existing portfolio.

3. Principles of Acquisition

When acquiring new property, the following principles will be followed:

Yield

The yield from investment opportunities should achieve a return to MKCC at a specific percentage above the cost of capital borrowing, after servicing the purchase costs, to be agreed on a case-by-case basis by the Section 151 Officer.

Due Diligence

Due diligence checks are to be carried out prior to any acquisition as part of the business case, to include (but not limited to) the analysis of:

a. The minimum length of the unexpired lease terms.

b. Tenant covenant strength and credit checks.

c. Asset maintenance liability and building condition.

d. Legal encumbrances, including 3rd party rights and covenants.

e. Planning and/or regeneration potential.

f. Technical due diligence.

Where the business case is strong enough, acquisitions may occur outside of the city's boundaries in accordance with S120 of the Local Government Act, 1972.

Risk Spread

Property investment risk is to be spread over a range of property assets to include:

- *Retail* – risks to be mitigated by selecting schemes in the right locations;
- *Commercial* – with opportunities for conversion, or part-conversion to residential.
- *Industrial* – risks to be mitigated by selecting schemes in good locations and where future capital investment costs are identified.
- Property and Development will keep a database of commercial properties to demonstrate the number of, and income from, each portfolio so that investment risk is spread effectively.

Process

The property market will be monitored and analysed to identify suitable property acquisitions. In some cases there will be liaison with the planning authority in order to assess any future development potential.

The Assistant Director of Property will produce a business case prior to any acquisition. It will:

- clearly set out the reasons, benefits, risks and financial implications of any proposed acquisition, and should have due consideration to the Council's strategic approach to capital and be executed as part of the Revenue Budget or Capital Programme, as appropriate.
- summarise tenancy, covenant and other known legal factors related to the proposed purchase as set out within the strategy principles.
- demonstrate that the acquisition is in line with the aims of the Corporate Property Strategy and achieves best consideration.
- identify known urgent maintenance or improvement works directly related to the acquisition.

- identify if the acquisition is based in full or part on future hope value of obtaining planning consent, and what discussions have been had, if any, with the planning authority in this regard.
- reference an appropriate valuation as set out in part 19 of the Council's Financial Regulations.

The business case will be Subject to the Council's governance procedure and internal processes.

Funding and budget will be identified before any acquisition is actively pursued or any costs incurred. Purchase costs must not exceed the agreed acquisition budget unless consent has been given in line with the relevant delegated authority.

Authority to acquire property must be given in accordance with the Leader's Executive Scheme of Delegation and the Council's Financial Regulations.

4. Compulsory Purchase

There may be times when the Council needs to utilise Compulsory Purchase Orders (CPO) to acquire land for specified purposes.

CPOs do not form part of the acquisition and investment strategy as the procedure for exercising a CPO is directed by the Acquisition of Land Act 1981, and this statutory procedure must be strictly observed. In the event that these powers are exercised, compensation is payable to the landowner in accordance with the Land Compensation Act 1961.

The Council may acquire land by agreement either as an alternative to CPO or in the general exercise of their statutory powers, and these efforts will always be encouraged. The ability to acquire land by agreement is provided by S227 of the Town & Country Planning Act 1990 in the case of a specific alternative to compulsory purchase and, more generally, by S120 of the Local Government Act 1972.

Where the Council has the ability to acquire land compulsorily, acquisitions by agreement are often referred to as 'acquisitions under threat of CPO'. It will be assumed that the Council was prepared to utilise powers of CPO unless the land was publicly or privately offered for sale immediately before negotiations.

The Council will need to be satisfied that the purposes for which a compulsory purchase order is made justified interfering with the human rights of those with an interest in the land affected. Particular consideration will therefore need to be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights.

5. Version Control

Version Number	Date issued	Author	Update information
1	27/09/2019	Bee Lewis/ Peter Beer	First published version
2	18/11/2021	Leon Howell	Contact details and accessibility
3	19/02/2024	Peter Beer	New template Reference to Strategic review Reference to updated Financial Regs
4	13 August 2024	Bee Lewis	New template and policy reviewed in line with the Corporate Property Strategy.

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City Council