

MAIDSTONE BOROUGH COUNCIL

RECORD OF DECISION OF THE CABINET

Decision Made: 12 September 2012

INVESTMENT OPPORTUNITY

Issue for Decision

This report considers investment proposals for the council to help improve income and achieve the Council's priorities

Decision Made

1. That the three areas of investment be supported, subject to the controls set out in the report of the Assistant Director of Environment and Regulatory Services.
2. That a member advisory panel be established in accordance with the terms of reference set out in Appendix 2 to the report of the Assistant Director of Environment and Regulatory Services.
3. That a Cabinet Committee be established, in accordance with the terms set out in Appendix 2 to the report of the Assistant Director of Environment and Regulatory Services, to make decisions on possible acquisitions, having regard to the views of the members advisory panel. The committee to comprise of the Leader of the Council, the Cabinet Member for Economic and Commercial Development and the Cabinet Member for Corporate Services. The remaining Cabinet Members are able to be appointed as substitute members of the Committee.
4. That an agent or agents be appointed on a commission only basis, in accordance with the maximum sliding scale identified in Appendix 1 to the report of the Assistant Director of Environment and Regulatory Services, to bring forward potential acquisitions on a confidential basis.
5. That the Audit Committee and the Council be recommended to authorise prudential borrowing of up to £6million within the current financial year 2012/13 and to set aside a fund of £500,000 from balances to cover any potential scheme failure.

Reasons for Decision

The current economic climate is causing significant financial pressures on local authorities. Revenue provision through government grant is

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reducing and will continue to reduce. In order to achieve the Council's strategic goals and indeed to maintain services, there is a need for the Council to be more business-like.

The Government is actively encouraging local authorities to use prudential borrowing to generate additional income, support improved sustainability and provide encouragement for businesses to invest and regenerate.

The Cabinet, at its meeting on 25 July, considered the Council's Capital Programme and in particular, the possibility of prudential borrowing. This confirmed that the Council has the power to borrow to finance capital expenditure, subject to the guidance set out in the Code of Practice published by the Chartered Institute of Public Finance and Accountancy. Compliance with the code is a statutory requirement. In summary, the key objectives of the Code are:

- To ensure within a clear framework that capital expenditure plans are affordable, prudent and sustainable;
- That treasury management decisions are taken in accordance with good professional practice;
- That local strategic planning, asset management planning and proper option appraisal are supported; and
- To provide a clear and transparent framework to ensure accountability.

If the Council were to consider prudential borrowing as a source of funding for the capital programme, it would be required to evidence that such funding is affordable, prudent and sustainable. Given the current economic circumstances and the expected future pressure on resources, borrowing would place additional pressure on the savings requirements of the Council. At this time, it would only be appropriate to consider borrowing where the overall benefit of the schemes within the programme outweighs the additional pressure on the general fund or the outcome is self-supporting.

The Cabinet resolved:-

- a) That the proposed amendments to the capital strategy including the prudential borrowing where this achieves commercial development, outlined in Section 1.5 of the report of the Corporate Leadership Team, be agreed.
- b) That officers develop and present proposals that achieve the Council's objectives through commercial development, as set out in Section 1.5 of the report.
- c) That the evaluation of resources available and scheme proposals as set out in paragraph 1.6.5. of the report, identifying the appropriate use of the resources available, be approved.

APPENDIX A

Section 1.5 of the Cabinet report identifies the possible use of prudential borrowing when the following criteria apply:

- a) Schemes (or proposals) are commercial in nature
- b) The outcome returns a financial benefit at least equal to the cost incurred by borrowing to fund the schemes.
- c) After covering the cost of funding, a further financial or non-financial benefit accrues to the Council that directly or indirectly supports the strategic plans policy outcomes.

The report of the Assistant Director of Environment and Regulatory Services considers three areas of prudential borrowing that will meet the guidelines of the CIPFA Code of Conduct and the criteria identified in the above decision of Cabinet on 25 July 2012.

Property Portfolio

Most local authorities have property portfolios and this Council owns assets with a value around £79 million. The major asset owned by the Council is the Park Wood Industrial Estate which generates over £300k per annum to the Council.

Property investment opportunities can become available which would require prudential borrowing, but would generate surplus income to support the Council's strategic priorities. Such acquisitions would comply with the CIPFA code and the recent Cabinet report and must:-

- Have existing long-term good quality tenants
- Be in good condition with long term lease and suitable construction
- Make an annual rate of return beyond the capital repayment based on a maximum 50-year repayment.
- Be available at an affordable price to meet the requirements of best consideration.

Such property, including those outside the Borough but within the UK, do not often come to the open market and the Council, if it wishes to consider such acquisitions, will have to procure suitable professional advice.

In order to achieve the best opportunities for the Council, expert advice would be needed and the Council would appoint an agent or agents who would work on a commission only basis, to be based on a sliding scale according to the value of the acquisition. This was shown in Appendix 1 to the report of the Assistant Director of Environment and Regulatory Services. Such agents would bring forward suitable acquisitions on a confidential basis.

Property Portfolio Governance

This is a new area of activity for the Council and the governance of such arrangements is critical to ensure the processes and responsibilities are

clear and transparent.

It is proposed that the Council establishes an informal members advisory panel to review the business cases brought forward and advise the decision makers. The proposed terms of reference of the panel were provided in Appendix 2 to the report of the Assistant Director of Environment and Regulatory Services.

It is also proposed that due to the *ad hoc* and sometimes urgent way that proposals are brought forward, that decisions are made by a committee of cabinet, the members of which, if needed, could meet quickly to consider an urgent proposition.

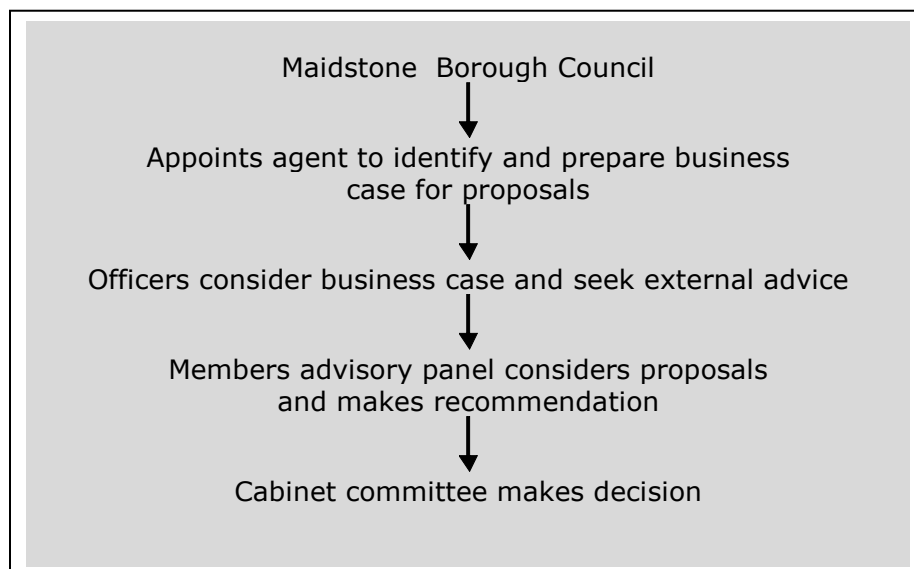
It was recommended that the committee would comprise of the Leader of the Council, Cabinet Member for Economic and Commercial Development and the Cabinet Member for Corporate Services. Substitute Cabinet members would be permitted. The terms of reference are also provided in Appendix 2 to the report of the Assistant Director of Environment and Regulatory Services.

It would be the agents' responsibility to ensure that all costs are identified in the detailed business case. In this way, the Council would bear no additional costs, its exposure being limited to pre-agreed commission for each transaction as it arises.

It would be the relevant officers, supported by the agents, responsibility to present prospective acquisitions to the members panel, supported by a full report to include third party valuation, financial assessment, title report, etc. In turn, any recommended proposals would be presented to the cabinet committee for approval.

Such reports and recommendations would be comprehensive and capable of enabling a decision to be made which meets the guidelines identified above. This is likely to include external independent advice regarding the elements of the business case.

A possible flow diagram is shown below:-



The appointment of an agent would need to meet the requirements of the Council's procurement policy

It is considered prudent that a limit on acquisitions be set each year in accordance with the Council's treasury management arrangements and that for the present year, 2012/13, this be set at £6million. This will need Audit Committee and full Council approval.

Derelict Residential Properties

The Government is encouraging Councils to use prudential borrowing to bring back derelict residential properties to habitable use. This could include long-term empty properties.

The Council's Housing service has already secured government funding to support the restoration of 10 properties but surveys have identified that there are in the region of 50 properties in the borough that are derelict and 500 that have been empty for more than two years.

In addition, the Council is facing, due to the current economic downturn, ever increasing costs to provide homeless individuals and families with temporary accommodation.

It was suggested that, if restored, these derelict and long-term empty properties could be used to provide that temporary accommodation, which would be cheaper than the current costs of bed and breakfast and provide a regular income to repay the purchase costs.

These acquisitions should be made through the Property Investment Governance arrangements identified above.

Again, all acquisitions will need to meet the CIPFA prudential code and guidelines established by Cabinet.

Strategic Property Investment

Given the current economic position, there may be certain circumstances where development, within the borough, is not progressing in a way that the "market" would enable without intervention. It could be that bringing forward that development would assist the Council in achieving its strategic objectives. An example might be where a significant number of new jobs would be created.

In order to see the development come forward, the Council may decide to intervene and provide financial or technical support. Each case would be subject to a detailed report by the appointed agent and a detailed business case in accordance with the Property Investment Governance arrangements identified above.

Again, all the criteria set out above would need to be met, although in such cases, the Council could accept a proposal which would only return

the original outlay and not necessarily provide an additional yield.

Possible Business Failure

It is inevitable that in investing in these properties, there are risks and possible failure, although unlikely given the controls, could occur. It is therefore proposed to establish a fund of £500k to cover any potential scheme failure. This is also relevant for the report on commercial opportunities, also on the Cabinet agenda.

These are the only circumstances in which the Council will consider prudential borrowing at the present time.

Other capital projects will have to be funded from surplus received and through other funding sources.

Alternatives considered and why rejected

The Cabinet could have decided not to agree to the options but this would prevent any possible activity from the potential venture.

The Cabinet could have decided to propose different governance arrangements but the arrangements suggested in the report of the Assistant Director of Environment and Regulatory Services provide for clear decision making and transparency.

Background Papers

The Prudential Code, published by the Chartered Institute of Public Finance and Accountancy.
Report to cabinet on the capital programme July 2012

Should you be concerned about this decision and wish to call it in, please submit a call in form signed by any two Non-Executive Members to the Head of Change and Scrutiny by: 21 September 2012
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