

**MAIDSTONE BOROUGH COUNCIL**

**CABINET**

**12 SEPTEMBER 2012**

**REPORT OF ASSISTANT DIRECTOR OF ENVIRONMENT  
AND REGULATORY SERVICES**

**Report prepared by Steve Goulette**

**1. Investment Opportunities**

1.1 Issue for Decision

1.1.1 To consider proposals which will generate additional income or support regeneration using prudential borrowing.

1.2 Recommendation of the Assistant Director of Environmental and Regulatory Services

It is recommended that:-

1.2.1 The report be agreed and the three areas of investment be supported, subject to the controls set out in the report.

1.2.2 A member advisory panel be established in accordance with the terms of reference set out in Appendix 2.

1.2.3 A Cabinet Committee be established in accordance with the terms set out in Appendix 2 to make decisions on possible acquisitions, having regard to the views of the members advisory panel. The committee will comprise of the Leader of the Council, 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.

1.2.4 An agent or agents be appointed on a commission only basis, in accordance with the maximum sliding scale identified in Appendix 1, to bring forward potential acquisitions on a confidential basis.

1.2.5 The Audit Committee and The Council be recommended to authorise prudential borrowing 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.

### 1.3 Reasons for Recommendation

- 1.3.1 The current economic climate is causing significant financial pressures on local authorities. Revenue provision through government grant is 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 businesslike.
- 1.3.2 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.
- 1.3.3 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.
- 1.3.4 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.
- 1.3.5 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.

1.3.6 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.

1.3.7 This report 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

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

1.3.9 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.

1.3.10 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.

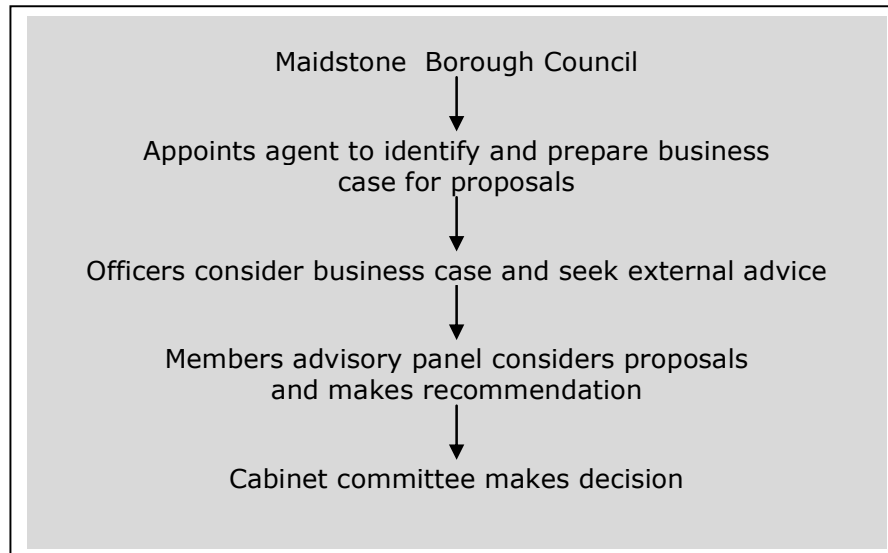
- 1.3.11 In order to achieve the best opportunities for the Council, expert advice would be needed and the Council would appoint an agent or agents who would work on a commission only basis, to be based on a sliding scale according to the value of the acquisition. This is show in Appendix 1. Such agents would bring forward suitable acquisitions on a confidential basis.

#### Property Portfolio Governance

- 1.3.12 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.
- 1.3.13 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 are provided in Appendix 2.
- 1.3.14 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.
- 1.3.15 It is 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.
- 1.3.16 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.
- 1.3.17 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.
- 1.3.18 Such reports and recommendations would be comprehensive and capable of enabling a decision to be made which meets the guidelines identified earlier in the report. This is likely to include external independent advice regarding the elements of the business

case.

1.3.19 A possible flow diagram is shown below:-



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

1.3.21 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

1.3.22 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.

1.3.23 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.

1.3.24 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 is 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.

- 1.3.25 These acquisitions should be made through the Property Investment Governance arrangements identified above.
- 1.3.26 Again, all acquisitions will need to meet the CIPFA prudential code and guidelines established by Cabinet.

#### Strategic Property Investment

- 1.3.27 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.
- 1.3.28 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

- 1.3.29 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.
- 1.3.30 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.

- 1.4 Alternative Action and why not Recommended

- 1.4.1 The Cabinet could decide not to agree to the options but this would prevent any possible activity from the potential venture.
- 1.4.2 The Cabinet could decide to propose different governance arrangements but the arrangements suggested in the report provide for clear decision making and transparency.
- 1.5 Impact on Corporate Objectives
- 1.5.1 The proposed prudential borrowing is focused on achieving the Council's corporate objectives, other strategic priorities and would be in accordance with the Council's asset management.
- 1.6 Risk Management
- 1.6.1 Any potential borrowing gives rise to some risk and therefore proper financial controls and rigorous business case examination are essential. The report identifies a series of controls aimed at minimising the risk to the Council.
- 1.6.2 All acquisitions must meet the criteria identified before they will be agreed.
- 1.6.3 It is accepted that these will be long term-investments and although a maximum 50-year write off period is longer than normal, it is justified in such circumstances. Again, the need to meet all requirements will reduce the risk to the Council.
- 1.6.4 There is potential, due to the risk associated with commercial enterprise for borrowing to occur and for the payback not to be available or sufficient to cover the cost of the schemes for which potential borrowing may be authorized. If Cabinet supports the report, it would be appropriate to allow for a level of scheme failure, even though the risk is low, by setting aside a reserve and by ensuring a diversified range of schemes are undertaken.
- 1.6.5 It should also be noted that the acquisitions will have an individual capital value which could go up or down, although in the long term, the value should increase.
- 1.6.6 The council's external auditors have been made aware of the contents of this report.

## 1.7 Other Implications

1.7.1	1.	Financial	X
	2.	Staffing	X
	3.	Legal	X
	4.	Equality Impact Needs Assessment	X
	5.	Environmental/Sustainable Development	X
	6.	Community Safety	X
	7.	Human Rights Act	
	8.	Procurement	X
	9.	Asset Management	X

### Financial

1.7.2 The financial arrangements are identified in the report and will result in prudential borrowing.

1.7.3 The £6million limit of for prudential borrowing in 2012/13 is considered large enough to enable acquisitions to be made. This will need Audit committee and full Council approval.

### Staffing

1.7.4 Staffing resources will be needed for the acquisitions. This will be met from existing staffing provision or if specialist or extra advice is needed, this will be included in the business case.

### Legal

1.7.5 Legal agreements will be required for the agent and for each acquisition. Such costs will be included in the business case.

### Equality Impact Needs Assessment (EIA)



- 1.7.6 An EIA will be required for each acquisition and will form part of the business case.

Environment/Sustainable Development

- 1.7.7 Restorations of derelict and improvement to empty properties should meet best practice for environment/sustainable development.

Community Safety

- 1.7.8 Community safety and possible crime impact should be considered as part of any business case.

Procurement

- 1.7.9 The appointment of an agent will need to comply with the Council's procurement rules.

Asset Management

- 1.7.10 The proposals will impact on the Council's Asset Management Plan.

1.8 Relevant Documents

- 1.8.1 The report on the Capital Programme Cabinet on 25 July.

1.9 Appendices

Appendix 1	Sliding scale for agent commission
Appendix 2	Terms of Reference for members advisory panel and cabinet committee

1.10 Background Documents

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

**IS THIS A KEY DECISION REPORT?**

Yes

No

If yes, when did it first appear in the Forward Plan?

.....July 2012.....

This is a Key Decision because: it involves expenditure above £250k

Wards/Parishes affected: ALL