

## **WAVERLEY BOROUGH COUNCIL**

### **CORPORATE OVERVIEW & SCRUTINY COMMITTEE - 20 SEPTEMBER 2016**

#### **EXECUTIVE – 27 SEPTEMBER 2016**

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**Title:**

### **GENERAL FUND PROPERTY INVESTMENT STRATEGY**

**[Portfolio Holders: Councillors Ged Hall and Tom Martin]  
[Wards Affected: All]**

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#### **Summary and Purpose**

This report proposes a draft General Fund Property Investment Strategy and the creation of an Investment Advisory Board.

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#### **Introduction**

1. Waverley's Medium Term Financial Strategy identifies a significant funding shortfall over the next 3 years, mainly due to reductions in Government grant. In order to address this deficit, as well as looking at existing services and budgets, Waverley must:

- take steps to ensure that the Council maintains its financial resilience and protects its long term financial position;
- explore and develop alternative sources of funding that reduce its reliance on Government grants in the future;

Waverley's Treasury Management Strategy already identifies property investments as a priority and the Strategic Asset Plan approved by Council in 2015 sets out the foundation for developing the strategy further.

2. This report sets out:

- the Investment Strategy to enhance income to the council in the longer term;
- the proposed governance framework, including establishment of an Investment Advisory Board to advise the Executive on implementation of the investment strategy.

#### **Financial Implications:**

3. The objective of the Investment Strategy is to use the council's resources to invest in income generating assets to help offset the budget deficit over the longer term and to protect service provision while minimising the burden on local council tax payers.

4. The Council may fund investments through using its reserves, capital receipts and prudential borrowing, where the council has the powers to do so. Any borrowing required would need to be made in accordance with the conditions of the Prudential Code, which includes the council approving any changes required to the prudential indicators. The code requires borrowing to be affordable, sustainable and provide

value for money. The return on any investment would therefore need to be in excess of the capital financing costs of the borrowing, which consist of the interest payable and the statutory minimum revenue provision (MRP) that sets aside funds for the repayment of the borrowing.

5. The Investment Strategy is being brought forward under the extended powers created by the Localism Act 2011. The legal advice enables certain investment transactions to be undertaken under these powers but every proposal would need to be individually assessed. Borrowing purely to invest for return is still considered unlawful for local authorities and that the intention of the Localism Act is not to change this restriction. The underlying principals of investment by local government are governed by the priority of security, liquidity and yield-in that order of priority. Whilst the Localism Act could potentially increase the risks taken by local authorities, there is a complex system of checks and balances in place to prevent inappropriate risk taking that would lead to concerns about the use of public funds. These checks include the Prudential Code and the requirement to exercise sound fiduciary duty.
6. All investments will require a robust business case to ensure that the investment is affordable, sustainable and provides value for money. Some investments will generate a return in the medium to long term but make a loss in the earlier years. It is proposed to establish a property investment fund using an initial £2m of general fund capital receipts. Initially it is proposed to top this fund up each year using a proportion of the New Homes Bonus Funding. For the reasons set out above, borrowing for general fund property acquisition would only be considered if there is a clear and robust business case.

### **Legal Implications**

7. The proposal to create an Investment Strategy is made possible by the “general power of competence” introduced by Section 1 of the Localism Act 2011. Local authorities now have a general power that enables them to do anything that a private individual is entitled to do, subject to certain statutory limitations. The power is designed to give local authorities considerable breadth of operation.
8. There are, however, some specific restrictions and it would be important that each individual investment proposal is thoroughly examined before proceeding, particularly if the sole purpose is to achieve a commercial gain. The proposed Investment Advisory Board would need to receive detailed legal advice on the Council’s broad boundaries early in its operation and throughout its ongoing decision-making processes.

### **Investment Strategy**

9. The expansion of Waverley’s portfolio of investments, covering investment in property and assets, supports the Council’s priority of achieving value for money and its desire to enhance financial resilience in the longer term. The arrangements proposed in this report would also allow for investment in schemes that will support economic growth in the Borough.
10. The proposed strategic approach to investment is based upon the following;

- prioritising use of the Council's cash reserves and balances to support income generating investment through an Investment Fund;
- using the Investment Fund to support investments in order to generate additional income for the council that can be used to provide additional financial support for the delivery of functions and services;
- investing in a diversified and balanced portfolio to manage risk and secure an annual overall rate of return to the Council
- investing in schemes that have the potential to support economic growth in the Borough
- retaining assets where appropriate and undertaking effective property and asset management, and if necessary associated investment, to enhance income generation.

## **Governance**

11. Decisions on taking forward each investment opportunities will be taken by the Executive. However, the development of the Investment Strategy is likely to mean more decisions coming forward for consideration and an Investment Advisory Board will be established to provide advice to the Executive. This will ensure appropriate rigour in advance of the Executive decision: by ensuring only credible options are progressed to the Executive, and providing the forum for strategically managing the overall portfolio of investments consistent with the aims of the Investment Strategy. It is suggested that the Investment Advisory Board will comprise five Members:

- Leader of the Council
- Portfolio Holder for Property (Chairman)
- Portfolio Holder for Finance
- Portfolio Holder for Economic Development
- Non-Executive Member

Officer support will be provided by a range of senior and technical officers including finance, legal and property. All meetings will be serviced by the Democratic Services Team.

12. The Investment Advisory Board would consider all proposals that contribute to the delivery of the investment strategy and meet the investment criteria.
13. Officers will provide advice on each proposal coming forward to the Board for consideration. This advice will include how each investment proposal could be taken forward, including a consideration of the risks, how it is structured in terms of appropriate delivery mechanisms, and financed.
14. This structure will allow the council to respond in a timely manner to market opportunities whilst ensuring that decisions are made in accordance with a process against which independent professional advice will be provided. It is recommended that this arrangement should be reviewed periodically, and at least annually, to ensure that it is providing an efficient and effective governance framework consistent with the objectives of the Investment.

## Investment Advisors

15. The Investment Advisory Board will additionally be supported by appropriate professional advisors, including, property investment advisors, legal and financial specialists, including taxation advice. Officers will commence the procurement process to put in place appropriate arrangements. The cost of these advisors will be initially met from the Investment Fund and then set against the income delivered as a result of the Investment Strategy.

## Assessment Process and Investment

16. It is proposed that the Investment Advisory Board considers and agrees appropriate criteria for evaluating investment opportunities. This would determine whether an opportunity can be recommended to the Executive for in-principle agreement or full agreement, or that the opportunity does not meet the decision criteria and therefore proceeds no further. The Board will also need to agree some parameters for the development of a much more detailed business case when proposals advance to this stage. There are a number of examples from other similar sized Councils that are well established and have been compiled with external advice and this could form the starting point for Waverley's consideration.

## **Risk Management and Implications:**

17. The adoption of the Investment Strategy and its implementation will have an impact on the council's finances and the council may need to manage risk differently to now in relation to these investment decisions. Decisions made under this strategy and by the Executive will need to take into account the financial stewardship duty that the council holds towards its residents.
18. It will be essential that the Investment Strategy and the governance arrangements are legally sound and are deemed to be reasonable and robust by the Council's external auditors.
19. The implementation of the Investment Strategy means the council will be managing different financial risks. Investments will be subject to inherent economic and market risks, and therefore a balanced portfolio of investment may be preferable. Achieving a balanced portfolio will take some time to create and will be dependent upon appropriate opportunities coming to the market.
20. The governance process recommended is designed to mitigate these risks. All investment opportunities will be based upon a robust business case developed using appropriate technical advisors and which take into account due and proper consideration of the balance between risk and reward and an assessment of the underlying security of the investment to ensure compliance with the fiduciary duty the council holds.
21. In approving a business case, the Investment Advisory Board will satisfy itself that the investment is within the Council's legal powers, it has properly considered the advice from its advisors (both internal and external) and its structure provides the best value for money taking into account all financial considerations, including taxation.

## **Conclusion**

22. The adoption of the Investment Strategy and its implementation could have a significant impact on the council's finances. Whilst the Investment Strategy has the potential to generate significant income for the council in the future, there are major risks in this. The governance arrangements outlined, including the requirement for each investment to have a robust business case approved by the Investment Advisory Board, provide the necessary control of these risks.
23. This strategy has been considered by the Corporate Overview and Scrutiny Committee on 20 September and any comments will be circulated separately.

## **Recommendation**

That the Executive recommends to the Council that:

1. the Investment Strategy be approved and adopted;
2. the governance arrangements be approved and an Investment Advisory Board be established as set out in paragraph 11;
3. a Property Investment Fund be created, initially by transferring £2m of General Fund capital receipts plus, subject to the overall budget process, a further £1m of New Homes Bonus funding in 2017/2018, with further additions being considered as part of the annual review of the medium term financial strategy;
4. officers be instructed to commence the procurement process for the appointment of an Investment Advisor or Advisors to provide advice to the Council on the criteria to adopt and on property investment opportunities to be funded initially from the Property Investment Fund;
5. authority be delegated to the Executive for approval of the investment criteria and performance management arrangements to be proposed by the Investment Advisory Board; and
6. authority be delegated to the Executive to agree property acquisitions or investments that meet the agreed criteria and are endorsed by the Investment Advisory Board up to a value of £1million with higher value proposals requiring full council approval.

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