

Audit Committee

23rd March 2023



Title	Public Interest Report Recommendations Follow up
Purpose of the report	To note and to agree response
Report Author	Terry Collier, Chief Finance Officer
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	N/A
Corporate Priority	This item is not in the current list of Corporate Priorities but still requires a Committee decision.
Recommendations	Committee is asked to: To note the response, and; <i>Agree the suggested action for addressing recommendation 5, with respect to putting in place an action plan to focus on further improving management of the portfolio, refinement of key performance indicators (KPIs) and drawing together a portfolio focused risk register</i>
Reason for Recommendation	The Public Interest Report is an important document and the Council needs to ensure it follows up and applies the learning and addresses outstanding actions.

1. Summary of the report

- 1.1 On 8th December 2022 the Council considered and agreed a response to the recommendations made within the Public Interest Report issued by KPMG. The Public Interest Report focused on acquisitions of investment assets made in the period up to 2018/19. Since 2018, the Council has not made any investment asset acquisitions.
- 1.2 The Auditors made 5 recommendations which were accepted by the Council. These are highlighted in the Key Issues section below together with a relevant response/action relating to each recommendation which we are looking for the Committee to support.

2. Key issues

- 2.1 This report focuses on how these recommendations are being followed up and monitored. The report will deal with each recommendation sequentially.
- 2.2 **Recommendation 1: The Council should obtain legal advice on its powers to enter into specific transactions where those transactions are unusual or high value.** The Council has an experienced in-house Legal Team that provides appropriate legal advice on its powers to enter into specific transactions. Where those transactions are unusual or of high value, external Legal advice is obtained from experienced counsel and such an approach will continue for any such future transactions. The in-house Legal Team is Lexcel accredited which means that it has been assessed as having appropriate risk management procedures in place. The Monitoring Officer is the lead officer for this recommendation and will keep the applicability of this approach under review.
- 2.3 **Recommendation 2: Officer reports should clearly identify the legal powers relied on in relation to decisions or transactions and ensure that decision makers are aware of the relevant legal test to lawfully exercise those powers.** All committee reports going to councillors for decisions are submitted to the Legal Team prior to publication. The committee report template includes a section on Legal Implications which is completed by the Monitoring Officer or another senior member of the Legal team to clearly set out the legal powers underpinning decisions and set out any other legal implications relating to the report. As per the recommendation external legal advice will continue to be sought where appropriate.
- 2.4 **Recommendation 3: The Council should ensure that it has regard to all relevant statutory guidance, including specific aspects of that guidance that apply to particular decisions or transactions, and specifically record its reasons for departing from such guidance if it decides to do so.** The Council has always had regard to all relevant statutory guidance seeking relevant expert advice and will continue to do so. It will in future more clearly record reasons for departure, if there are proposals that depart from prevailing guidance (which we are not anticipating). Note moving forward the Council's Capital Programme and Capital Strategy is focused on ensuring that all capital spend is consistent with the revised terms of the Public Works Loans Board and the CIPFA Prudential and Treasury Management Codes. The Chief Financial Officer and the Chief Accountant will review financial reports going to councillors to ensure that they reference professional and statutory guidance and to highlight where Councillors are being asked to consider departing from the guidance, however the Council intends to comply with the Prudential and Treasury Management Codes.
- 2.5 **Recommendation 4: The Council should develop its investment property portfolio modelling to bring these in line with the expected practice of an institutional investor. This should include robust stress testing and sensitivity analysis which incorporates scenarios that cover the highest level of risk for expenditure, revenue, tenant behaviour and external socio-economic factors. Consideration should also be given to the diversification of the portfolio and whether this should be addressed over medium to longer term.** The Council, consistent with the statutory guidance, is not looking to acquire any further debt for yield assets, which limits its ability to diversify its existing investments assets portfolio. However, it will keep under existing review the purpose for which assets are held, and when

redevelopment/investment requirements for particular assets are identified it will undertake options analysis which will include consideration of disposal as one option. The Council's overall property portfolio will be diversified by value as additional residential schemes, service (such as our new Leisure Centre) and community assets are completed in the coming years. Where opportunities arise, such as when assets become vacant, options analyses will be undertaken to look at any alternative uses for those sites. In the case of residential assets, they will be underpinned by residential rental income.

- 2.5 The Council has recently agreed a Sinking Funds Policy and set parameters under which a short (1 to 5 years) medium (5 to 20 years) and long term (20 years plus) refresh of the existing sinking funding modelling will be undertaken with aim of completing by end of 2023-24, as agreed by Corporate Policy and Resources Committee – we will within that timeframe seek to complete on a timely basis. Officers will look at opportunities to bring in external expertise. The refreshed modelling will focus on modelling a range of different parameter assumptions.
- 2.6 The Council, since the PIR was published, has published a full detailed Revenue Budget for 2023-24 and to aid councillors understanding has provided members of the Corporate Policy and Resources Committee with a detailed Budget of the “below the line” investment income budget lines in the Summary Budget. This is designed to assist transparency and scrutiny moving forwards.
- 2.7 The Council will continue to periodically commission reviews from external advisers of its investment assets portfolio, for example using Experian data.

Recommendation 5: The Council should develop an action plan as part of the management of its investment portfolio which addresses each of the weaknesses identified in paragraph 6.9 of the PIR document. This should be linked to a portfolio risk register, which monitors each of the KPIs, tenant performance and risk to the debt repayment strategy for each investment property asset. The text in paragraph 6.9 of the PIR is focused on elements of governance arrangements to be in place prior to making investment acquisitions. Whilst the Council ceased making acquisitions in 2018, some aspects of ongoing management of the portfolio are nevertheless relevant. Moving forwards, we will continue to refresh the Council's Capital Strategy to keep updated our strategic approach to managing the investment portfolio. We will also look to refresh the Asset Management Plan. The work to be undertaken in 2023-24 on the Sinking Funds Review will be particularly relevant. We will continue to refresh and keep under review the annual five yearly business plans for individual investment assets.

- 2.8 The Council continues to be very open to taking on board best practice from external sources, we have previously had positive discussions with the likes of the Local Government Association, National Audit Office, CIPFA and MHCLG. Finance will work with the new Group Head for Assets who took up post on 14th March 2023, to develop an **Action Plan**, to build on what the Council is already doing (including periodic reviews of financial health of tenants, annual review by councillor members of Development Sub-Committee of individual asset business plans (which includes risk analysis) for individual investment assets, Asset Management Plan (which includes KPIs), production of Annual Investment and Regeneration Assets Report etc) which addresses the points raise in 6.9 of the Auditors report, including developing a portfolio risk register (assets risks already feature on the Council's overall Corporate Risk Register).

Developing a portfolio risk register is a fair point and as discussed earlier the corporate service planning process should also continue to serve as an active prompt for Managers to identify and consider key/critical risks that may impact the effective delivery of their services, which should allow for greater embedding and integration of risk management over time. In addition, a corporate risk model/matrix was launched in 2021 as part of the revised RM Policy and risk management training delivered (to Managers).

- 2.9 Given that the Council is not acquiring any more investment assets and indeed under the latest regulations it would not be allowed to do so, it is difficult to further diversify the portfolio through new acquisitions. It should be noted that whilst the investment assets portfolio is concentrated within the Borough and the surrounding, Heathrow economic functional area, as the Council report in response to the PIR highlighted we do have diversification across tenants in a broad range of sectors. However when opportunities arise, such as investment premises becoming empty, we will undertake analyses to look at options, including disposal or utilisation in alternative use. This process is currently underway with one of the smallest assets in the portfolio. With the completion of more housing and regeneration schemes the Council's overall property portfolio will become
- 2.10 The Council already produces and reports on KPIs relating to its assets in its Asset Management Plan and an Annual Report on Investment and Regeneration Assets. It will review these assets' KPIs to ensure they continue to be appropriate and if necessary we will expand and refine those KPIs. We will review the current KPIs against the KPIs suggested in paragraph 6.7 of the PIR. The Council in its detailed Revenue Budget has improved the transparency of the breakdown of the budgets for investment assets.
- 2.11 *Action: Assets and Finance to produce an Action Plan to come to councillors (both on Development Sub-Committee and Audit Committee) by July 2023***

3. Options analysis and proposal

- 3.1 Option 1 (preferred): To note the response update and agree the proposed action re responding to Recommendation 5
- 3.2 Option 2.: To make recommendations for amending the response.

4. Financial implications

- 4.1 Effective management and scrutiny of investment assets is of crucial importance in underpinning the Council's financial performance.

5. Risk considerations

- 5.1 Risks relating to Assets will continue to be monitored in the Council's Corporate Risk Register (CRR) and additionally a Portfolio Risk Register will be developed. In promoting accountability, colleagues should reference risk ownership and Lead Officers within the Portfolio risk register to be developed. We have continued to emphasise in the CRR as an important governance process.

6. Procurement considerations

- 6.1 Corporate Procurement generally consults with Legal Services in the development of the most suitable contract and contracts terms as appropriate for the assets project. For example, any amendments to a build contract will support an appropriate level of risk transfer.

7. Legal considerations

- 7.1 The Local Audit and Accountability Act 2014 (“2014 Act”) governs and prescribes the way in which the Council should deal with an external auditor’s formal Report in the Public Interest. The recommendation in this report demonstrates that the Council has considered the Public Interest Report in accordance with the 2014 Act and is taking the necessary action to address matters raised regarding management of the investment portfolio.

8. Other considerations

- 8.1 None

9. Equality and Diversity

- 9.1 None

10. Sustainability/Climate Change Implications

- 10.1 In seeking to manage its assets on a long-term basis the Council will continue to focus on ensuring that its assets perform to high environmental standards, which in turn will help to retain and attract high quality tenants.

11. Timetable for implementation

- 11.1 To produce a draft Action Plan for Recommendation 5 by beginning of July 2023 and to report to the July Audit Committee

12. Contact

- 12.1 Terry Collier, Chief Finance Officer

Background papers: *KPMG Public Interest Report*

Appendices:
None