Agenda Item No:	10	
Committee:	Council	
Date:	9 January 2020	
Report Title:	Approval and Implementation of Fenland District Council's Commercial Investment Strategy	

Cover sheet:

1.1. Purpose

- To seek the approval of the draft Commercial Investment Strategy and the associated delegations and constitutional amendments necessary to bring this into effect.

1.2. Key issues

- Governance structures and type of delivery vehicle needed to achieve the best outcomes in both financial return and project success;
- How external opportunities can best be identified and acted on;
- Capacity and resources required to deliver to be defined;
- Identification and delivery of our own sites that are ripe for development;
- Criteria for investment to be agreed;
- Level of funding to be determined and agreed;
- Implementation of associated constitutional amendments.

1.3. Recommendations

- It is requested that Council:
  - Agrees the draft Commercial and Investment Strategy ("the Strategy") at Appendix 1 of this Report;
  - Agrees amendments to the terms of reference of Cabinet so as to delegate to it the functions set out at paragraph 3.1 of Appendix 4 of this Report;
  - Agrees the establishment of a Local Authority Trading Company ("LATCo") (via the above delegations) for the purpose of facilitating delivery of the Strategy with effect from April 2020 or as soon as reasonably possible after that;
  - Agrees the constitutional amendments required to give effect to the above proposals and as set out at paragraphs 1, 2, 3 and 4 of Appendix 4 to this Report;
  - Insofar as the establishment of the LATCo is concerned delegates to the Monitoring Officer in consultation with CMT and the Leader the authority necessary to finalise and put in place any agreements and legal documentation necessary to bring it into effect; and
  - Notes the proposed intention that the Investment Board will be able to utilise reserves and/or borrow sums up to a combined maximum of £25 million in order to deliver the objectives of the Strategy.

- Notes the proposed appointments to the Investment Board as set out in Appendix 5.
- Notes Cabinet's intention to establish a new sub-committee at its meeting on 16th January 2020 called the 'Investment Board' which will be responsible for implementation of the Strategy in accordance with the proposed delegations set out in paragraph 3.2 of Appendix 4 of this Report.

Wards Affected	
Portfolio Holder(s)	Cllr Chris Boden, Leader and Portfolio Holder, Finance
Report Originator(s)	Paul Medd, Chief Executive Officer Peter Catchpole, Chief Finance Officer and Corporate Director Carol Pilson, Corporate Director and Monitoring Officer Gary Garford, Corporate Director Amy Brown, Deputy Monitoring Officer
Contact Officer(s)	Paul Medd, Chief Executive Officer Peter Catchpole, Chief Finance Officer and Corporate Director Carol Pilson, Corporate Director and Monitoring Officer Gary Garford, Corporate Director Amy Brown, Deputy Monitoring Officer
Background Paper(s)	Cabinet Report dated 18th September 2019 LLG Code of Practice – The Governance of Council Interests in Companies (Insert Link) Draft Commercial & Investment Strategy – Appendix 1 Options Appraisal of other Governance Arrangements – Appendix 2 Proposed Governance Structure Chart – Appendix 3 Proposed constitutional amendments including scheme of delegation and reserved matters – Appendix 4 Proposed appointments to the Investment Board – Appendix 5

Report:

1. COMMERCIAL INVESTMENT AND REGENERATION

Since 2010, Fenland District Council has undertaken radical organisational change in response to national austerity pressures. Major sources of funding, specifically Government Revenue Support Grant (RSG) and Business Rates (NNDR) have reduced significantly during this period and FDC will have delivered a total of £9.9million in savings in response to these challenges.

We have been nationally recognised as one of the most efficient Councils in the country. This is due to our innovative ways of delivering savings through our previous Modernisation Programme and Comprehensive Spending Review (CSR1). Savings have been delivered whilst continuing to protect frontline services and freezing Council Tax for 5 (out of 9) years.

Whilst we have met the savings challenge to date, our journey isn't over. We believe that at least £1.6million of further savings will need to be delivered by 2023/24 and each year large cost reductions become increasingly harder to identify and deliver. Additionally there are a number of significant risk areas which could potentially increase this savings target even further and these include but are not limited to the Fair Funding Review, the future of New Homes Bonus and the Business Rates Retention Scheme.

Some efficiencies can be delivered through 'business as usual' activities. However, we must take further actions to meet current challenges whilst ensuring our organisation is sustainable for the future. The Strategy outlines the types of investment opportunities that are available to us and the benefits they could bring; not just to our organisation, but to the wider district and its residents.

1.4. The Commercial and Investment Strategy

The draft Strategy proposed for endorsement and recommendation for approval is comprised of 3 parts:

Part One – Commercialisation

As outlined above and in Part One of the Strategy this should almost be seen as business as usual now. It is designed to outline and confirm our approach to commercialisation, taking a broad view to include all aspects of our services, digitalisation, shared services, new income generating opportunities and the selling of services. Examples of this already include Trade Waste, CCTV, Planning Fees, Building Control and general fees and charges. No further changes are suggested for this part although the proposed introduction of an Investment Board (as a sub-committee of Cabinet) would be seen as an opportunity to constantly refresh, review and deliver further parts of the Council's commercialisation agenda.

Part Two – Commercial Property Investment

Part Two of the Strategy aims to provide a viable and sustainable framework for the acquisition of property investments for pure financial benefit and covers the acquisition of land, property or other tangible assets to achieve the following key objectives:-

- Provide long term investment opportunities
- Maximise the return whilst appropriately managing risk
- Prioritise properties that deliver stable revenue income and rental growth
- Build a balanced portfolio in the context of all of the Council's investments
- Protect the capital investment

To support these objectives it is proposed that a "new" governance framework is established to enable decisions to be taken in a timely and commercially competitive manner. This has therefore resulted in the proposed establishment of the Investment Board as detailed below.

Part Three – Regeneration and Place Shaping Investment

Part Three covers Regeneration and Place Shaping Investment and key to the successful delivery of this approach will be defining the business case for decisions. Although the governance framework for this part of the Strategy is already in place through Cabinet and Council (examples already in progress include 24 High Street and 11/12 High Street) it may be appropriate to make use of other governance arrangements that will be developed as part of this strategy.

Cabinet are therefore requested to endorse the final draft of the Investment Strategy and recommend it for approval by Council.

1.2 Cabinet & Investment Board & LATCO

In order to give effect to the Strategy it is proposed that Cabinet retains overall strategic oversight of the way in which the Strategy is implemented together with the responsibility for deciding what if any companies and partnerships are required to support its overall aims. In conjunction with this however, it is proposed that Cabinet creates a subcommittee delegating to it authority to take the decisions necessary to facilitate delivery of Parts 2 and 3 of the Strategy in accordance with its terms of reference.

The proposed functions of Cabinet and the Investment Board are defined in more detail in at paragraphs 3.1 and 3.2 of Appendix 4 and have (to the extent that they are applicable to the Council's companies and partnerships) been drawn up with reference to the LLG Code of Practice. The Leader's proposed appointments to the Investment Board are set out in Appendix 5. The benefits of establishing a LATCo are explored in Appendix 2 and are now common practice among many Local Authorities including Peterborough City Council, Borough Council of Kings Lynn and West Norfolk and South Norfolk District Council. If agreed it is envisaged that the LATCo will commence trading at the start of April 2020.

A summary of the key milestones in achieving this deadline are set out below:

- Determination by Cabinet and, where delegated, the Investment Board of various matters relating to the establishment of the LATCo as a legal entity including:
    - Determination of the LATCo's registered and trading names (if different).
    - Confirmation of the LATCo's proposed board membership and "appointment" of those proposed members pending company registration.
    - Determination of delegated budget/funding parameters.
    - Applying to establish the LATCo as a company and determination of any additional Companies House requirements including the LATCo's intended

principle business activities, its registered office and the extent of its share capital.
  - Approval of Reserved Matters and any changes to be made to the model Articles of Association.
  - Consideration of the terms of any indemnities to be provided to Board Members while acting in that capacity.
  - Consideration of the provision of funding from the Council to the LATCo, the provision of any support services provided by the Council and the need for a shareholders agreement.

- Determination of various matters relating to the LATCo by its board of directors once set up:
  - Development of the Business Plan
  - First Board Meeting of the LATCo following receipt of Certificate of Incorporation which will include the following business:
    - Appointment of Chairperson of the Board.
    - Approval of amendments to the model Articles of Association and adoption of Reserved Matters. Reserved matters will include issues such as changes in Directors, shareholders, trading names, approval of accounts and business plans etc. and a full list will be drawn up as part of the governance arrangements.
    - Adoption of a business name if using one.
    - Approval of Protocols dealing with potential Board Member conflicts of interest.
    - Consideration and approval of draft agreements with the Council which might include a Shareholders Agreement, Loan agreement and Shared Services Agreement.

- Investment Board meeting in April 2020:
  - Consideration and approval of LATCo Business Plan.

Initially it is proposed that the Board of the LATCo consists of the Chief Finance Officer, the Director of Growth, the Head of Housing and Community Support, the Head of Economic Growth and Assets and an Elected Member selected by the Leader to operate in an observational capacity. The Chief Finance Officer will report into and attend meetings of the Investment Board. With the initial focus being on housing development this composition seems sensible although this can of course change as the LATCo and its objectives evolve.

Having regard to the above, Cabinet are asked to note the proposals for delivering the Strategy and recommend for approval the establishment of a LATCo and the associated constitutional amendments necessary to bring these arrangements into effect. Subject to that approval Cabinet is then requested:

- at its meeting on 16th January 2020 to make the necessary arrangements to establish the Investment Board and confer upon it the delegations set out in paragraph 3.2 of Appendix 4; and

- Together with the Investment Board and CMT to take all necessary decisions and actions required to establish a LACTo and put forward proposals as to the funding required to support delivery of the Strategy.

2 PERSONNEL AND FUNDING

Councils are in a strong financial position to acquire property due to their ability to access capital coupled with the low cost of borrowing. It is also worth noting that Fenland District Council does have available cash and reserves which is currently producing relatively low returns as previously reported in the Treasury Management updates to both Cabinet and Council. In order therefore, to exploit property investment opportunities and improve the social and economic wellbeing of the District it is envisaged that provision is made in the 2020-2021 budget to give effect to the Strategy.

It is proposed that an initial fund of £25m is available to the Investment Board to deliver both Parts 2 and 3 of the Strategy through a combination of reserves and borrowing to be called down when opportunities arise and subject to the relevant approval processes.

2.1 Part Two

2.1.1 Personnel

It is anticipated that to begin with no resource is directly employed to deliver Part Two of the Strategy and that existing support resource is taken from the Council at a mutually agreed level. CMT support for the Investment Board is envisaged and while therefore no immediate staffing implications are identified it should be noted that capacity could be a developing issue. Any officers engaged in supporting the proposals set out in this report will be appropriately consulted where it is necessary to make any changes to their existing roles and responsibilities.

In order to maximise the successful implementation of Part Two of the Strategy and to ensure that the proposals set out within this report are compliant with all relevant legal, financial and governance requirements, it will be necessary to engage external expertise on an "as and when required" basis. This is likely to include input from legal, property and construction experts.

Additionally, it is envisaged that the Investment Board will engage an external property specialist to seek out and identify investment opportunities for appraisal through the appropriate processes.

All assignments will be compliant with the Council's Procurement Rules.

2.1.2 Funding

It is recommended that a minimum return on investments is set to avoid unnecessary work and as such a minimum net yield of 2% (after borrowing costs) is proposed unless there are additional acceptable circumstances that deliver other tangible benefits. The full criteria for decision making is outlined in the Strategy and a full suite of appraisal reports will be developed based on this criteria.

Once this threshold is initially met it is envisaged that for each acquisition, the following reports as a minimum would be presented to the "Investment Board":

Reports forming part of the Investment Appraisal

Following approval from the Investment Board, the actual process for acquiring and selling property would be in accordance with Appendix 2 of the Strategy.

2.2 Part Three

2.2.1 Personnel

The provisions set out at Part 2 in relation to the Investment Board apply equally to Part 3. In addition however, it is anticipated that to begin with no resource is directly employed through the LATCo and that existing support resource is recharged from the Council at a mutually agreed level. There will therefore be no immediate staffing implications and any officers engaged in supporting the proposals set out in this report will be appropriately consulted where it is necessary to make any changes to their existing roles and responsibilities.

In order to maximise the successful implementation of the Strategy and ensure that the proposals set out within this report are compliant with all relevant legal, financial and governance requirements, it will be necessary to engage external expertise on an "as and when required" basis. This is likely to include input from legal, property and construction experts. Additionally it is envisaged that a "Development/Project Manager" resource will be needed to manage and oversee the developments/projects undertaken through the LATCo. It is further envisaged that any additional temporary resource is approved through the Investment Board if within budget and any permanent changes to the establishment would go through Staff Committee as now.

2.2.2 Funding

The initial funding for the LATCo will be informed by the detailed business plan that will be drawn up and presented to the “Investment Board” at the earliest opportunity. This funding will take the form of loans and share capital from the Council and full documentation will need to be drawn up to ensure legal and state aid compliance.

Having regard to the above, Cabinet is recommended to note the proposals relating to personnel and any costs associated with meeting those requirements out of the existing HR and budget provision (to be recharged as necessary) and request that Council notes the proposed intention that the Investment Board will be able to utilise reserves and/or borrow sums up to a combined maximum of £25 million in order to deliver the objectives of the Strategy.

3 POTENTIAL SITES FOR DEVELOPMENT

Part Three of the Strategy relates to the development of Council owned land and properties in order to maximise their potential as assets and in terms of their value to the community. CMT have begun to identify potential sites that could be further explored as a potential first wave of developments facilitating the provision of new and high quality housing in the district. After CMT review it is recommended that the first development to be considered for development through the LATCo is the “Nene Waterfront” at Wisbech. This site could deliver 80-100 new dwellings and is already owned by the Council, relatively easy to access and service, key infrastructure is in place and could be developed relatively quickly in order to provide financial and housing delivery gains.
Cabinet are therefore requested to support this recommendation and authorise the development of a fully costed business case to be brought forward for consideration as appropriate. This site would then form a significant part of the LATCo initial business plan if taken forward.

Commercial and Investment Strategy
Strategy and Guide

Fenland
CAMBRIDGESHIRE
Fenland District Council

CUSTOMER SERVICE EXCELLENCE
UK

Contents

Introduction

Why do we need a Commercial and Investment Strategy?

Since 2010, Fenland District Council has undertaken massive organisational change in response to national austerity pressures. Major sources of funding, specifically Government Revenue Support Grant (RSG) and Business Rates (NNDR) have reduced by 68% (£7.721million). During this time, FDC will have delivered a total of £9.9million in savings.

We have been nationally recognised as one of the most efficient Councils in the country. This is due to our innovative ways of delivering savings through our previous Modernisation Programme and Comprehensive Spending Review (CSR1). Savings have been delivered whilst continuing to protect frontline services and freezing Council Tax for 5 (out of 9) years.

Whilst we have met the savings challenge to date, our journey isn't over. We believe that at least £1.6million of further savings will need to be delivered by 2023/24. A number of significant risk areas[1] could increase this target even further.

Some efficiencies can be delivered through 'business as usual' activities. However, we must take further actions to meet current challenges whilst ensuring our organisation is sustainable for the future. This strategy outlines the types of investment opportunities that are available to us and the benefits they could bring; not just to our organisation, but to the wider district and its residents.

About our strategy

The term 'investment' can have different meanings in different contexts. Our Investment Strategy aims to provide the basis for informed decisions to be made on investing in property assets. It is split into three sections:

- **Part One** discusses and outlines our approach to commercialisation. It takes a broad view to include all aspects of service reviews, transformation, digitalisation, shared services, new income generation opportunities, pricing and the selling of services.

- **Part Two** discusses the purchase of an asset (and its disposal) to secure returns to contribute to the Council's sustainability. It sets out the processes and decisions needed to undertake investment in order to achieve a net income stream over the medium to long term.

- **Part Three** discusses the Council spending its own funds to support its strategic priorities within regeneration and place shaping. This may not deliver a financial return as described in Part Two, but could increase the GVA (Gross Value Added) and potentially deliver a number of indirect benefits through new jobs, inward investment, Business Rates and Council Tax.

Context

Local authorities have always owned property as part of their operational assets, strategic and regeneration projects. During the past decade, government austerity measures have put significant pressure on local government budgets. This, along with increased autonomy, has led an increasing number of authorities to become commercially minded and to

[1] These include, but are not limited to: the Government Spending review, Fair Funding review, 75% Business Rates retention, New Homes Bonus, changes to income (locally and nationally) and capital spending and funding.

subsequently invest into commercial property as a way to improve sustainability, reduce reliance upon central government grants and to protect services within communities. Historically low levels of interest rates from the Public Works Loans Board (PWLB) have also supported development to take place.

All Fenland District Council owned land and property is held as a corporate resource. Our Asset Management Plan outlines our agreed strategy and operation policy for developing, disposing and acquiring land and property. This strategy focuses on the acquisition of property as an investment and sits within the wider Asset Management Plan. All property is (or will be) held for a clearly defined purpose; whether that is to support services, provide revenue or to enhance our strategic role as a place shaper.

Exemptions

This strategy does not cover the Council's management of its cash-flow and surplus funds through short term investments or deposits in approved financial institutions or investment in Property Funds[2] which would be a policy decision within the Council's approved Treasury Management Strategy or Policy.

[2] Approved Property Funds are 'pooled funds' that invest in commercial property for rental income and through appreciation in values. They are available to the Council to invest its surplus funds it will not need within the next 5 to 10 years as a minimum. After fees and charges, net proceeds are distributed to investors within the Fund.

1. Part One – Commercialisation

Commercialisation

1.1 ‘Commercialisation’ is an increasingly important concept in local government driven by the need to manage financial challenges. There is no single approach to this, and local factors influence each authority on how best to take the concept forward. These include political buy-in, the financial climate, capacity, risk appetite, opportunities, skills and capability.

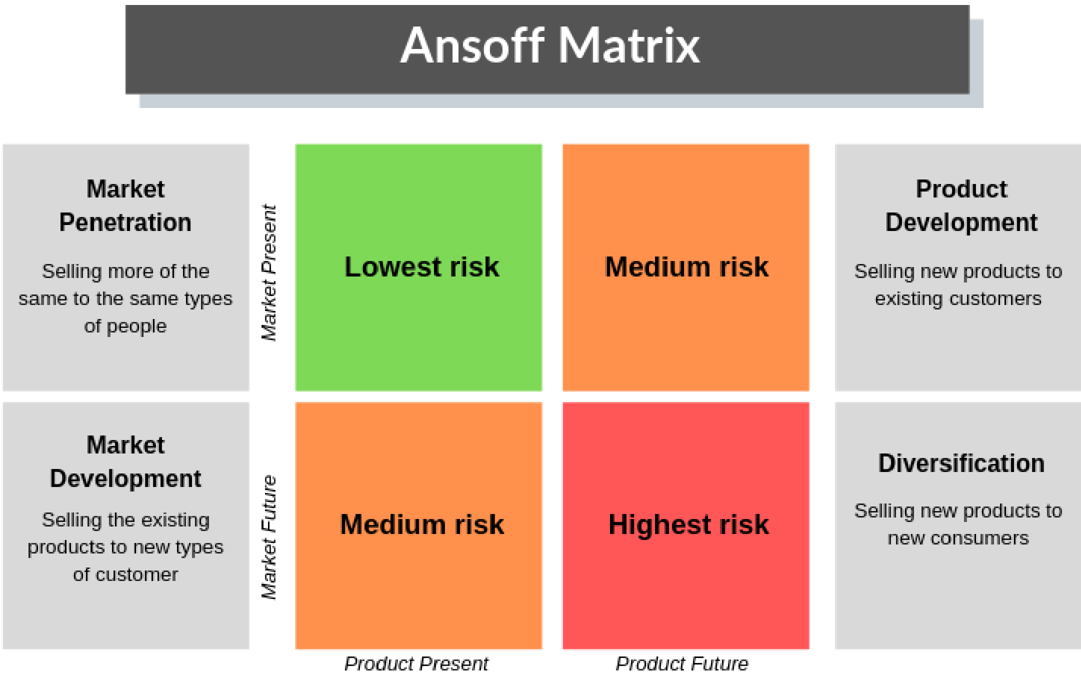
1.1.1 When building our strength as a commercial council, we must question:

- Have all options to maximise use of revenue and assets been explored?
- Do we understand our strengths and weaknesses?
- How do our services compare on net income and cost recovery?
- Have adequate processes been established to identify and select new opportunities?
- Is it clear how generating income will deliver a financial and social return?
- Are we aware of all and emerging financing available to fund proposals?
- Are governance proposals robust enough to scrutinise business cases?
- Do we understand the pros and cons of alternative development models?

Pursuing new opportunities

1.2 When considering new opportunities, we must fully understand the type of commercial opportunity. This will determine the level of risk and whether the venture is appropriate for the Council.

1.2.1 The commercially recognised ‘Ansoff Matrix’ diagram below categories the best types of opportunities that are open to us in commercial trading in products (or most likely for us, services):



1.2.2 Using this type of categorisation will support us to balance the level of reward against potential risk. Examples of current 'products or services' to pilot include CCTV and new housing development.

Alternative service delivery models

1.3 There are a number of different delivery models that can be explored within this strategy. These are designed to protect and maximise our potential to undertake commercial ventures. Examples include:

- Company Limited by Shares
- Limited Liability Partnership
- Joint Venture
- Private Company Limited by Guarantee
- Community Interest Company
- Shared Services with Partners (e.g. SLAs)

Each model has specific features and legal connotations which will impact appropriate use. The completion of a business case will support the appropriate and careful consideration of the opportunity.

Governance arrangements

1.4 The appropriate arrangements of this activity are already in place. The Council has already engaged in commercial activity. Examples include Trade Waste, CCTV and Building Control.

2. Part Two – Commercial Property Investment

Background

2.1 Part two of this strategy aims to provide a viable and sustainable framework for the acquisition of property investments for pure financial benefit. It sets out:

- Our objectives for acquiring property investments
- Criteria for investment acquisition
- Risks to the Council
- The acquisition and disposal process (governance arrangements)

2.1.1 The Local Government Act 1972 gives the Council powers to acquire any property or rights which facilitate, or is conductive or incidental to, the discharge of any of its functions.

2.1.2 This strategy provides the Council with the framework to exploit commercial property acquisition opportunities. This is with a view to generating long term rental income streams to support the future delivery of Council services. This would be by either by proactively seeking suitable property in the market or being approached by property agents.

Objectives

2.2 Our key objectives are to:

a) Acquire properties that provide long term investment in accordance with our corporate and financial objectives
b) Maximise return whilst minimising risk
c) Prioritise properties yielding optimal rental growth and stable income
d) Protect capital invested in acquired properties
e) Operate a governance framework enabling to move in a decisive and timely manner in line with market opportunities
f) Build a balanced investment property portfolio

Investment Property Portfolio Structure

2.3 An investment property portfolio must be managed separately to the Council's operational buildings. In line with best practice, it must be balanced and diverse to spread the risk. This means acquiring a mix of asset types, locational spread and tenant types whilst meeting assessment criteria.

2.3.1 To provide security, the portfolio should include a combination of lease types. This will ensure there is a minimum income to cover the cost of outstanding debt used to acquire the portfolio.

2.3.2 A portfolio of property assets will be diversified on individual assets by sector (industrial, offices and retail), location and risk. A direct investment 'Core' and 'Core Plus' approach is advised, as shown in Table 1.

Table 1: A comparison of 'Core' and 'Core Plus' Properties

	Description	Returns	Rental yield (% financial return on capital investment)
'Core Property'	The best property for the sector in an ideal location. Offers long term income with high quality tenants.	Yields equal to or slightly above prime for the sector	Lower than the general market. However, capital and rental growth should be steady. Medium term risk of void periods and tenant default reduced.
'Core Plus Property'	Similar to Core. However, locations are slightly less favourable, perhaps with shorter leases and lesser tenant covenants.	Returns appropriate to the sector and risk	Higher than Core, due to the increase in risk.

2.3.3 Specialist sector investments[3] should not form part of the Core and Core Plus criteria approach. They will only be considered by exception, and with robust proposals.

2.3.4 Given their limited correlation to commercial property, residential properties provide a good income diversifier. Despite the need for careful tenant and property management considerations, returns tend to be stable over the long term. This is discussed in greater detail in Part 3 of our strategy.

2.3.5 Value add (vacant or short leases), re-development opportunities or distressed property can reap high capital and yield returns, but are high risk. Due to differing reasons and motive for consideration, these do not form part of our strategy.

Investment Property Portfolio Principles and Decision Making

2.4 Investment in property should account for the ethical aspects or a property's purpose, and existing/future use under our ethical standards.

2.4.1 Although explored in greater detail in Appendix 1, there are many factors to consider when assessing an opportunity for property acquisition. These include:

- Location
- Lease length
- Covenant
- Tenure
- Lot size
- Repair obligations

All investment under this part of the strategy must provide income (yield) at a positive net rate of return. This is determined by the cost of borrowing and the Council's Internal Rate of Return (IRR). A set of agreed criteria would need to be agreed by Cabinet and Full Council and a minimum net yield would be set before further due diligence would be considered.

[3] Such as hotels, public houses, student accommodation and health care facilities

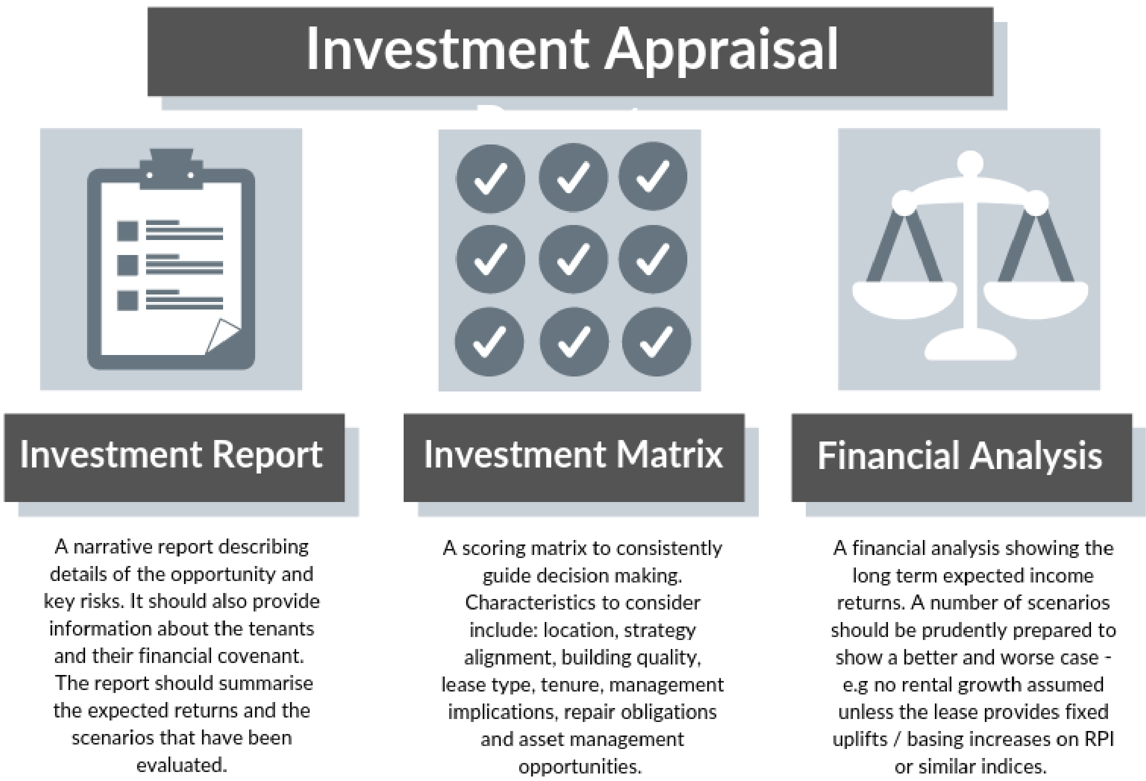
Governance

2.5 It is recognised that in order for the Council to maximise its ability to operate effectively in responding to opportunities for investment in the short term, delegations need to be put in place which enable decisions to be taken expediently within an increasingly competitive market. It is envisaged that this could be achieved through the creation of an "Investment Board" which, as a minimum, would include the Leader of the Council in consultation with the Finance Portfolio Holder, the Chief Executive, the Chief Finance Officer and the Director of Growth.

2.5.1 The Board would be delegated to make decisions on each potential acquisition up to a monetary limit. This amount would be agreed by Full Council as part of the budget approval process. The Board would have delegation to spend up to this amount following appropriate and agreed due diligence (see Figure 1)

2.5.2 For each acquisition, the following reports would be presented to the Investment Board:

Figure 1: Reports forming part of the Investment Appraisal



2.5.3 Following approval from the Investment Board, the actual process for acquiring and selling property is shown in Appendix 2.

3 Part Three – Regeneration and Place Shaping Investment

Strategy where the Council is considering 'investment' for regeneration and place shaping

3.1 The Council has specific powers and responsibilities in respect of economic regeneration. As a strategic and planning authority, our remit includes ensuring the supply of housing and employment land through its Local Plan. See Appendix 3 for further detail.

Economic regeneration

3.2 Economic regeneration can be defined as "*the broad process of reversing physical, economic and social decline in an area where market forces will not do this without intervention.*"[4]

3.2.1 Economic regeneration focuses on business growth and the actions and policies that can be deployed to create growth. The success of economic regeneration can be assessed using measures of income, poverty and employment – both within specific areas and in comparison to other more successful areas.

3.2.2 In Cambridgeshire, the remit for economic growth mainly falls within the Cambridgeshire and Peterborough Combined Authority (CPCA); specifically through the CPCA's Business Board.

3.2.3 The CPCA commissioned an independent report title 'Cambridgeshire and Peterborough Independent Economic Review'[5] (CPIER Final Report September 2018). It identified there are three distinct economic areas within the CPCA area. These are the greater Cambridge area, the greater Peterborough area and the Fens. Geographically, Fenland District Council predominantly covers the Fens.

3.2.4 The CPIER report sets out recommendations and actions for the CPCA to ensure the economic prosperity and wellbeing of its area. Actions are long-term, spanning between 10-25 years, and are aligned to national economic and growth policies.

3.2.5 A key recommendation is for the CPCA to develop a Local Industrial Strategy (LIS) to address the strengths and weaknesses of its three economic areas. A LIS is being developed in conjunction with Government and is expected to be adopted by autumn 2019.

3.2.6 Our economic regeneration strategy, policies and actions therefore need to be closely aligned to the CPCA strategies. When the Council applies for funding streams, it must have a clear and evidenced view on what will be delivered in line with local strategy and national policy requirements.

3.2.7 The economic regeneration discussed so far is normally interventionist in nature by dealing with issues where the market fails to do so. As such, we will engage with a broad range of national and local stakeholders with varying levels of involvement.

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[4] HM Treasury, Department for Business, Enterprise and Regulatory Reform and Department for Communities and Local Government, *'Review of sub national economic development and regeneration'*, July 2007, para 1.13. The text quoted is from Igloo; Env 213, para 4.1

[5] The Economic Review is a product of the Cambridgeshire and Peterborough Independent Economic Commission. It was established by the CPCA in June 2017.

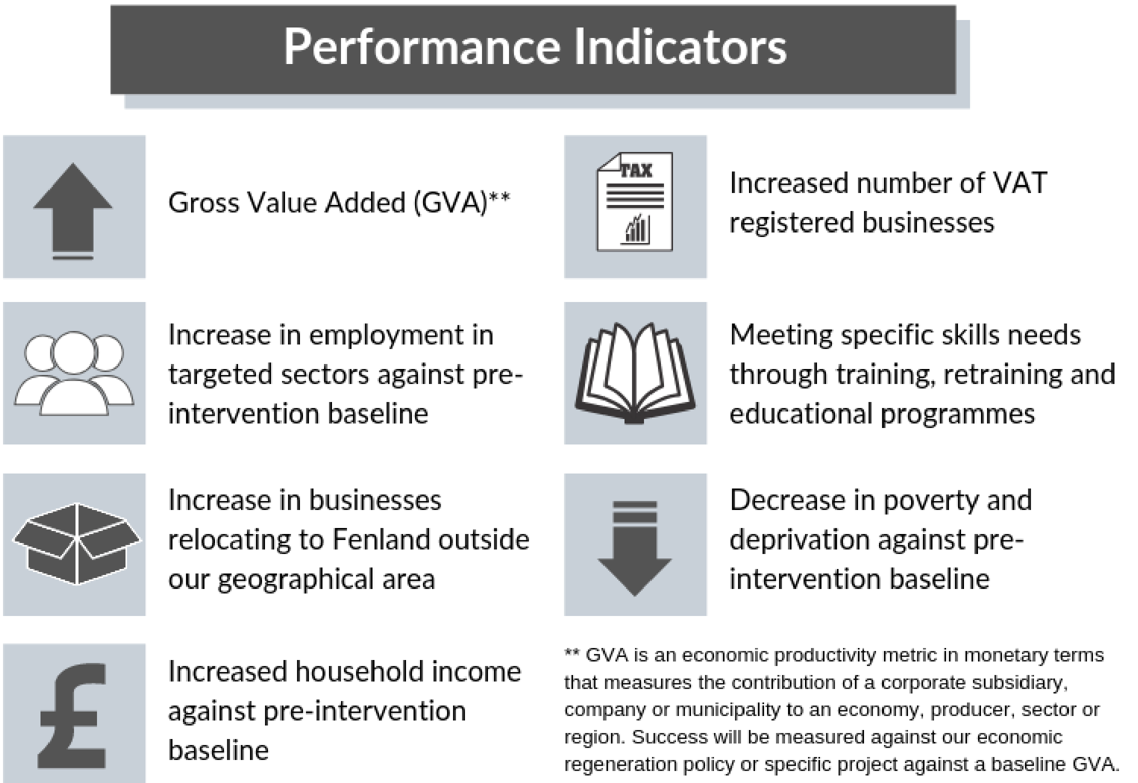
3.2.8 With this in mind, we recognise that allocating and spending our own funds on economic regeneration is not 'investment' in the strictest sense (for example, compared to purchasing a property purely for financial returns).

3.2.9 In most cases, spending on economic regeneration will not result in direct income to the Council as it would from an investment property. However, it can deliver indirect income through an increase in business rates and council tax income (where there is new housing) and generally through increased fees and charges from greater use of Council facilities.

3.3 The new Business Rates Retention system that is due to be implemented from April 2021 increases the importance of economic growth and inward investment policies to ensure the long term sustainability of the Council.

3.3.1 The Council will have a range of measures to identify the success of its economic regeneration policies. These must be meaningful and quantifiable to determine and inform future actions. As a minimum, they will include one or more of the following:

Figure 2 – Indicators to determine extent of economic regeneration success



Housing provision

3.4 Fenland District Council does not own its own housing stock but still has responsibilities as a strategic housing authority. In 2017, we transferred our council housing to Roddons (now Clarion). This means there is no council housing any more in Fenland.

3.4.1 Local authorities are engaging in the provision of housing through a variety of different means. These include:

- House building through companies
- Building through the Housing Revenue Account (HRA)
- Building directly under the general fund
- Building through Joint Ventures with developers
- Providing land for housing
- Giving loans to others to build housing or bring it back into use
- Building for social needs (i.e. extra care housing or homelessness)

3.4.2 There is a growing appetite and capacity in local authorities to return to or increase their roles in providing housing as a core function, partly to address local and national housing need. Councils have started to tackle a housing problem, leading to an increase in confidence and capacity to deal with more issues. Some authorities have returned to providing housing, even though they previously transferred their stock.

3.4.3 Local authorities have tried to make Government policies work by increasing the number of planning permissions. This has led Councillors to make difficult and sometimes unpopular decisions.

3.4.4 Further frustrations can occur when the permitted homes are not built or when renegotiations seek to remove the development contributions, infrastructure or affordable housing initially agreed. The main obligation of developers and land agents are to their shareholders – not to build any housing with planning permission.

3.4.5 These frustrations and inactivity have prompted some local authorities to begin building their own homes – often more rapidly than the private sector. Whilst based on a variety of motivations, the most important is to meet local housing needs and to effectively deal with homelessness.

3.4.6 Where local authorities are seeking income from housing or property portfolios through their own companies, they are doing so to ensure they have secure and long-term income to deliver their other essential services. This is described as 'profit for purpose'.

3.4.7 It is often assumed that the 5 year land supply in the Local Plan is for private sector development, rather than all types of housing need. There is a disconnect in plans for different market housing needs and alternative tenures. Some authorities are stepping into the breach to provide housing that is not being supplied by the market.

3.4.8 Since the mid-1980's, government policy has mainly focused on housing delivery by the private sector. It has also provided a range of incentives for developers and local authorities to provide new homes, including the New Homes Bonus and Help to Buy. Due to changes in government funding from 2020 (with the removal of the Revenue Support Grant), the New Homes Bonus provides a significant proportion of the Council's income. However, it could be removed at any time.

3.4.9 The Government focus on the private sector has also been represented through Local Plan housing supply approaches. This focuses on the total supply of housing required rather than tenure, need-based locations, or housing related to income. There seems to be an unspoken assumption that land identified for housing is mainly for private house builders. However, private sector developers' main obligation is to their shareholders, so local authorities cannot rely on them to increase housing supply. They do not have to build any homes at all, despite any planning permissions they hold.

3.5 Local authorities are being required to identify more housing land based on potential mortgageability; this not the same for the private sector. Most debate surrounding housing supply has focused on new build dwellings, with developer preference for greenfield sites which usually yield higher profits. However, there are other approaches being used by councils. These include selling or developing local authority land in partnership, often through wholly owned housing companies.

3.5.1 There are a number of reasons for local authorities in engaging directly in the provision of housing. These include:

- Meeting local housing requirements
- Tackling homelessness
- Estate and place regeneration
- Private sector build out rates too slow
- Improving quality of design
- Tackling ‘problem’ sites
- Generating income to replace the Revenue Support Grant (RSG)
- Frustration at unimplemented planning permissions
- Bridging gap that housing associations can’t fill

3.5.2 Equally, there are reasons why local authorities may not consider direct housing provision. These include:

- Lack of funding
- Lack of market
- Lack of expertise
- Lack of political will
- Unaware of statutory powers available
- No retained housing stock; believing option to provide housing directly not available

Full business case(s) will need to be undertaken with external expert support to determine this right option for the Council. It is advised that the Council’s external auditor should be consulted on early in any progress to understand upfront costs and to mitigate and minimise any issues arising during the annual audit of the accounts.

Conclusion

3.6 Part 3 of our Strategy has discussed how local authorities are using the powers available to them to:

- further their strategic regeneration and place making priorities; and
- directly provide housing of different tenure to meet local requirements and address failure within the housing market

3.6.1 Following expert legal and financial advice, the Council must decide the exact mix of methods, legal powers and funding it uses to achieve these priorities.

Governance

3.7 A governance process is already in place for this investment, with examples being Number 11/12 and 24 High Street in Wisbech and the Nene Waterfront regeneration.

3.7.1 It is expected that committing capital finding will attract other external funding opportunities from bodies such as the HLF, CPCA and Homes England.

3.7.2 It is recommended that a budget amount would be agreed by Full Council as part of the budget approval process. Following this, individual projects would be brought to

Cabinet and Council as full business cases following the procedure outlined in this strategy.

Appendix 1: Assessment Criteria – Commercial Property Investment: Risk and Return Matrix

Criteria	Excellent	Very Good	Good	Acceptable	Marginal	Notes
Location	Major Prime	Macro Prime	Major Secondary	Macro Secondary	Tertiary	Due to potential risk, it is likely locations would be chosen either within or close to Fenland
	Core and Core Plus approach					
Covenant	Single Tenant, Strong Financial Strength and Covenant	Single Tenant, Good Financial Strength and Covenant	Multiple Tenants, Strong Financial Covenant	Multiple Tenants, Good Financial Covenant	Tenant(s), Average Financial Covenant	The covenant of the tenant(s) is considered in terms of (audited) financial strength and risk of failure.
Lot Size	£6m - £12m	£4m - £6m £12m - £18m	£2m - £4m £18m - £20m	£1m - £2m £20m - £25m	<£1m >£25m	A balanced portfolio of investments will include various lot sizes.
Lease Length	>10 years	7 – 10 years	4 – 7 years	2 – 4 years	<2 years	Length of lease will determine the fixed term of guaranteed rental income. In most cases, longer leases are more secure.
Tenure	Freehold	Long Leasehold 125 years minimum	Leasehold >75 years <125 years	Leasehold <75 years	Leasehold <50 years	Freehold possession is best. Liquidity and marketability of properties are key considerations for leasehold.
Repair Obligations	Full Repairing and Insuring (FRI)	Internal Repairing 100% Recoverable	Internal Repairing Partially Recoverable	Internal Repairing Non Recoverable	Landlord Repairs	There are various levels of repair obligations; impacting structural, external and internal repairs to the property
Net Yield	+8%	5% - 8%	3.5% - 5%	2% - 3.5%	<2%	All investment opportunities must initially provide income (yield) at a positive rate of return. Acquisition costs may include Stamp Duty Land Tax, agents' fees, legal fees and conveyancing costs.

Given the varied sector dynamics, the criteria for each asset will vary. However, the following core principles should apply in each case:

1. All investments considered must initially provide income (yield) equal to or above the Council's rate of return. This is defined by the cost of capital borrowing for purchase.
2. Individual properties and opportunities will be fully financially and physically appraised using industry standard techniques and the risk/return matrix.
3. To minimise management and risk, preference is for single occupancy investments.
4. Location will be dictated by opportunity to acquire investments that meet the strategy. However, location within the Fenland District or its impact on the economy within the Fenland District will be a deciding factor when all other attributes are equal.
5. Only investments with full repairing and insuring (FRI) terms or FRI by service charge will be considered.
6. Whilst determined by market forces, the aim is to maximise lease length.
7. Market rent should be equal to or above passing rent.
8. Preference will be for market sectors and locations with rental growth and good letting prospects
9. Further performance measures, portfolio analysis and valuation will take place as required during the holding period to allow for buy/sell/hold decision making.

2. Holding Period

It is normal to define a 'holding period' before sale at the time of purchase. This is to counter any significant depreciation eroding value or before the need for redevelopment arises. The holding period will be determined for each individual property at the appraisal stage.

3. Value Add

Value add (vacant or short leases), re-development opportunities or distressed property can reap high capital and yield returns. Whilst such properties can be appraised with the above principles and criteria, they will have different and higher levels of risk. The reasons for considering them must be fully evaluated and understood.

4. Issues not to be overlooked: risks and their management

Market Forces
To limit risk the principles, criteria and full due diligence will be undertaken for all transactions. Changes in demand and supply within the market and wider economy may see the value of investment and income rise and fall. The price of property is not the sole factor that should be considered for making a good investment in the long run.

Liquidity
Acquiring and disposing of commercial property can be complex. The process can result in transactional delay and uncertainty which carries risk from market shift, abortive transactional costs and speed of realising a capital receipt.

Active Portfolio Management and Opportunities
Performance of an investment property should be continually monitored as part of an active portfolio management strategy. Qualified in-house or third party auditors should keep up with market trends, manage asset plans, deal with day-to-day issues, examine lease structuring initiatives and protect against loss of income to ensure the investment yield is maximised.

The role of the property professional is to seek out as many opportunities as possible (often in a limited and highly competitive market), build relationships and communicate to the market the Council's requirements and ability to perform.

Appendix 2: Portfolio Acquisition and Disposal Flow Chart

Acquisition (Buying)	Flow	Disposal (Selling)
• Appraise property • Offers and counter offers • Agree Heads of Terms • Secure source of funds	Offer to market – Heads of Terms ↓	• Instruct advisors; formulate asking terms and marketing strategy • Review property information; anticipate information and devise strategy • Procure energy performance certificate
• Instruct legal team • Investigate title • Undertake or commission surveys and reports • Negotiate contract	Pre-contract ↓	• Consider carrying out and providing searches • Make available pre-contract legal pack and access to data • Negotiate contract
• Pay deposit	Exchange contract ↓	
Parties committed to acquisition		
• Pre completion searches • Finalise mechanics for drawdown/transfer of funds for completion	Pre-completion ↓	• Continue to manage property (in accordance with contract) • Preparation of completion statement • Prepare requisitions on title
• Pay completion monies • Assume liability for property	Completion ↓	• Discharge borrowing liability
• SDLT/Land Registry tasks to be completed • Collation of property information • Portfolio management	Post-completion ↓	

Appendix 3: Exercise of Council's powers

Part 1 of the Localism Act 2011 applies a general power of competence to local authorities in England. Section 1 (1) of the Act provides that *"a local authority has the power to do anything that individuals generally may do."* The power does not permit local authorities to do anything that is prohibited in legislation, raise taxes or alter its political management structure.

Under Section 3, commercial activities may be undertaken (in line with powers under Sections 93 and 95 of the Local Government Act 2003), but only through a company. Authorities can't trade in services that they already have a statutory requirement to provide.

Appendix 4: Local Authority Companies

Under the Local Government Act 2003, s95, local authorities can set up companies to make a profit in any area of their competencies. In the Localism Act 2011, S1-7, powers for local authorities to establish companies were extended into a General Power of Competence. This allows them to do anything that a company or individual may do, unless prohibited.

These powers have prompted many local authorities to establish a range of companies to undertake a range of services, to undertake developments and/or to hold assets. These companies are wholly owned by the local authority and are supported through the General Funds in the local authority.

A report by Mark Baigent (2016)[6] sets out the variety of approaches that are available to local authorities to operate companies to provide housing.

Local authority housing companies are set up with the local authority owning 100% of the shares. They can receive loans for development from the local authority, including when funding has been obtained from the Public Works Loans Board. The local authority housing company would pay a premium for the use of this funding, thus giving a net benefit to the local authority. Housing companies also have set level agreements with local authority service providers (i.e. in legal, finance and planning) where the company pays for the use of the local authority officers' time.

These companies can be set up as tax efficiently as any private company or housing association. The way any development is funded may depend on the methods that provide the most income, as that is needed the most by local authorities to bridge their funding gap. Possible funding methods include:

- Public Works Loans Board
- Council's own resource: finance
- Converting office buildings to residential
- Bonds
- Hedge fund(s)
- Homes England
- S.106 payments
- Building on Council land
- Council's own resource: buildings or land
- Loans from other local authorities
- Commercial loans
- European Investment Bank
- LEP/Devolution and City Deals
- From Joint Venture partners

The structures and governance of companies, joint ventures and partnership arrangements can be complex. The Council will procure expert legal and financial advice before entering into such arrangements.

[6] Mark Baigent (2016), How to Set Up A Local Housing Company, Mark Baigent Consulting: http://bit.ly/mb-setup-hc

APPENDIX 2

OPTIONS APPRAISAL FOR THE DELIVERY OF FDC's COMMERCIAL INVESTMENT STRATEGY PART 3

1. **Retain the activities in house (with redesign)**
   While this would retain the greatest overall level of control for FDC through existing internal governance procedures and has a low upfront cost in terms of resource compared to other options, it was considered to be too inflexible to bring about the desired outcomes in that it would remain reliant on Council funding, may only deliver public sector services to FDC and cannot widely trade which would limit innovation and its range of options.

2. **Partner with another local authority**
   While this option would also be cost effective in terms of the initial resources required and the potential for cost sharing in terms of resource and expertise, it requires both local authorities to agree on operations, funding and sharing of risks, while the partner may also have or encounter budget constraints during the term or the partnership. It is also subject to the inflexibilities noted in option 1 above.

3. **Outsourcing to a third party**

   This model has a clear traditional client and service provider relationship and control over activities is exercised in the design of the services and negotiation of the service contract terms. It also has the advantage that FDC is not involved in the provider's ownership, governance, funding and operations. However certain aspects of the arrangement have potential negative implications.

   The service contract will need to provide for a degree of profit to the service provider, and thus profits cannot be applied for the benefit of FDC residents. In addition, a service provider is likely to be subject to the Public Contracts Regulations which will build cost (the involvement of procurement, finance, legal and HR) and time into the procurement process. Furthermore, while a third party may in theory be able to operate more flexibly than FDC, this flexibility (together with the risk of under-performance mitigated through negotiating robust KPIs and payment deductions in the contract terms) must be anticipated and built into the service contract from the outset and subsequent changes to that contract will be subject to the material change restrictions of the Regulations. Similarly, the desired outcomes for services provided in connection with Part 3 may also be difficult to define in contractual terms and therefore measure.

4. Joint Venture with a commercial partner

This model has the advantage of acquiring commercial expertise, sourcing investment funding and providing a high degree of commercial and operational flexibility while retaining a degree of control by collaborating with a specialist partner from the private or public sector through a JV entity or JV contract arrangement. However there are also some notable risks and disadvantages involved.

While the JV has the potential to fall outside the Public Contracts Regulations in terms of its activities, this is dependent on the structure and purpose of the JV entity and its arrangements and specialist legal advice may be required to consider this possibility. If the JV structure does in effect create a works, services or supplies contract then its activities, as well as the appointment of the JV partner, will be subject to the Public Contracts Regulations. Even where the public procurement regime is deemed not to apply to the award of a contract to the JV, FDC may still need to undertake some form of competition and advertisement to meet General Treaty Principles. Both will involve substantial resource and potential delay while processes are followed and completed.

There are likely to be upfront substantive and time consuming resources (operations, finance, legal HR, communications). This may include external specialist legal and/or finance advice in order to create a JV entity falling outside the public procurement regime and the need to guard against state aid implications.

If the JV entity is determined to be a public body it is governed by public body regulations which in itself creates a governance structure that FDC may consider useful given that its level of control is diminished by collaborating with a third party in a JV arrangement. However that structure can restrict its commerciality and flexibility and defeats the purpose of creating a JV which can operate independently of FDC.

The risks involved in the activities of JV can be shared with a JV partner. Notably, where a company is used as a JV entity, usually the liabilities are limited to the company and not the shareholders. However the partners' differing attitudes to risk and reward will need to be considered: FDC's duties on disclosure and freedom of information may not be aligned with a private sector partner's need for commercial confidentiality, a private sector partner may have different objectives dealing with "deadlock disputes" and the treatment of profit, a private sector partner may be motivated to "cherry pick" elements of the services or arrangement which suit their profit margins.

A further matter which FDC must anticipate is a the risk of a conflict of interest for FDC representatives who sit on a JV company board in having to balance acting in the best commercial interest of a JV company and the Council's interest. This can be mitigated by anticipating and providing for this eventuality in advance.

5. Creation of a wholly owned "Teckal" Company

A Teckal company may be wholly owned by FDC and usually establishes a relationship whereby a local authority is both owner and client. The Teckal company would become a service provider to FDC and it is a model often used in relation to the provision of existing services.

Setting up a company requires up front in-house and external resources including operations, finance, legal, HR and communications. FDC would need to undertake due diligence and in depth analysis of financial, commercial and tax advantages and disadvantages for long term sustainability, costs of resourcing the company and the need to satisfy best value duty. The company can be quickly incorporated and would allow FDC a higher degree of control as sole owner and as client, while extra powers of oversight for auditing purposes, may be built into the arrangement. As with a JV entity, usually the liabilities are limited to the company and not the shareholders and local authorities usually expect to see a potential reduction in the cost of services provided back to the authority when compared with a commercial organisation, including in relation to pensions.

While it may be set up without a procurement exercise and a contract for services awarded to it without having to procure through Public Contracts Regulations, the Teckal company itself is subject to the Regulations in its external dealings, for example when purchasing services for itself. Profits may be reinvested back to the Teckal company to invest in improving service delivery.

However, while a Teckal company may have great value in delivering existing services back to FDC, the 20% limit on its external facing commercial activities makes it unsuitable for the delivery of the Part 3 activities which are commercial by nature and requires greater financial oversight in order to monitor the level of commercial activity being undertaken. No private sector involvement permitted and therefore there is no direct access to commercial expertise or funding, which may increases reliance on obtaining specialist external advice.

Although the Teckal company could set up an additional and separate trading company to deliver services more commercially this creates an unwieldy structure and additional accounting requirements which temper its flexibility and increase levels of costs and resources.

The Teckal company is likely to need to plan to mitigate risks of conflicts of interests through an effective client /provider relationship and governance structure, particularly where FDC representatives sit on the Teckal company board as directors and need to balance their duties as directors while acting in the FDC's interests in the same way as JV directors. State aid implications need to be considered where the Teckal company uses its 20% limit to trade.

6. Local Authority Trading Company (LATCo)

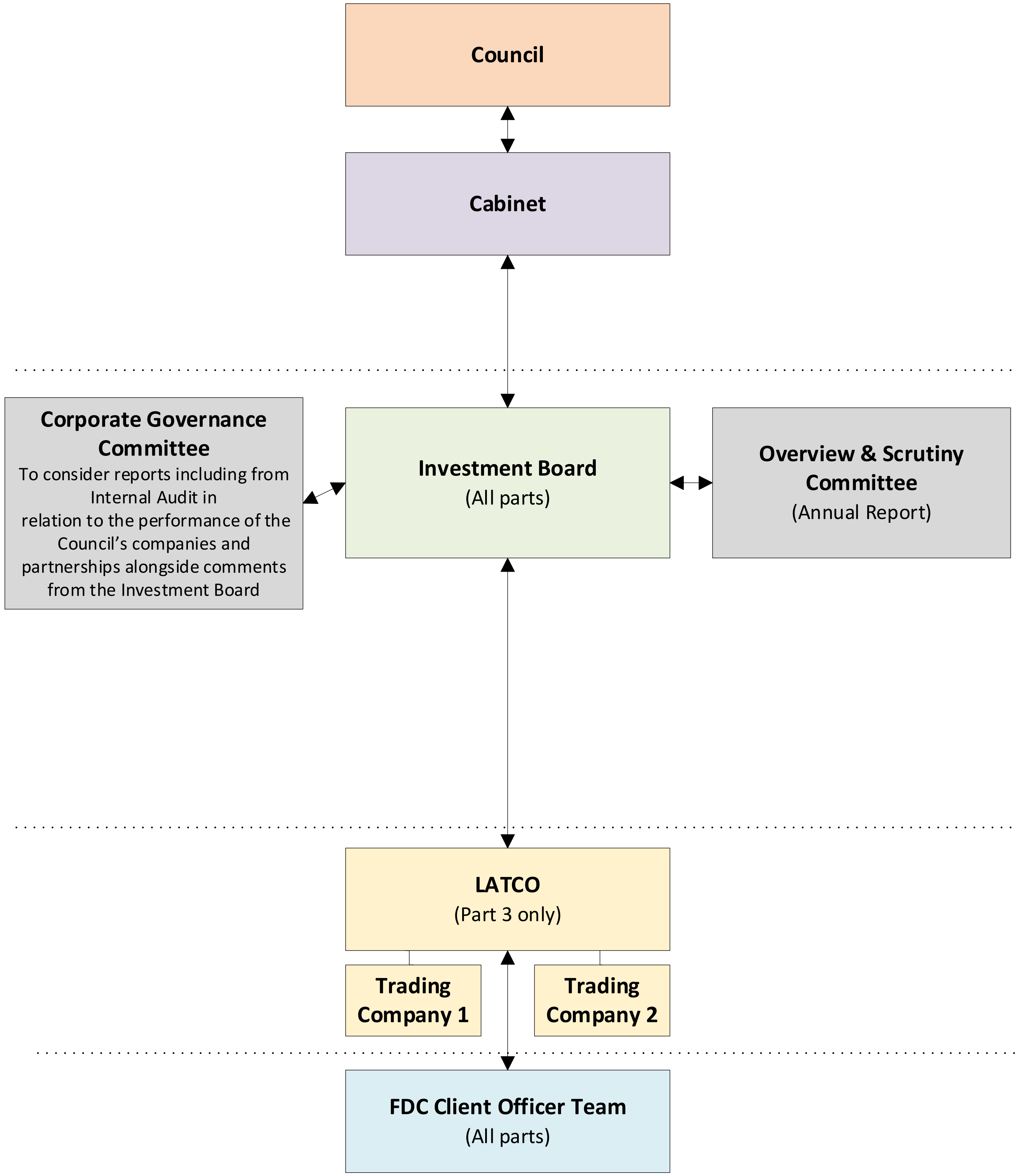
FDC could set up a wholly owned LATCo which would not have a Teckal company's commercial trading restrictions or be as restricted by The Public Contracts Regulations as regards the choice of its own suppliers. It is considered that **a LATCo provides the best model for the delivery of the PART 3 activities.**

Up front resources are still required as with the establishment of any local authority JV or company and external expertise may also be required. However a LATCo does have certain advantages in that it can be set up quickly and allowed flexibility in its mandate in order to provide an ability to respond to opportunities quickly, it may trade commercially with the wider public and private sector to a greater extent than permitted by the 20% limit applied to Teckal companies.

There must be due diligence regarding the analysis of financial, commercial and tax advantages and disadvantages for long term sustainability, the costs of resourcing the company, cost of any funding arrangements extended to the company (and State Aid implications), the need to satisfy best value duty and determination of how the company will be resourced in terms of secondment of staff, support services and assets.

The LATCo will still be subject to certain aspects of public law, for instance FOI and EIA rules, while potential conflicts of interest in appointment of FDC representatives as company directors who will be required to act in the best interests of the LATCo must also be anticipated and managed as with any JV or local authority company.

Finally it is noted here that should a LATCo be established, then later should FDC wish to develop more complex or costly opportunities where the expertise of a commercial partner would be of benefit, the LATCo could become a Joint Venture organisation subject to the benefits and restrictions set out above. If that option were to be considered in the future, then the usual analysis would be carried out at the time and a decision brought to Cabinet for determination.



Council Decisions
Decisions:
A) Approve total overall budget
B) Consider recommendations of Cabinet

Cabinet Decisions
Decisions:
A) Establish new companies or partnerships
B) Decommissioning or winding up of existing companies or partnerships
C) Determination of level of budget in relation to commercial property investment and LATCO
D) Determination of any lending facilities to the LATCO
E) Identify reserved matters, eg appoint or dismiss directors
F) Scheme of delegations to Investment Board

Investment Board – Decision Making & Advisory
Membership: The Leader of the Council, the Finance Portfolio Holder and the Portfolio Holder for Economic Growth, supported in an advisory capacity by CEO, Monitoring Officer, and S151 Officer in attendance.

Functions:
A) Approve Business Plans for LATCO
B) Set strategy and policy, and provide operational oversight
C) Monitor performance and financial delivery in line with the Business Plan for the LATCO
D) Act within powers delegated by Cabinet over reserved matters, for example appoint / dismiss LATCO directors
E) Approve in principle investment / loans / assets within budget and agreed criteria
F) To review reports in relation to the LATCO prior to submission to the Corporate Governance Committee and / or Overview & Scrutiny Committee
G) To determine for the LATCO whether to delegate any of its functions to FDC Client Officer Team
H) Determination of Articles of Association
I) Determination of percentage of share ownership

Benefit: Effective protection against poor performance, excessive risk, timely decision making. Monitors LATCO's interaction with FDC.

LATCO Board
Membership: Independent Chair, Chief Finance Officer, Head of Housing & Community Support, Head of Economic Growth & Assets

Functions:
A) Management and operation of the company only, with accountability into Investment Board
B) To act within the remit of the Business Plan
C) Represent FDC but act in the company's interest

FDC Client Officer Team

Functions:
A) Project management, commission services, negotiate and agree service agreements, monitor performance payments, timelines, obtain approvals in line with internal governance process, obtain finance, HR and legal support. Supporting and advising the Investment Board
B) First stop forum to consider matters outside the Business Plan or matters re service to FDC
C) Acting in FDC's best interest

Benefit: Interface between FDC and LATCO, clear separation of client and provider functions, proper resource of client side functions to support LATCO.

APPENDIX 4 - PROPOSED AMENDMENTS TO CONSTITUTION

1. NON-LABELLED TABLE PAGE F.1 - DEFINITIONS OF MEMBERSHIPS

Add a new row under Cabinet to say:

Decision Making Body	Membership
Investment Board	**The Leader and up to two further Cabinet Members appointed by the Leader.** **Two additional substitute Cabinet Members to be appointed by the Leader.** **The Investment Board shall be advised by the Chief Executive, s.151 and Monitoring Officers together with the Director of Growth [and its meetings may be attended by the Chairman or Vice Chairman of O&S in an observatory capacity].**

2. TABLE 2 – F7 – RESPONSIBILITY FOR COUNCIL FUNCTIONS

A new row to be inserted between the last entry for Council and Planning Committee to say:

Decision Making Body	Functions	Delegation of Functions
Council	**Commercial Investment Strategy**	**As defined in Tables 4 and 5 of this Part of the Constitution**

3. TABLE 3 - F.13 - RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

3.1. CABINET

The table to be numbered and as amended as set out 1.1 together with the new delegations to Cabinet as set out at 1.1.1:

1.1 Cabinet

Who is responsible?	**Membership**	**Functions**	**Onward Limit of Delegations**
Cabinet	Up to to 10 Members of the Council	All functions of the Council which are not the responsibility of the other part of the Council as defined in this Constitution.	As defined in Tables **3**, 4 and 5 of this Part of the Constitution.
Leader	The member so appointed by the Council	The creation of portfolios of related functions and appointment of members of the Cabinet of portfolios	
Portfolio Holders	See Appendix	Responsible for functions delegated to Portfolio Holders by the Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution.

1.1.1 Cabinet will be responsible for the following specific functions in relation to the Commercial Investment Strategy and the Council's companies and partnerships:

(a) Conducting a formal review of the Commercial Investment every 2 years and recommending any necessary amendments for approval by Full Council;

(b) Agreement of process and documentation for approval of Part 2 and 3 proposals;

(c) The establishment of any new company and/or partnership;

(d) The decommissioning/winding up of existing companies or partnerships;

(e) The determination of Articles of Association;

(f) The determination of the percentage share of ownership;

(g) The determination of Reserved Matters for example appointment or dismissal of Directors unless delegated to the Investment Board;

(h) Scheme of delegations to the Investment Board and Officers;

(i) To delegate to the Investment Board the requisite funding allocated for delivery of the Council's Commercial Investment Strategy and to oversee spending against that budget in accordance with the agreed processes.

3.2. INVESTMENT BOARD

To create a new committee of Cabinet called the Investment Board which will have the delegated function set out at paragraph 1.2.1 to 1.2.3 below:

1.2.1 Purpose

The Investment Board is responsible for implementing the Commercial Investment Strategy including oversight of the Council's companies and partnerships.

The Investment Board will act as a decision-making body in relation to the functions delegated to it and will report to Cabinet in relation to the exercise of those functions.

Support and advice will be provided to the Investment Board by the Chief Executive, Section 151 Officer, Monitoring Officer and Director of Growth.

1.2.2 Membership and Operation of the Investment Board

The Investment Board will comprise a maximum of two Cabinet Members (one of whom should be the portfolio holder for finance if that position is not held by the Leader) in addition to the Leader who will determine their appointment annually.

The Leader will Chair the Investment Board and a Vice Chair will be selected from the elected members of the Investment Board.

The Investment Board shall meet on a basis agreed by itself with a minimum of 3 meetings per year.

The quorum shall be the Leader in the presence of a minimum of;

- **one other Cabinet Member;**
- **one senior advisory officer (or their appointed deputy)**

[An invitation to attend must have been provided to the Chair of O&S at least 5 clear days in advance of the meeting taking place. This notice period may be waived if the Chair of O&S or their nominated deputy so agrees.]

An invitation to attend must also have been provided to the section 151 officer and the Monitoring Officer (or their nominated deputies) which will normally be at least 5 clear days in advance of the meeting taking place.

The provisions relating to substitution set out at paragraph 28 of the Standing Orders shall apply to meetings of the Investment Board save that the Leader and Cabinet Members may only be substituted by Cabinet Members [and the Chair of O&S may only be substituted by the Vice Chairman]. Such substitutions to be notified to Council as part of the annual nomination process.

The Cabinet Procedure Rules shall apply to meetings of the Investment Board save in respect of paragraphs 1.6, 1.8, 2.2 (second paragraph), 2.3(g) and (h) and paragraph 2.5(d) which shall be disapplied.

1.2.3 Functions of the Investment Board

(a) To determine investment appraisals submitted under Part 2 of the Council's Commercial Investment Strategy together with the most appropriate means of delivery;
(b) To determine business cases submitted under Part 3 of the Council's Commercial Investments Strategy by the Council's companies and partnerships;
(c) To determine the amount and terms of any investments, loans and assets required for the delivery of proposals approved in accordance with paragraphs (a) and (b) above from the agreed budget allocation;
(d) To produce a report to Cabinet twice a year summarising its activities in accordance with paragraphs (a) to (c) above.
(e) Approve the business plans of the Council's companies and partnerships;
(f) to monitor performance and financial delivery in line with the approved business plans;
(g) To ensure that those companies and partnerships comply with relevant Council policies, strategies and objectives;
(h) To exercise decisions, where delegated by Cabinet, in relation to a company or partnerships' reserved matters;
(i) To oversee the relationships between the Council and the Council's companies and partnerships in accordance with the Council's objectives.
(j) To prepare and present an annual report to the Overview and Scrutiny Committee;
(k) To determine for each individual company or partnership whether the Investment Board recommends to Cabinet the delegation of any functions to the officers of the Council.

All other matters not falling within the remit of the Investment Board functions set out at (a) to (k) above will be referred to Cabinet for decision.

4. GENERAL ASSOCIATED CONSTITUTIONAL AMENDMENTS

Page R1.21 - Paragraph 24:

Insert new paragraph 24.3 (with old paragraph 24.3 becoming 24.4):

24.3 Paragraphs 18, 20,21, 22 and 23 of this Rule 1 apply and shall be read in such a way as to apply to the Investment Board where relevant.

Page R1.23 - RULE 2 – ACCESS TO INFORMATION PROCEDURE RULES

Paragraph 1.1 to be amended to read:

1.1 These Rules apply to all meetings of the Council, the Overview and Scrutiny Panel, committees, sub-committees, panels and sub-groups and public meetings of the Cabinet **and Investment Board** (together called meetings).

APPENDIX 5

APPOINTMENTS TO MEMBERSHIP OF COMMITTEES FOR 2019/20

Investment Board (3)	
Councillor Chris Boden	Councillor Ian Benney
Councillor Steve Tierney	
Substitutes: Councillor Sam Hoy and Councillor Chris Seaton	