

Report of:	James Bromiley, Strategic Director of Finance, Governance & Support Cllr Chris Hobson, Executive Member for Finance & Governance
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Submitted to:	Executive Committee - 21 January 2020
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Subject:	Estates Strategy - Asset Acquisition Policy
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Summary

Proposed decision(s)
That Executive notes the Council is able to acquire assets for the purposes of supporting communities, stimulating economic activity and generating income streams, and that it can balance these factors when considering acquisitions. That the Asset Acquisition Policy and process outlined in this report, together with the proposed scheme of delegation is adopted and implemented.

Report for:	Key decision:	Confidential:	Is the report urgent? ¹
Decision	Yes – impacts upon all wards	No	No

Contribution to delivery of the 2018-22 Strategic Plan		
Business Imperatives	Physical Regeneration	Social Regeneration
The proposal to create a new policy will provide a decision making framework from which the Council can work effectively to support both physical and social regeneration across the Borough.	Implementation of the policy will help ensure balanced decisions are taken by the Council – where judgement is required to consider providing facilities that enhance the reputation of Middlesbrough and create opportunities for its people.	Adoption of the policy will enable the Council to put in place protocol designed to regulate the process of acquiring assets – from which the Council can stimulate economic activity for the benefit of people living and working within the Borough.

Ward(s) affected
All Wards

What is the purpose of this report?

1. To clarify the options open to the Council when choosing to acquire assets, and to provide a framework for decisions to be considered in the light of the responsibility to support communities and stimulate economic activity in Middlesbrough.

Why does this report require a Member decision?

2. The policy proposal forms part of the Council's Estates Strategy and has the potential to impact upon all wards.

Report Background

3. Middlesbrough Council holds a significant asset portfolio that is used to deliver services, support businesses and contribute to the well-being of the Town.
4. The acquisition and disposal of assets is essential to enable the Council to update its asset portfolio to meet the changing needs of Middlesbrough.
5. A significant level of audit trail clarity is needed as an asset moves through either the acquisition, or the disposal process. The evidential trail around decision making in both processes must be clear and transparent.
6. Asset acquisitions are an essential part of the delivery of the Council's Estates Strategy, which is intended to support the Mayor's priorities around people, place & business in addition to delivering the Council's Strategic Priorities of:
 - Physical regeneration
 - Social regeneration
 - Business imperatives
7. The Estates Strategy has been put in place to set out how the Council will manage its property portfolio. It groups the Council's property assets under five categories, to ensure that they are being effectively managed (properties can move across these groups and may be applicable to more than one group because of the nature of the asset). The five categories are:
 - To generate revenue streams
 - To generate capital receipts
 - To stimulate economic activity
 - To support communities
 - To deliver operational services
8. This report sets out the proposed arrangements for the asset acquisition process, and also the plans to embed the new way of working within the authority, so as to ensure that the process of acquisition is both clear and transparent.
9. The Asset Acquisition Policy will apply where a business case for acquisition of a property asset has been prepared by the responsible Service Team Officer and approved by the Valuation & Estates Manager, based on due consideration of the Council's Estates Strategy aims.

Legislative Framework

10. The acquisition of Local Authority property assets is governed by general powers of acquisition under S120 of the Local Government Act 1972. This consent gives the Council the power to acquire assets for the following reasons:
 - The purposes of their functions
 - The benefit, improvement or development of their area
11. It is therefore key that when an acquisition is considered, the aims and objectives of the acquisition are clearly understood and documented in order that the correct factors can be taken into account when making a final decision to acquire.

Process Objectives

12. The Council's property assets will be kept under active management and assessed with any properties being considered for either acquisition, or disposal. This process will be overseen by the Council's Asset Management Team, and reasons for acquisition could include:
 - Properties required for the delivery of services
 - Properties capable of generating capital receipts or revenue income
 - Properties that have been identified as having the potential to support the voluntary sector in its work within the Town
 - Properties that could have a demonstrable effect on economic and/or social regeneration within the Town
13. The responsible Service Team Officer will identify an agreed budget expenditure cap, with this figure representing the maximum price payable for an asset.
14. Where appropriate, a professional valuation will be procured by the Valuation & Estates Team, in order to support the process of acquisition – but for the avoidance of doubt, an open market valuation should be sought prior to the process of acquisition commencing.
15. The Valuation & Estates Manager will provide initial approval of any Asset Acquisition Business Case to provide assurance that the asset is required by the Council for operational, or other, purposes.
16. The final approval to acquire/not acquire will be taken by the following, depending on the agreed budget cap:
 - Valuation & Estates Manager – meets the non-key decision test and up to £50,000
 - Director of Legal & Governance Services – meets the non-key decision test and up to £150,000
 - Executive Committee – meets the key decision test (one element of this is that it is over £150,000)
17. This policy will be reviewed every three years, unless case law, legislation or changes in best practice require it to be reviewed sooner.

What decision(s) are being asked for?

18. That Executive notes the Council is able to acquire assets for the purposes of supporting communities, stimulating economic activity and generating income streams, and that it can balance these factors when considering acquisitions.
19. That the Asset Acquisition Policy and process outlined in this report, together with the proposed scheme of delegation is adopted and implemented.

Why is this being recommended?

20. In order to create a decision making framework from which the Council can effectively support both physical and social regeneration across Middlesbrough.
21. To ensure that the Council has an asset acquisition process which is responsive, fit for purpose and allows the Council to clearly demonstrate Value for Money in relation to the acquisition of assets.
22. The policy proposal supports delivery of the Council's Medium Term Financial Plan and is designed to correspond with the Council's Asset Disposal Policy.

Impact(s) of recommended decision(s)

Legal

23. The acquisition of assets is governed by the Council's standing orders and government legislation.
24. Adoption of the policy recommendation does not create any specific legal issues, although the process actions and any subsequent steps to implement the policy would need to be undertaken within the Council's legal framework.

Financial

25. The Asset Acquisition Business Case will be authorised in the first instance by the Valuation & Estates Manager to ensure that the acquisition of the asset is in line with the Council's overall Estates Strategy.
26. The acquisition of the asset will then be approved, as per the delegation of responsibilities outlined below:
 - Valuation & Estates Manager – up to £50,000
 - Director of Legal & Governance Services – between £50,000 & £150,000
 - Executive Committee – over £150,000

Ward

27. Implementation of the policy will potentially impact on all wards over the duration of the policy.
28. Members will be consulted on subsequent proposals made in respect of specific asset acquisitions within their ward boundaries, as part of the normal planning process.

Policy Framework

29. The proposal does not require any change to the Council's existing policy framework.
30. The decision aligns to the Mayor's priorities around people, place & business, by putting in place a process that ensures the Council works as effectively as possible in support of physical and social regeneration.

Equality and Diversity

31. A Level 1 (Initial Screening) Impact Assessment (IA) will be carried out on individual asset acquisitions, if deemed appropriate.

Risk

32. Implementation of the policy will help address risk and remove potential for challenge by the adoption of a robust and responsive, fit for purpose decision making framework.

Actions to be taken to implement the decision(s)

33. Subject to Executive Committee approval, the Council moves to:
- a. Adopt the policy proposal from the date of determination
 - b. Commence implementation of the policy from the date of determination
 - c. Take the necessary steps required to embed the policy by 31st March 2020

Appendices

Appendix A – Asset Acquisition Policy

Background papers

The following reports were used in the preparation of this report:

Body	Report title	Date
Executive Sub-Committee For Property	Asset Disposal Policy	7 th December 2016

Contact: David Velemir, Valuation & Estates Manager

Email: david_velemir@middlesbrough.gov.uk



Asset Acquisition Policy

Live from: January 2020

Live until: January 2023

Title	Asset Acquisition Policy		
Creator	Author(s)	David Velemir	
	Approved by	Content to be approved by Executive Committee	
	Department	Finance, Governance and Support	
	Service area	Valuation & Estates	
	Head of Service	David Velemir	
	Director	James Bromiley	
Date	Created	January 2020	
	Submitted	January 2020	
	Approved		
	Updating Frequency	Every three years or as case law / legislation require changes	
Status	Version: 1.0		
Contributor(s)	David Velemir, Andrew Humble, James Bromiley, John Shiel, Martin Shepherd, Joanne Youngs, Valuation & Estates		
	Legislation	General Local Authority powers of acquisition under S120 of the Local Government Act 1972	
Subject	Asset Acquisitions		
Type	Policy		
	Vital Record		EIR
Coverage	Middlesbrough Council		
Language	English		

Document Control

Version	Date	Revision History	Reviser
1.0	January 2020	Policy content to be agreed within a report to Executive Committee	David Velemir

Distribution List

Version	Date	Name/Service area	Action
1.0	January 2020	ESB, Asset Management, Economic Development, Finance, Legal Services, Valuation & Estates	Disseminate

Scope and purpose

1. The acquisition and disposal of assets is essential to enable the Council to update its asset portfolio to meet the changing needs of Middlesbrough.
2. Ensuring that Council held assets are acquired properly, and in the best interests of the Town, is a key duty of the Council.
3. The purpose of this policy is to set out how the Council manages the acquisition of its assets and provides a framework in which to consider decisions.
4. This policy applies to all property assets acquired by the Council. Where approval to acquire property has been granted under previous policy, steps will only be taken to retrofit application of this policy to 'live' acquisition cases.

Benefits of an effective asset acquisition policy

5. This policy will provide:
 - A clear framework for the acquisition of assets
 - A process that supports the effective management of the Council's property assets

Drivers and enablers

6. Asset acquisitions are an essential part of the delivery of the Council's Estates Strategy, which is intended to support the Mayor's priorities around people, place & business in addition to delivering the Council's Strategic Priorities of:
 - Physical regeneration
 - Social regeneration
 - Business imperatives
7. The policy has been put in place to set out how the Council will manage its property portfolio. The Estates Strategy groups the Council's property assets under five categories, to ensure that they are being effectively managed (properties can move across these groups and may be applicable to more than one group because of the nature of the asset). The five categories are:
 - To generate revenue streams
 - To generate capital receipts
 - To stimulate economic activity
 - To support communities
 - To deliver operational services
8. This policy applies where a business case for acquisition of a property asset has been prepared by the responsible Service Team Officer and approved by the Valuation & Estates Manager, based on due consideration of the Council's Estates Strategy aims.

9. The acquisition of Local Authority property assets is governed by general powers of acquisition under S120 of the Local Government Act 1972. This consent gives the Council the power to acquire assets for the following reasons:

- The purposes of their functions
- The benefit, improvement or development of their area

Asset acquisition triggers

10. The Council's property assets will be kept under active management and be assessed with any properties being considered for acquisition. This process will be overseen by the Council's Asset Management Team, and reasons for acquisition could include:

- Properties required for the delivery of services
- Properties capable of generating capital receipts or revenue income
- Properties that have been identified as having the potential to support the voluntary sector in its work within the Town
- Properties that could have a demonstrable effect on economic and/or social regeneration within the Town

11. The aforementioned list is not exhaustive – there may well be other relevant factors that could trigger the rationale for acquisition. All relevant trigger(s) for acquisition should be fully set out in the Asset Acquisition Business Case (AABC) (attached at Appendix 1). This information must be provided in order to help identify the prescribed use for the asset.

Overview of the asset acquisition process

12. The approval process can be broken down into three distinct stages:

- Stage 1
 - Preparation of the AABC
 - Approval given to acquire the asset
- Stage 2
 - Pursue acquisition of the asset
 - Assess price outcome against budget cap
- Stage 3
 - Approval to acquire/decision not to acquire
 - Seek authority & complete acquisition

13. These stages are set out in detail in the flow chart attached to this policy at Appendix 2 and the detailed procedure note attached at Appendix 3.

Approval processes

14. The Valuation & Estates Manager will provide initial approval of any Asset Acquisition Business Case to provide assurance that the asset is required by the Council for operational, or other, purposes.
15. The final approval to acquire/not acquire will be taken by the following, depending on the agreed budget cap:
 - Valuation & Estates Manager – meets the non-key decision test and up to £50,000.
 - Director of Legal & Governance Services – meets the non-key decision test and up to £150,000.
 - Executive Committee – meets the key decision test (one element of this is that it is over £150,000).

Review

16. This policy will be reviewed every three years, unless case law, legislation or changes in best practice require it to be reviewed sooner.

Appendix 1 – Asset Acquisition Business Case

Asset Acquisition Business Case

Name of Asset	
Current Use	
Reason for Acquisition	
Budget Cap (Maximum Agreed Price)	

Asset Acquisition Stream (Please Specify):

Delivery of Operational Services	
Generate Capital Receipt/Revenue Income	
Stimulate Economic Activity	
Support Communities	

(In the event of more than one stream being relevant, please rank in order of importance (1 - 4))

Officer requesting acquisition (Responsible Service Team Officer):

Name	
Position	

Key factors to be considered when assessing potential acquisitions:

1.	Asset condition -
2.	Legal implications -
3.	Revenue implications -
4.	Strategic overview -

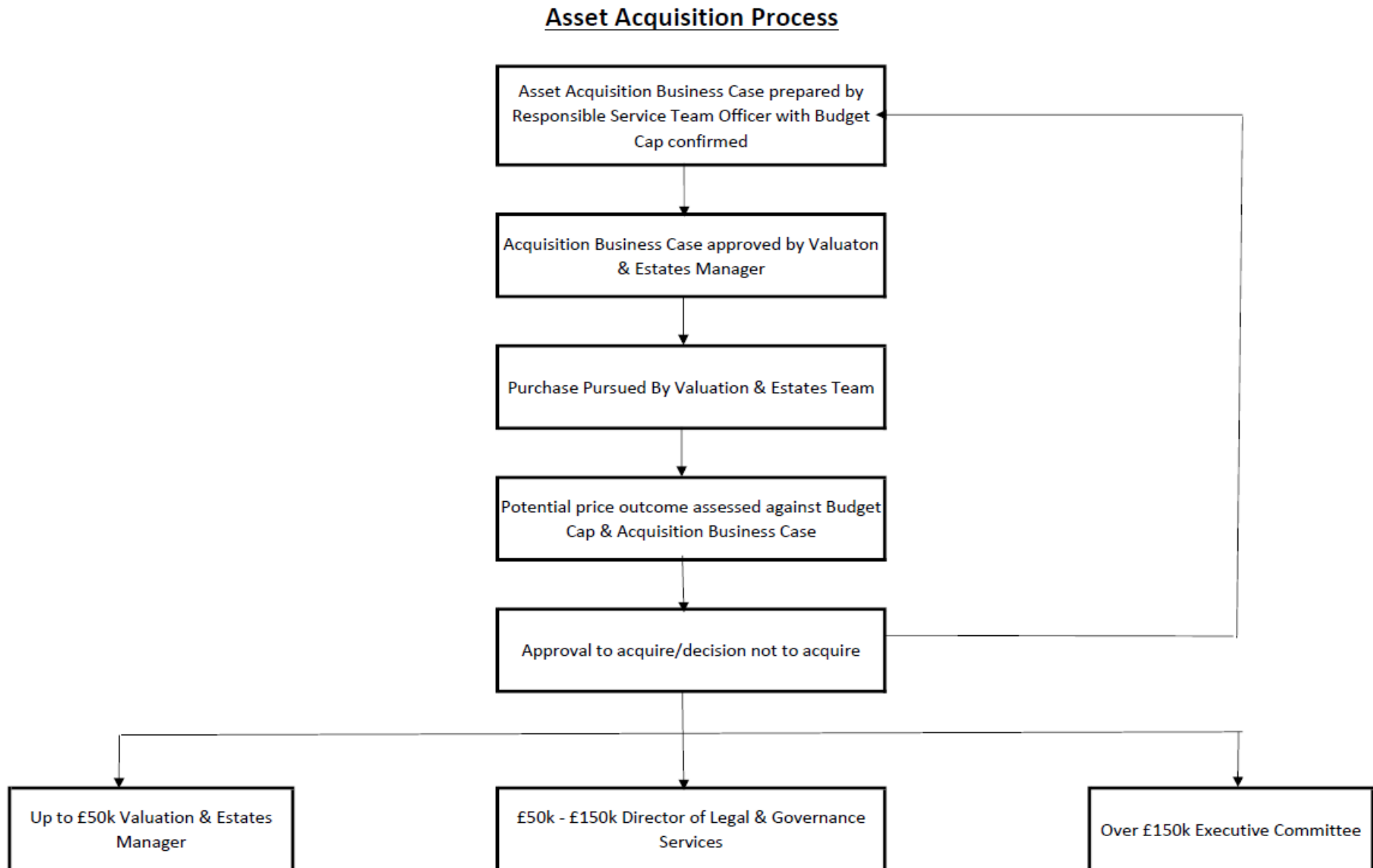
Any additional financial factors to be considered other than immediate capital outlay:

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Asset needed by the Council (Approved to proceed):

Valuation & Estates Manager	Yes	No	Date:

Appendix 2 – Asset Acquisition Process Flow Chart



Appendix 3 – Detailed procedure note

This note should be read alongside the Asset Acquisition Business Case template form. It sets out actions that should be taken at each of the three stages of the asset acquisition process:

- Stage 1
 - Preparation of the AABC
 - Approval given to acquire the asset
- Stage 2
 - Pursue acquisition of the asset
 - Assess potential price outcome against the budget cap
- Stage 3
 - Approval to acquire/decision not to acquire
 - Seek authority & complete acquisition

Stage 1 – Preparation of the AABC & approval given to acquire the asset

1. The preparation of the Business Case is the commencement of the asset acquisition process under this policy, and represents the point where the Council decides that it wishes to actively consider acquisition – prior to this point, any potential acquisitions that are being monitored by the Council, are not yet covered by this policy.
2. The rationale for acquiring an asset should be clearly recorded within the Asset Acquisition Business Case '*reason for acquisition*' section. All AABCs will be prepared by the responsible Service Team Officer in collaboration with the Valuations & Estates Team.
3. The primary reason for acquisition should be indicated, whether it is to:
 - Deliver operational services
 - Generate capital receipts
 - Stimulate economic activity
 - Support communities
4. The rationale for selecting the reason should be fully set out in the AABC in this section.
5. On the basis that the completed AABC will be approved by the Valuation & Estates Manager, this individual cannot commission any acquisition requests in order to ensure that the potential for a conflict of interests is avoided – however, it is accepted that Officers within the Valuation & Estates Team will be permitted to commission the same, if so required.

6. The next section of the AABC sets out the key factors that should be considered in assessing acquisition requests. Depending upon the asset, this will include:
 - The condition of the asset
 - The legal & revenue implications arising from the acquisition
 - Any relevant strategic overview or purpose
 - Plans for regeneration
 - Any outcomes that create social value, such as the potential for job creation and delivery of community benefits.
7. Again, this list is not exhaustive – it is impossible to anticipate every scenario that may result in an asset acquisition.
8. The responsible Service Team Officer will identify an agreed budget expenditure cap – this figure will represent the maximum price payable for an asset. Where appropriate, a professional valuation will be procured by the Valuation & Estates Team, in order to support the process of acquisition.
9. A valuation is required for accounting purposes because market value may differ from the price outcome negotiated or offered. An open market valuation should therefore be sought prior to the process commencing.
10. As set out above, the Council is not bound to make decisions around acquisitions based upon purely financial criteria. It is however, essential that financial reasoning be clearly set out, so that the opportunity cost of delivering other factors can be properly understood.
11. If the Council understands the market value of an asset for acquisition, then it will be better able to assess how much potential capital outlay will be required to achieve a desired social, economic or environmental outcome – and able to determine if the price payable should be paid in order to obtain the social value offered by the prescribed use.
12. It is also important that the potential to generate capital receipts & revenue income be properly factored into the equation when assessing the potential benefit of an acquisition. Any assessment must take into consideration the medium to long-term benefits, as well as the impact of any short or long-term liabilities.
13. The Asset Acquisition Business Case will be authorised in the first instance by the Valuation & Estates Manager, in order to ensure that the acquisition is in line with the Council's overall Estates Strategy.

Stage 2 – Pursue acquisition of the asset & assess potential price outcome against the budget cap

14. The Valuation & Estates Team will pursue acquisition by whatever methodology is presented by the Seller.

15. If acquisition is to be via either auction or tender processes, then the confirmation of the agreed budget expenditure cap will allow the Council flexibility in submitting the individual bids or tenders required within those respective acquisition formats.
16. Similarly, if acquisition is to be via a traditional private treaty process, then confirmation of the agreed budget cap by the responsible Service Team Officer will inform the Council of the full extent of the negotiating flexibility it has in order to acquire the asset identified.

Stage 3 – Approval to acquire/decision not to acquire & seek authority and complete acquisition

17. Delegation of responsibilities for the approval to acquire/not to acquire are outlined below and are based on the budget cap confirmed by the responsible Service Team Officer, not the price, negotiated, offered or agreed;
 - Valuation & Estates Manager – meets the non-key decision test and up to £50,000.
 - Director of Legal & Governance Services – meets the non-key decision test and up to £150,000.
 - Executive Committee – meets the key decision test (one element of this is that it is over £150,000).
18. Any acquisition proposed above the budget cap that is set out in the Asset Acquisition Business Case must be pre-approved by the Strategic Director of Finance, Governance & Support in their role as S151 Officer and the Head of Legal and Governance Services as Monitoring Officer prior to acquisition taking place. This will apply as follows:
 - **For Budget Caps up to £50,000**
Above £10,000 variance from Budget Cap
 - **For Budget Caps between £50,000 and £150,000**
Above 20% variance from Budget Cap
 - **For Budget Caps above £150,000**
Above 20% variance from Budget Cap, or £150,000 variance from Budget Cap
19. In exceptional acquisition circumstances - such as where assets are being marketed or offered with extremely short timeframes in place, the Council is able to circumvent this protocol by seeking the written authority of the Deputy Mayor.

20. In order for the Deputy Mayor to be able to approve acquisition of an asset in such circumstances, it must be evidenced that:
 - The proposed asset acquisition accords with the core objectives of the Council
 - A budget cap has been identified
 - The acquisition protocol can be satisfactorily retrofitted to the proposal
21. In addition to any requests for wayleaves, easements, licences or associated deeds, all new leases, associated renewals, variations and rent reviews are to be signed off by the Valuation & Estates Manager.
22. Once appropriate approvals are secured, instructions to proceed in line with those respective approvals should be issued in writing to Legal Services.
23. Once contracts have been exchanged, the asset will be classified as a completed acquisition – if the purchase does not proceed, the asset will be reclassified as a legacy acquisition, and go back to stage 1 of this policy process.