



# HRA Strategic Acquisitions policy

February 2020

# 1.0 Social Housing Acquisitions Policy overview

This policy was adopted by Cabinet on XXX and is managed and adhered to by XXX. This policy will be reviewed on a biennial basis.

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## 1.1 Introduction

Dacorum Borough Council is a stock retaining authority with just over 10,000 homes for social rent. Since 2014 the Council has delivered a new build development programme, which continues to provide a supply of new homes, let at social rent.

However the demand for social rent homes remains high at around 6000 applicants and there are an increasing number of presentations of individuals and families who are homeless, requiring temporary accommodation.

To supplement the supply of new build homes, the Council are able to acquire properties off the open market and this policy has been developed to enable those acquisitions.

## 1.2 Aim(s) of the policy:

The purpose of this HRA Strategic Acquisitions Policy, is to set out the framework for decision making, which will be applied when considering opportunities to:

- acquire property;
- acquire land

The policy scope is applicable to all areas under the management of the Housing Service, and considers the wider Housing Strategy, Business Plan and financial implications.

Procedures for the acquisition of land and property should be transparent and consistent.

The prevailing market conditions and condition of the property will determine the financial viability of any acquisition and financial modelling will be undertaken.

## 1.3 Links to Council's corporate aims:

This policy supports the Council's corporate priorities, which are set out in ['Delivering for Dacorum – Corporate Plan 2020-2025'](#).

## 1.4 Equality and diversity

The Council is committed to promoting equality of opportunity in all service areas and has procedures in place to ensure that all Applicants, tenants and Leaseholders are treated fairly and without unlawful discrimination.

The Equality Act provides a legislative framework to ensure Council services are not provided in a discriminatory manner by having due regard to eliminating discrimination, harassment and victimisation, advancing equality of opportunity and fostering good relations. A Community Impact Assessment has been completed to support this policy.

## 1.5 Policy Statement(s)

The Council are required to ensure the best use of funds and this applies equally for the HRA and GF.

Our role as a Housing service is to assess investment options to determine the appropriate use of capital and balance investment in existing stock with the acquisition of property and provision of new homes.

One of the core principles of an asset strategy is to provide buildings that are fit for purpose, sustainable, provide suitable access and are appropriate for use.

## 2.0 Acquisition Policy detail

The Housing Service includes Housing Revenue Account (HRA) activity: as a landlord to tenanted properties; as freeholder to leasehold properties; and general fund activity; as an authority with statutory duties to allocate social homes, provide housing advice, administer the provisions of the Homelessness Reduction Act, provide temporary accommodation and licence and regulate the Private Rented Sector.

The accountancy and financial rules for these functions are separate, and therefore the appropriate decision-making frameworks are to be applied.

For the purposes of the Policy, an acquisition of land or property is considered to be an outright acquisition if it consists of:-

- A transfer of the freehold of the asset; or
- A transfer of the leasehold of the asset for a period in excess of 21 years.

This policy places emphasis on adopting procedures that are open, transparent and consistent and aims to ensure maximum benefit from the effective purchase and subsequent management of the Council's assets.

Within this framework the policy will ensure the Council achieves best value, acts within the appropriate legal framework, acts in a demonstrably fair and open manner and considers whole life

The framework for decision-making will consider whether each opportunity adds sufficient value to merit the required capital investment, based on:

- The Corporate Priorities
- current service plan objectives,
- strategic development plans
- Return on Investment and Net Present Value
- Demand for Temporary Accommodation and homes at social rent.

This policy together with the Constitution/Scheme of delegation are key documents in the overall management of the Council's land and property portfolio.

### **Definition of an Acquisition**

This policy will apply to all acquisitions of land and property for social housing or temporary residential accommodation uses for the purpose of this policy, an acquisition is defined as the taking of a freehold, leasehold or licence in land and property

NB: This policy will not apply for General Fund Commercial Property transactions

## 2.0 Acquisition Policy detail

### 2.1 Acquisition criteria

#### Acquisitions by the HRA

The Council acting in its capacities under the HRA will apply set criteria in considering:

- opportunities to take up its Right to First Refusal and acquire a property previously sold under Right to Buy;
- and other options for acquiring assets or land.

These criteria are:

- a) Housing need and demand has been established for the type of asset being offered and the area in which it is located ***and***
- b) The cost of any refurbishment work required to bring the asset up to the Council's Lettable Standard (or other relevant minimum standard) is financially viable ***and***
- c) Capital funds have been identified and are available for this purpose ***or***
- d) The purchase of the asset would free up land or enable access to a site suitable for the development of housing that is consistent with the ongoing development plans of the HRA.

Prior to the purchase of any site or property a full options appraisal, including whole life costing, should be carried out which would involve appraisal of all of the options for delivery of the final objective. Consideration should be given to all other Council owned property and its suitability prior to any acquisition.

All option appraisals should take into account the on-going cost of ownership, over its lifetime and ensure that any decision to acquire land is informed by both the capital and revenue implications.

VAT implications must be considered as part of the appraisal process prior to any decisions being made to acquire.

The Council should take a medium to long-term view when planning delivery of their services and will need to identify any requirements to acquire land and property.

## 2.0 Acquisition Policy detail

### Acquisitions by the General Fund (for Temporary residential Accommodation)

The Council has governance structures in place to acquire assets into the General Fund. The housing service may request that acquisitions are considered by the General Fund, where the acquisition will have a strategic benefit for the housing service (for example, in order to increase temporary accommodation stock).

The Housing Service includes Housing Revenue Account (HRA) activity: as a landlord to tenanted properties as freeholder to leasehold properties' and general fund activity' as an authority with statutory duties to allocate social homes, provide housing advice, administer the provisions of the Homelessness Reduction Act, provide temporary accommodation and licence and regulate the Private Rented Sector.

The accountancy and financial rules for these functions are separate, and therefore the appropriate decision-making frameworks are to be applied.

Prior to the purchase of any site or property a full options appraisal, including whole life costing, should be carried out which would involve appraisal of all of the options for delivery of the final objective. Consideration should be given to all other Council owned property and its suitability prior to any acquisition.

## 3.0 Financial and Legal considerations

The Council must have available funds to purchase an asset. In any cases of any joint ventures considered by the General Fund, proposals will receive additional scrutiny to ensure the Council is not being exposed to financial risk.

Any acquisition will need to be in line with the HRA Business Plan and not impact detrimentally the capital programme or reserves.

In the case of an acquisition made by the HRA through the Right to First Refusal, the cost of any works required to bring the asset up to the Council's re-let Standard would be deducted from the sum the Council would pay to acquire the property. This sum is worked out using the standard method of calculation, as detailed in appendix 2.

Delegated authority for the acquisition of properties offered back to the Council under the rule of first refusal, is to the Assistant Director of Finance.

Delegated Authority for the acquisition of land or other assets will be to the Director of Housing and Regeneration in consultation with the Director of Finance and Operations and with the Portfolio Holder for Housing and the Portfolio Holder for Finance and Operations.

Legal advice must be sought for all property (land and buildings) transactions and approved by the monitoring officer.

All acquisitions will require formal third party independent valuation advice, such as red book

All proposed asset acquisitions will be subject to appropriate legal investigations and due diligence (including relevant surveys) to de-risk the purchase. If these investigations identify risks which render the acquisition unviable, the transaction will not proceed.

### Land and asset acquisition

The Local Government Act 1972 section 124 empowers a local authority to acquire, by agreement, land both inside and outside its boundaries for the purposes of:

- Any of their functions under this or any other public general Act, or
- For the benefit, improvement or development of its area.

Local Government Act 2003 section 12 empowers a local authority to invest if the purpose is relevant to its functions and consistent with the prudent management of its financial affairs.

## 4.0 Links to other corporate documents

This policy links to and should be read in conjunction with the following policies and strategies:

- Disposals Policy
- HRA Business Plan
- Housing Strategy
- Homeless & Rough Sleeping Strategy
- Council's Financial Regulations
- The Local Plan

## 5.0 Legislation

The legislation listed below will be taken into consideration when implementing this policy:

- Data Protection Act 1998, 2003 and 2018
- Housing Act 2004
- Housing Act 1996
- Homelessness Reduction Act 2018
- Freedom of Information Act 2000
- Equality Act 2010 Local Government Act 2003
- The Housing (Right of First Refusal) (England) Regulations 2005
- Public Contract Regulations 2015

## Appendix 1

### Right of First Refusal for properties sold under the Right to Buy

- 1.1 All properties sold under the Right to Buy (freehold and leasehold) since 18 January 2005 are bounded by the covenant the 'Right of First Refusal'. If the owner wishes to sell their property within 10 years of purchase they must first offer the property back to their former landlord (the Council).
- 1.2 The owner wishing to sell the property must submit an Offer Notice to the Council which should:
  - a. Be in writing
  - b. State the wish to sell the property, giving its full postal address
  - c. State that there is a covenant requiring the property to be offered first to the Council
  - d. Specify whether the property is a house, a flat or maisonette;
    - Specify the number of bedrooms
    - Give details of the heating system
    - Specify any improvements or structural changes which have been made since purchase
- 1.3 The Council will send an acknowledgement of receipt within 5 working days. This acknowledgement will specify the date on which the Offer Notice was received and give more details regarding the Right of First Refusal.
- 1.4 If the Council wishes to accept the offer it will confirm this to the owner within 8 weeks of receipt of the Offer Notice, and by issuing a written Acceptance Notice. The Council will ask its nominated valuer to value the property, which must be agreed between both parties. If no agreement can be made the value will be determined by the District Valuer.
- 1.5 If an offer to purchase the property is made by the Council a binding contract must be entered into with the owner:
  - No later than 12 weeks after the date on which the Acceptance Notice is served on the owner or
  - No later than 4 weeks after receipt of written confirmation from the owner that they are ready to complete (*whichever is later*)
- 1.6 For Dacorum Borough Council the *Group Manager - Property and Place* will decide whether:
  - a) The Council wishes to accept the offer and purchase the property;
  - b) The property should be offered to another nominated housing association in the area for purchase; or
  - c) The offer should be rejected.
- 1.7 If the nominated housing association wishes to accept the offer, they must state this in writing.



- 1.8 If the Council (or any nominated housing association) do not wish to accept the offer then a Rejection Notice will be served as soon as possible. If the Council has not served an Acceptance Notice or Rejection Notice within 8 weeks of the receipt of the Offer Notice the owner may proceed with selling the property as they see fit.
- 1.9 If a period of 12 months expires and the owner has not sold the property and then subsequently wishes to do so they must serve a fresh Offer Notice to the Council.

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## Appendix 2

### Re-payment of discounts offered through the Right to Buy

#### 1.1 Calculating the discount as a percentage of the re-sale value

If a property is being re-sold within 5 years of the Right to Buy purchase, then the original percentage discount is used to work out a new re-sale discount value to be re-paid (disregarding the value of any improvements).

#### 1.2 Percentage of discount total to be repaid

The owner will be required to pay back a percentage of the discount based on a sliding scale (see table below).

Property sold after 1 year	100% discount must be re-paid
Property sold during second year	80% of discount must be re-paid
Property sold during third year	60% of discount must be repaid
Property sold during fourth year	40% of discount must be re-paid
Property sold during fifth year	20% of discount must be re-paid
Property sold after five years	No repayment of discount required

#### 1.3 Example

A property was bought through the Right to Buy for £60,000, with a value of £100,000, and therefore had a 40% discount applied (£40,000). This property was then re-sold after 18 months for £120,000.

40% of £120,000 is £48,000. As the owner is in the second year after purchase, they would repay 80% of £48,000 (£38,400).

#### 1.4 Exemptions

Certain sales or transfers are exempt from the requirement to re-pay discount e.g. transfers between certain family members. In addition if the owner would face hardship by having to repay the discount, and their circumstances justify it, the Council may decide not to ask them to pay some or all of what they owe.

## **Appendix 3**

### **Appeals procedure for decisions made regarding First Refusal of Right to Buy properties**

1.1 Appeals must be received within 28 days of the decision letter.

1.2 Where the appeal is in respect of how the policy and procedure have been applied the Property and Place Group Manager will investigate the matter and respond.

1.3 Appeals against decisions will be considered by the Assistant Director - Housing whose decision is final.