

Teignbridge District Council

Land and Buildings Acquisition Policy

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Teignbridge District Council

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Contents

1.0	Introduction	3
2.0	Council powers & constitution	3
3.0	What is an acquisition?	3
4.0	Reasons for the acquisition of property	4
5.0	Appraisal and funding approval process	4
6.0	Property assessment and search	7
7.0	Negotiation of property acquisition	9
	Appendix A – Compulsory Purchase	11
	Appendix B – Reporting flow diagram	12
	Appendix C – Capital Project Online Proposal Form	14
	Appendix D – Project Initiation Document	18
	Appendix E – Site acquisition due diligence	26

Teignbridge District Council

Land & Buildings Acquisition Policy

1.0 Introduction

- 1.1 This policy document is to be followed when considering the acquisition by the Council of an interest in property. For the purpose of this policy, reference to “property” includes any property constructed on land or land or an interest in land itself. It applies to the acquisition by the Council of all interests in property including freeholds, leaseholds (including capitalised leases), restrictive covenants, easements and options.
- 1.2 Property is a corporate resource and the Council’s Capital & Asset Strategy sets out the strategic property aims of the Council. These aims are to be applied in managing the property portfolio.
- 1.3 This policy places emphasis on adopting procedures that are consistent and which ensure maximum benefit from the effective purchase and subsequent management of the Council’s property assets. Within this framework, the policy will help ensure that the Council achieves best value, acts within the appropriate legal framework and considers whole life costs.

2.0 Council powers and constitution

- 2.1 The powers under which the Council acquires property assets can be general or specific.
- 2.2 General Powers to acquire land and property stem from the Local Government Act 1972 (Section 120). These enable local authorities to acquire property for any of their functions, or for the benefit, improvement or development of their area. Local Authorities are empowered to acquire land notwithstanding that the land was not immediately required for that purpose.
- 2.3 The Local Government Act 2000 introduced additional ‘wellbeing’ powers which provide councils with the power to do anything which they consider is likely to achieve the promotion or improvement of the economic, social or environmental wellbeing of their area. This includes the power to incur expenditure, including land acquisition.
- 2.4 There are more specific powers that support acquisitions for capital programmes or specific projects. As an authority possessing compulsory purchase powers, the Council may also make compulsory purchase orders which, if approved, allow the Council to acquire by compulsion where acquisition by agreement has not proven possible. Further detail is provided at Appendix A.

3.0 What is an acquisition?

- 3.1 For the purposes of this policy, an acquisition of property is considered to consist of
- a. A freehold interest in land and/or buildings

- b. The grant of an interest to the Council in land and/or buildings

4.0 Reasons for the acquisition of property

- 4.1 Delivery of public services and property assets are intrinsically linked: The reasons for the Council holding property, as set out in the Capital & Asset Management Strategy are:-
 - a) For the purpose of direct service delivery (such as parks and gardens)
 - b) To support service delivery (for example administrative offices and depots)
 - c) To support the Council's wider policy objectives.
- 4.2 The strategic asset management aim, as set out in the Capital Strategy, is to ensure that TDC land and building assets are efficiently managed, maintained, redeveloped, acquired and disposed of in a consistent, strategic manner that supports corporate objectives and service delivery. The adoption of this policy will support these aims.
- 4.3 The Council continues to seek optimal utilisation of its property portfolio, improve retained stock and generate increases in revenue income. Before embarking on property acquisition, it must be ensured that there are no suitable under-utilised assets held in the portfolio that could accommodate the specific service requirement.
- 4.4 To ensure utilisation, the Economy and Assets Service will undertake a thorough process of option appraisal before acquiring property for operational use. This process seeks to optimise service provision efficiently through delivery of quality assets for the best cost.
- 4.5 Unless there are exceptional circumstances, the Council will only acquire property where the following objectives are served:
 - i. It contributes towards the provision of Council services
 - ii. There is a direct link to improving the economic, social and environmental well-being of the community
 - iii. It leads to strategic benefits to the authority in relation to regeneration or redevelopment proposals
 - iv. The property is already maintained by the Council (and there is an advantage in owning it)
 - v. Revenue income generation and/or capital growth

5.0 Appraisal and funding approval process

- 5.1 Acquisition of property is considered a capital project and the Council has adopted a project management framework. A Reporting Flow Diagram illustrates the approval process at Appendix B.
- 5.2 Following initial discussions with relevant colleagues and Portfolio Holder, any project will commence with the Presentation of a Capital Project Outline Proposal Form (Appendix B) to the Capital Review Group (CRG). The CRG comprises the following officer posts:-

Post	Current Post Holder
Business Manager – Economy & Assets	Tony Watson (Chairman)
Managing Director	Phil Shears
Chief Finance Manager	Martin Flitcroft
Business Manager – Housing & Health	Amanda Pujol
Business Manager – Environment & Leisure	Lorraine Montgomery
Audit Manager	Sue Heath
Projects Manger	Leigh Florence
Accountant	Andrea Snape
Accountant	Steve Wotton

- 5.3 Subject to initial approval by the CRG for further development, all projects involving the acquisition of land or buildings, or an interest in land or buildings, are referred to the Assets & Economy Service at this early stage. The appropriately qualified staff within the service are required to assess value to establish appropriate land and/or building values, assess any estimated development or refurbishment costs, estimate whole life costs and undertake any required negotiation. Where appropriate, independent advice may be sought and managed by the service. This work is undertaken in partnership with other relevant services such as Finance, Legal and Planning.
- 5.4 A project initiation document (PID) Project Brief (Appendix C) is then considered by the CRG. This sets out the full detail of the proposal. If approved, the Strategic Leadership Team (SLT) will then in turn consider for further approval.
- 5.5 Property acquisition shall be prioritised in accordance with the Council’s approved Capital and Asset Management Strategy. Where land is to be acquired to facilitate a non-Council development, this will normally be to meet agreed planning policies.
- 5.6 The Council can fund an acquisition through a range of options, for example, borrowing, partnership with the public or private sectors, s.106 receipts, Community Infrastructure Levy (CIL), blending funding or existing budgets. The best option will vary in each case but without exception, any acquisition must be of a property that is appropriate for its intended purpose with affordable maintenance costs.
- 5.7 All acquisitions shall have the necessary budgetary and relevant committee or delegated approval before the acquisition is completed.
- 5.8 Committee and Financial Approval requirements are set out in the Council’s Financial Instructions. This is subject to provisions of the Council’s Constitution with regard to key decisions. The regulations define a key decision to mean an Executive decision which is likely

“To result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates.

For this purpose significant expenditure or savings shall mean

- *Revenue – Any contract or proposal with an annual payment of more than £50,000*
- *Capital – Any project with a value in excess of £125,000; or*
- *To be significant in terms of its effects on communities living or working in an area comprising two or more wards in the opinion of the Managing Director”¹*

5.9 Any project with a value in excess of £250,000 requires the approval of Full Council.

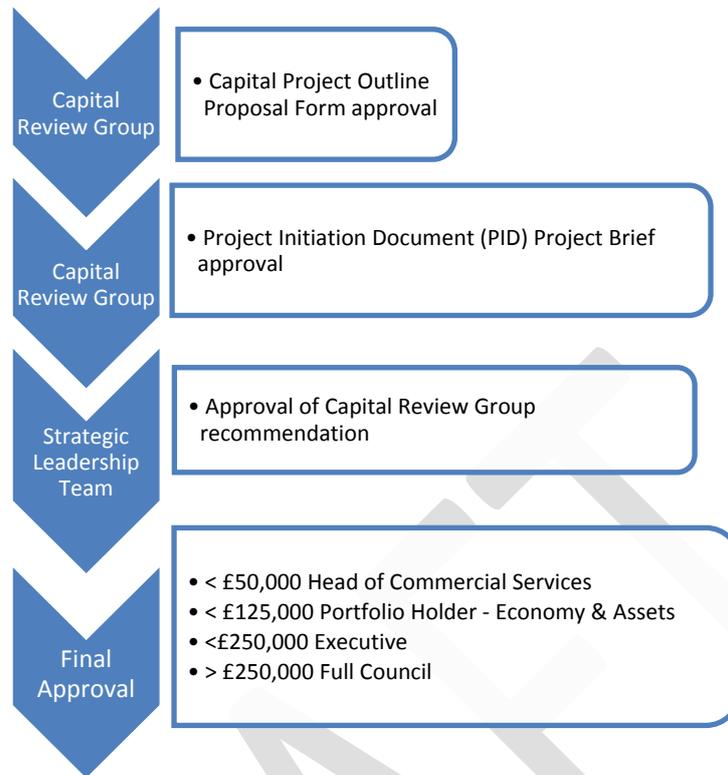
5.10 Any project with a value less than £125,000 may be made by the Portfolio Holder (subject to ‘key decision’) and the following exemption applies to minor acquisitions:-

“Minor acquisitions up to £50,000 in value may be approved by the Business Manager – Economy and Assets, in consultation with the Portfolio Holder, the Head of Paid Service, the Business Lead, and Chief Finance Officer. The Business Manager – Economy and Assets and Chief Finance Officer will sign the Decision Notice for the acquisition to evidence their agreement”²

5.11 The approval process is summarised below:-

¹ <https://www.teignbridge.gov.uk/media/1177/article-15-decision-making.pdf>

² Financial Instructions



6.0 Property Assessment & Search

- 6.1 If a need for property acquisition is identified, a Capital Project Outline Proposal Form should be approved by the Capital Review Group (CRG). If approved, the Council's Economy & Assets Service will then investigate whether there is any suitable land or property currently held by the Council. If that proves unsuccessful, the Estates Team will establish if there is any suitable property available on the market. In some instances, the property to be considered for acquisition may have already been identified at the initial proposal phase.
- 6.2 Where a number of potentially suitable properties exist in the market, comparison will be made to establish which is the most suitable in terms of the Council's needs.
- 6.3 The following criteria can be used in the decision process:-
- i. Suitable price
 - ii. Availability of the land and or building
 - iii. Condition of any buildings
 - iv. Cost of developing for Council purposes
 - v. Nature of the interest being offered i.e. freehold or leasehold
 - vi. Any potential liabilities such as land contamination, asbestos
 - vii. Any restrictions on use eg Mineral rights

- viii. Sustainability eg the energy performance of a building
 - ix. In relation to a strategic acquisition, the locational advantages of the property
 - x. Return on investment
 - xi. Whole life cost
- 6.4 After the identification of a potentially suitable property, relevant statutory authorities, along with Legal Services, will be consulted by the Estates Team to establish whether there may be constraints on the development or use of the property. The Site Acquisition Due Diligence document attached at Appendix E is a useful checklist when undertaking a suitability assessment.
- 6.5 Valuation advice will be provided by a professionally qualified member of the Council's Estates Team or, where the advice required is specialist or, if thought appropriate, by another suitably qualified surveyor appointed by the Estates Manager.
- 6.6 A financial appraisal will be prepared by the Estates Team in conjunction with Finance Team to establish the financial and budgetary implications of acquiring the property at the negotiated price - linked to the core purpose for the acquisition. This is to be submitted to the Capital Review Group at the Project Initiation Document (PID) Project Brief stage.
- 6.7 Financial appraisal is a method used to evaluate the viability of a proposed acquisition. Viability is evaluated by assessing funding sources, calculating performance and assessing the value of predicted future net income/cashflows. This appraisal should be agreed by the Chief Finance Officer prior to the PID Project Brief being submitted to the Capital Review Group.

- 6.8 The PID Project Brief to be submitted for approval by the Council’s Capital Review Group is based on the “five case” model³ covering Strategic, Economic, Commercial, Financial and Management parameters and thus includes core topics such as:
1. Demonstrating how the spending proposal fits in relation to policies, strategies and plans and furthers the required outcomes
 2. Demonstrating that the spending proposal optimises value to the public purse and outlines both cash and non-cashable benefits or outcomes
 3. Setting out how the “preferred option” will be procured competitively, in accordance with current regulations for public sector procurement
 4. Setting out the capital and revenue requirement for the spending proposal over the expected life span of the asset or service, together with an assessment of any wider impact upon the balance sheet or income and expenditure accounts of the Council. Unless the acquisition is related to direct operational service delivery, a minimum 1% return after costs is required.
 5. Demonstrating that the spending proposal is being implemented, where appropriate, in accordance with recognised Programme and Project Management methodologies, and that there are robust arrangements in place for monitoring progress, managing change (exceptions), and managing and mitigating risk.
- 6.9 A business case will also highlight any consultation process undertaken and include an Equalities Impact Assessment, where required.

7.0 Negotiation of property acquisition

- 7.1 Following preliminary investigations and the possibility of an acquisition proposal having been approved by the CRG, the Estates Team will commence negotiations for acquisition. It will sometimes be appropriate for the project manager and the Estates Team to agree a bespoke approach to negotiations. However, the Estates Team will ordinarily initiate these activities and no other section should make any contact with the other party (the vendor or his agent) during active negotiations except under procedures agreed with the Estates Team.
- 7.2 All negotiations remain “without prejudice”, “subject to contract”, subject to the required authority and, if necessary, appropriate surveys and planning permissions. Terms for a transaction shall not be finalised unless supported by a written recommendation report from an appropriately qualified surveyor
- 7.3 Where it is proposed that the Council acquire land and/or buildings through s106 negotiations, the acquisition will be treated as any other acquisition. That is, the process starts with an Outline Proposal to the CRG.
- 7.4 When terms have been agreed for an acquisition, and the relevant financial approval authorised, the Estates Team will instruct the Legal Team to prepare the necessary legal

3

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/469317/green_book_guidance_public_sector_business_cases_2015_update.pdf

documentation to facilitate the acquisition. Where deemed appropriate, the Legal Team may recommend the procurement of private solicitors. No other team may instruct the Legal Team or appoint solicitors to undertake property acquisition work unless agreed with the Estates & Development Manager.

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Appendix A

Compulsory Purchase Powers

1. Local authorities can only exercise functions which are authorised by statute. Specific legislation exists to enable the Council to acquire land that is required to perform its statutory functions and to implement proper planning proposals at the relevant time.
2. The council has the ability to utilise Compulsory Purchase Orders (CPO) to acquire land within the District for specified purposes. In the event that these powers are exercised compensation is payable to the landowner in accordance with the Land Compensation Act 1961.
3. The procedure for exercising CPO is, in most cases, directed by the Acquisition of Land Act 1981 and this statutory procedure must be strictly observed.
4. The Council may acquire land by agreement either as an alternative to CPO or in the general exercise of its statutory powers, and these efforts will always be encouraged. The ability to acquire land by agreement is provided by S227 of the Town & Country Planning Act 1990 in the case of a specific alternative to compulsory purchase and, more generally, by S120 of the Local Government Act 1972. Where the Council has the ability to acquire land compulsorily, acquisitions by agreement are often referred to as 'acquisitions under threat of CPO'. It will be assumed that the Council were prepared to utilise powers of CPO unless the land was publicly or privately offered for sale immediately before negotiations.

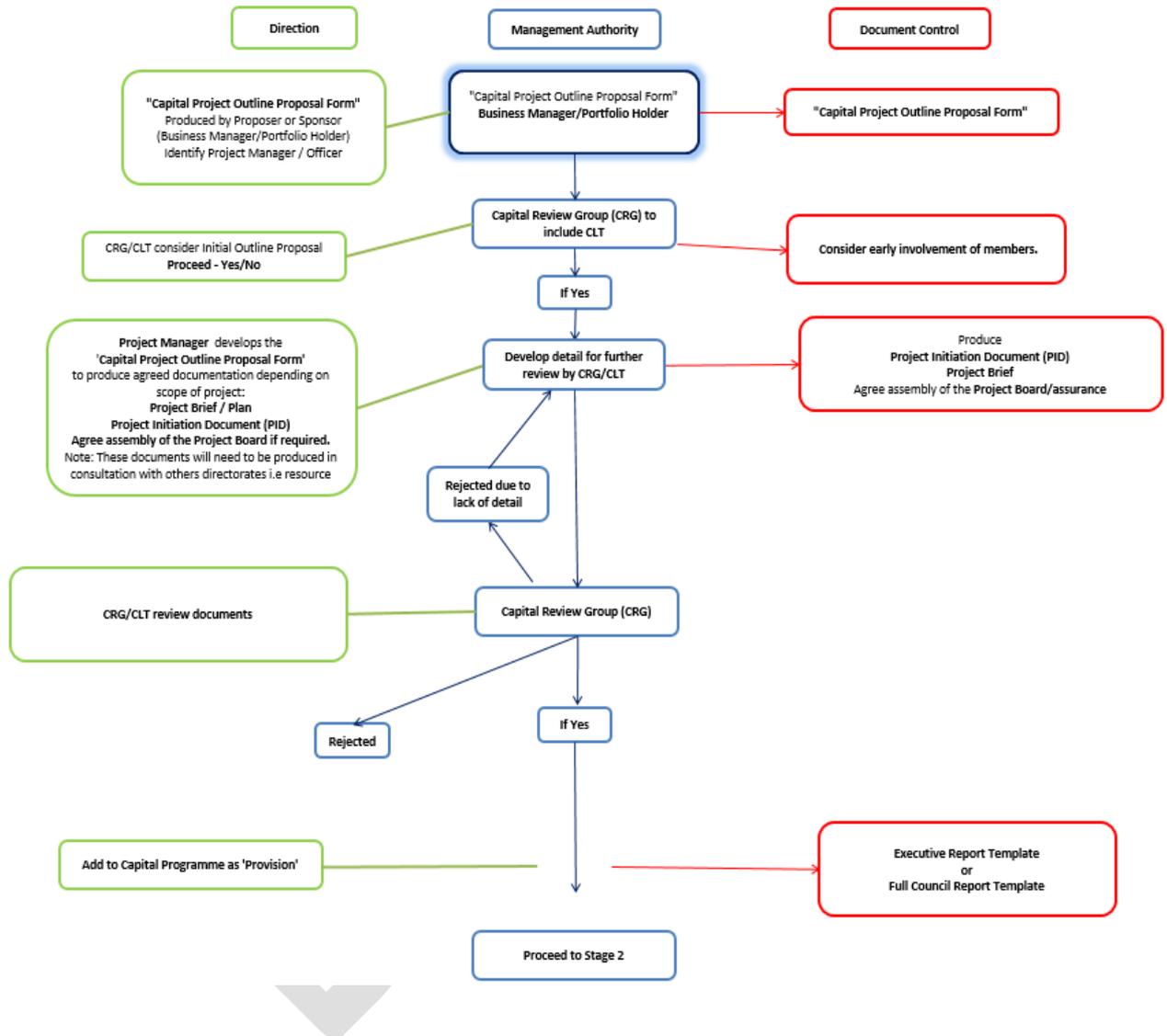
Appendix B

Project Management – Reporting Flow Diagram

(Please note that there are some formatting issues owing to the document being an Excel Spreadsheet).

Project Start Up Structure

Stage 1 – Internal Approval by Capital Review Group and CLT



Appendix C

Capital Project Online Proposal

(Please note that there are some formatting issues owing to the document being an Excel Spreadsheet)

Teignbridge District Council Capital Project Outline Proposal			
<p><i>This form is intended to provide the essential information required for the initial consideration of a capital project by the Capital Review Board. It is to ensure all projects are appraised consistently and are deliverable. Complete this form in time to allow support service managers a reasonable period to plan resources and to allow for Capital Review Board consideration and committee approval where necessary. This form may also be used to notify of support required for feasibility work. Indicate the purpose of the form below. For feasibility support, you may omit sections 2, 8, 11 and 12 and fill in section 7 only to the extent possible at this stage.</i></p>			
<p>Please use drop-down box to indicate whether form is being used for feasibility work or to submit capital project for appraisal.</p>			
<div style="border: 1px solid black; padding: 2px;">Feasibility</div>			
1	Project Title		
Project Nominator(s) (with day-to-day management responsibility)			
Project Sponsor/Owner (eg. your business manager)			
2	Estimated Cost	Please also see Financial Approval and Funding Sections below.	
3	Anticipated start date of project		
	Anticipated end date of project		
4	Project support and delivery		
<p><i>You must name your main contact within any support departments involved and ensure that staff capacity has been confirmed for the named time period.</i></p>			
	Internal Support	Date confirmation provided	Tick once confirmed. Contact names/comments
	Economy, Property & Assets		
	Finance		
	Planning		
	Building Control		
	Environmental Health		
	Legal		
	Leisure, Open Spaces, Resorts		
	Waste & Cleansing		
	Other (please detail)		
	Strata		
<p><i>Please describe the nature of the required internal support, giving an indication of any key deadlines. For example, this could include advice on engineering issues (eg. highways, drainage) design expertise, project management, financial appraisals, planning applications, surveys, valuation work, procurement, contracts, Strata business change requests, grant claims, financial monitoring and reporting.</i></p>			

5	Project Sponsor must sign to confirm that departmental and support capacity is available for the given dates.	
6	Further comments on delivery methods, such as any external project management arrangements, should also be included here:	
7	Brief Description of Project	
<p><i>This section is intended to demonstrate an outline business case for your project. Please state briefly how the project meets statutory or corporate objectives. Does it form part of a wider strategy or initiative, or impact upon other projects? Also include any possible negative effects. You should consider how the project offers value for money. For example, service improvements; extended asset life; additional income or savings; long-term running costs.</i></p>		
<p>Background: objectives, strategies, links to other projects and initiatives.</p>		
<p>Constraints/negative effects</p>		
<p>Value for money, financial and budget implications.</p>		
8	Please briefly describe options which have been considered, eg. doing nothing/the minimum/partnerships or any other approaches. Why is the chosen option the best?	

9 Priority Indicators & Strategic Alignment			
<i>Please select a category from the drop-down boxes. Scores will populate automatically. If available, please include further details in the boxes provided.</i>			
Select		Score	Further details
2022/23 onwards	Time sensitivity (select year)	1	
	Statutory or legal responsibility (yes or no).	#N/A	
	Health & Safety implications (select risk)	#N/A	
	Fulfils performance indicator or initiative (yes or no).	#N/A	
	Reputation or service issues (select priority/risk level).	#N/A	
No funding	How much of the project do you think will be externally funded, or funded over the first ten years by income generated (for example by rent or fees & charges)?	0	
	Total	#N/A	
	Priority Guidance	#N/A	
10 Teignbridge 10 (please select tick from drop-down box for those which apply)			
	A roof over our heads		Investing in prosperity
	Clean scene		Moving up a gear
	Going to town		Out and about and active
	Great places to live and work		Strong communities
	Health at the heart		Zero heroes
	What else we will do		
<i>Please describe in the box below how the Teignbridge 10 objectives identified above will be met.</i>			

11 Financial approval required as per Teignbridge District Council's Financial Instructions.		
<i>This is the approval required once the project has received the go-ahead from the Capital Review Board. Select gross project value from the drop-down box below (do not deduct external funding). Approval requirement will populate automatically.</i>		
		Financial approval requirement
		#N/A
12 Anticipated Funding		
Please provide details of how it is anticipated the project will be funded.		
	Amount	Further Details
Government/Agency grant		
External contribution/S.106		
Community Infrastructure Levy		
Contribution from revenue or reserves		
Capital Receipts (TDC "capital pot")		
Prudential Borrowing		
Total	-	
13 Capital Indicators & information		
<i>Select tick from drop-down box for those which apply.</i>		<i>Provide details where possible.</i>
	Purchase of land or property	
	Construction of asset	
	Purchase of vehicles, plant, machinery or equipment	
	Purchase or creation of intangible asset eg. computer programme	
	Extends the life or service value of an existing asset	
	Provides economic benefit eg. rent, revenue or savings	
	Teignbridge asset?	
	Provision of loan, grant or financial assistance	
Approved by:		
CLT: Managing Director		
CLT: Director		
Capital Review Group date approved		

Appendix D Project Initiation Document

PROJECT INITIATION DOCUMENT (PID)

Purpose: <i>The PID forms the logical document that brings together all of the key information needed to start and run the project on a sound basis.</i>	
Document Version Status: <i>Draft</i>	Document Ref:
Author:	Date:
Period covered:	Month/Year
Document Location:	G:\Asset management\Asset management data\Projects\ (To be moved to global drive)

Approvals Required:

- This document requires the following approvals: xxx
- Signed approval forms are filed in the Management section of the project files.

Name	Signature	Title	Date of Issue	Version

Document History

Revision Date	Summary of changes	Version Issued	Project Sponsor sign-off

Section 1

What is the background to this project

--

Section 2

About the project

Section 2.1

--

Objectives of the project

Section 2.2

Project approach (identifies a sequence of steps to be completed)

Section 2.2

Project deliverables (what's the intended outcome)

Section 3

Plan Status (Attach project programme / Gantt chart)

Has the project plan been input into the Master programme

Y/N

With stages for obtaining approval.

Milestone	Date	Approved by
Stage	MM/YYYY	
Stage	MM/YYYY	

Section 4

Constraints (Resources, time budget etc)

Section 5

Project Assumptions (Where full facts are not yet known)

Section 5.1

Section 5.2

Potential (financial, programme etc)

Section 6

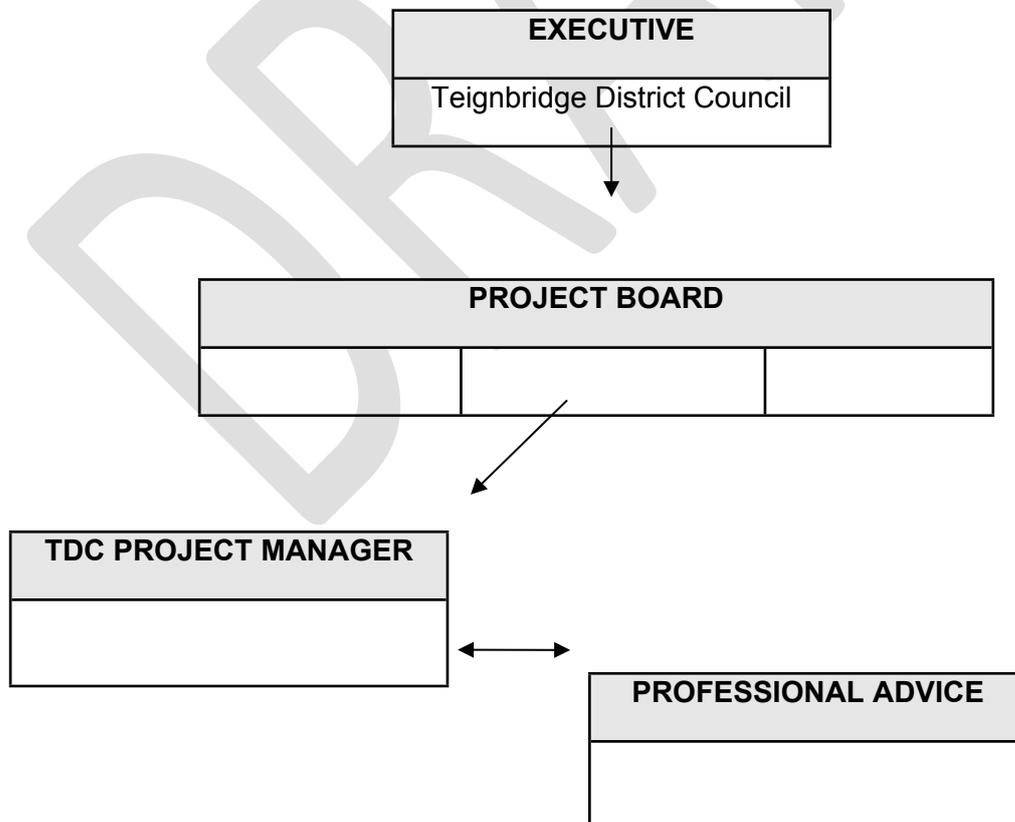
Exceptions (How will exceptions be dealt with)

Exception report [PM ??] will be issued to the xxxxxxxxxxxxxxxx if urgent issue(s) arise that requires immediate action or there is a deviation from the project. The xxxxxxxxxxxxxxxx will liaise with the xxxxxxxxxxxxxxxx for a decision.

Section 7

Structure Diagram

How will the project team be organised/ structured.



| TEAM MANAGERS |
|---------------|---------------|---------------|---------------|---------------|
| | | | | |
| | | | | |

Section 8

Communication Strategy (How will everyone with an interest in the project be kept informed, i.e. who, when and how?)

Section 9

Quality (Customers expectations in respect of quality and value to the public purse)

Section 9.1

--

Section 9.2

Plan for ensuring project quality

--

Section 10

Project Controls (How will the project be controlled)

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Section 10.1

Section 10.2
Initial Project Risks

Section 11
Contingency Plans (Should the project fail)

Section 12
Detailed Costs & Funding (Estimated cost of proposal)

Table One – Breakdown of Project costs:	
(List key items – e.g. project manager, software licences, dissemination costs, etc)	
Item	Total £

Professional fees (property & legal) – Monthly payments will be made to total the fees stated below.

Table Two – Project Funding:

(List sources of funding for the project – e.g. grants, external contributions, etc)

Item	Amount £
Total Project Funding	

Table Three – Breakdown of future / ongoing costs:

(List any future / ongoing costs that will require funding – e.g. maintenance contracts, etc)

Item	Amount £
Total Future / Ongoing Costs	

Table Four – Future / ongoing funding:

(List sources of funding for the future / ongoing costs)

Item	Amount £
Total Future / Ongoing Funding	
Future / Ongoing Funding Shortfall	

Table Five – Breakdown of future / ongoing savings:

(List any future / ongoing savings that will arise as a result on this project e.g. utilities efficiency savings, etc)

Item	Amount £
Total Future / Ongoing Savings	

Appendix E Site Acquisition Due Diligence

Activities associated with site investigation

Activity	Action by
Site surveys	Land surveyor and structural engineer
Geotechnical investigation	Ground investigation specialist
Drainage and utilities survey	Civil engineering consultant
Contamination survey	Environmental and/or soil specialist
Traffic study	Transportation consultant
Adjacent property survey	Buildings/party walls/rights of light surveyors
Archaeological survey	Local museum or British Museum and other relevant sources
Sustainability issues	Specialist consultant
Legal aspects	Solicitor
Outlining planning permission	Architect

Confirmation that the activities have been successfully completed is the responsibility of the project manager.

Each task can be broken down into a number of specific elements.

- Site Surveys**
- location
 - Ordnance Survey reference

**Geotechnical
investigation**

- ground levels/contours
- physical features (e.g. roads, railways, rivers, ditches, trees, pylons, buildings, old foundations, erosion)
- existing boundaries
- adjacent properties
- site access
- structural survey
- previous use of site,
- trial pits
- boreholes and borehole logs
- geology of site including underground workings
- laboratory soil tests
- site tests
- groundwater observation and pumping tests
- geophysical survey

**Drainage and utilities
survey**

- existing site drainage (open ditch, culvert or piped system)
- extent of existing utilities on or nearest to the site (water, gas, electricity, telecoms)
- extent or any other services that may cross the site (e.g. telephone/data lines, oil/fuel pipelines).

Contamination survey

- asbestos
- methane
- toxic waste
- chemical tests
- radioactive substances

Traffic survey

- examination of traffic records from local authority
- traffic counts
- traffic patterns
- computer simulation of existing traffic flows
- delay analysis
- noise levels

Adjacent property survey

Traffic survey

- right of light
- party-wall agreements
- schedule of conditions
- foundations
- drainage
- access
- public utilities serving the property
- noise levels (e.g. airports, motorways, air-conditioning equipment)

Archaeological survey

- examination of records
- archaeological remains.

Sustainability issues

- effects of proposed development on local environment
- environmental impact assessment
- flood risk
- carbon dioxide emissions
- waste
- transport
- pollution
- ecology and biodiversity
- health and well-being
- social issues.

Legal aspects

- ownership of site
- restrictive covenants
- easements, e.g. rights of way, rights of light
- way-leaves
- boundaries
- party-wall agreements
- highways agreements
- local authority agreements
- air rights.

Minerals

**Outline planning
permission**

- effect of local area plan.

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