

Birmingham City Council
Report to Cabinet Committee Property

26th June 2024



Subject: **Sale of The Elegance Suite, 129-142 Great Francis Street, Nechells, Birmingham B7 4QX**

Report of: Strategic Director of Place, Prosperity and Sustainability – Philip Nell

Relevant Cabinet Member: Councillor Sharon Thompson – Deputy Leader and Economy and Skills

Relevant O & S Chairs: Councillor Sir Albert Bore – Corporate and Finance
Councillor Katherine Iroh – Economy, Skills & Culture

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Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Bordesley Green		
Is this a key decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Exempt information Schedule 12A of the Local Government Act 1972 (as amended) Paragraph 3. Information relating to the financial or business affairs of any particular person (including the council) Exempt Appendices 2, 3, and 5 contain sensitive commercial information on the purchase price and valuation.		

1 **Executive Summary**

- 1.1 This report seeks authority for the sale of the Council's freehold reversionary interest in the Elegance Suite, 129-142 Great Francis Street, Nechells, Birmingham to the tenant occupier.
- 1.2 The property has a site area of approximately 0.54 acres and is shown edged red on the attached plan at Appendix 1.
- 1.3 The recommendations contained in this report and the Exempt Appendices 2, 3 and 5 will generate a capital receipt supporting the Council's Financial Recovery Plan by generating resources and thus helping to achieve a balanced budget.
- 1.4 Options for this land have been fully considered and the sale of the site provides the best outcomes for the city as detailed in the Exempt Appendix 2.

2 **Recommendations:**

- 2.1 Authorise the Strategic Director of Place, Prosperity and Sustainability to conclude an unconditional sale of the Council's freehold reversionary interest, to the current tenant.
- 2.2 Note that the purchaser will pay a contribution towards the Council's surveyor's and legal costs, as detailed in Exempt Appendix 2.
- 2.3 Authorises the City Solicitor to prepare, negotiate, execute and complete all relevant legal documentation to give effect to the above

3 **Background**

- 3.1 The property comprises a two storey and single wing building built circa 1955, fronting onto Nechells Parkway and accessed via Little Hall Road. The building was formerly used as an Ex-Serviceman's Social Club and later converted for commercial use.
- 3.2 The overall site is shown edged red on the plan at Appendix 1 of this report.
- 3.3 The property is owned freehold by the City Council and is currently operated as a wedding and function venue. The property is occupied under two leases; the primary lease for the building and main car park is for a term of 75 years expiring 28th September 2029 at a rent of £160 per annum, and the ancillary car park is let on a shorter term tenancy generating a gross rent of £3,600 per annum. The asset is held within the Council's commercial property portfolio.
- 3.4 Following a comprehensive review of the Council's commercial property portfolio, supported by appointed advisors Avison Young in 2020, the Council's interest in this property has been identified for potential sale.

- 3.5 In accordance with agreed process, Council officers have subsequently offered, negotiated and agreed terms with the occupying tenant for the sale of the Council's freehold interest in the property.
- 3.6 The outcome of the negotiations and recommendations for sale are detailed in Exempt Appendices 2 and 5. The Heads of Terms are attached in Exempt Appendix 3.
- 3.7 The proposed sale represents best consideration and has been validated as such by the Assistant Director of Investment & Valuation based upon an analysis of the financial terms of the recommended sale, consideration the Council's Property Strategy, and wider aspirations and ambitions for the City.
- 3.8 Exempt Appendix 5 contains a decision making matrix setting out disposal decision to support delivery of the Property Investment Strategy aim of rebalancing of the commercial portfolio. The receipt will be directed to aiding the City Council's current Financial Recovery Plan.

4 Options Considered and Recommended Proposal

- 4.1 **Option 1 - Do Nothing.** The Council is under no obligation to proceed with the proposal and would suffer no reputational consequences if it did not proceed. It would not, however, be in line with the aims of the Property Strategy or the external advice obtained to support delivery of the Strategy. The negotiated capital receipt would not be realised at this time and would not be available to fund Council expenditure, with there being no guarantee of a future opportunity. The property is not allocated, nor does it have planning consent for an alternative use and is therefore not an immediate development opportunity. The property does not have an obvious alternative use which would benefit the Council.
- 4.2 **Option 2 – Dispose of the Property to Council Wholly Owned Company (WOC)**
The property is not deemed to be of a strategic value to the Council or a significant development opportunity such that it would wish to retain overall control of the asset through transfer into a WOC. In addition, there is limited income from the property to support and fund a sale of this nature.
- 4.3 **Option 3 – Proceed with Agreed Transaction** It is recommended to proceed with the transaction outlined in this report, in line with the aims of the Property Strategy and the external advice obtained to support delivery of the Strategy to deliver a capital receipt to help the Council's Financial Recovery Plan. The sale to the tenant will give the tenant the ability to invest in the asset and secure/create jobs.

5. Consultation

- 5.1 The Property Investment Board comprising officers from Investment & Valuation, Finance and Legal recommends proceeding with the transaction.
- 5.2 The Ward Councillor was notified on 18/12/2023. No further external consultation is necessary for this commercial transaction.

6. Risk Management

- 6.1 There are no immediate risks to the Council's holding if the transaction does not complete since its interests are protected under the terms of the existing lease.
- 6.2 The 'risk' of not proceeding could only be seen in terms of a lost opportunity to generate a capital receipt to support the Council's Financial Recovery Plan.

7. Compliance Issues:

- 7.1.1 The proposed sale transaction and generation of a capital receipt supports the Council's Financial Recovery Plan by generating resources and thus helping to achieve a balanced budget.
- 7.1.2 It is consistent with Birmingham City Council Plan priorities as the additional income helps the Council to meet the aspirations to be a bold prosperous Birmingham, a bold inclusive Birmingham, a bold safe Birmingham, a bold Healthy Birmingham and a bold Green Birmingham.

7.2 Legal Implications

- 7.2.1 Sections 120 - 123 of the Local Government Act 1972 authorise the Council to acquire, appropriate and dispose of land. The disposal power in Section 123 of the Local Government Act 1972 is subject to the best consideration test. The Assistant Director Investment & Valuation has confirmed that the recommended sale, as detailed in Exempt Appendix 2 represents best consideration and satisfies the Council's obligations, under Section 123 of the Local Government Act 1972.
- 7.2.2 Section 1 of the Localism Act 2011 contains the Council's general power of competence, which is circumscribed only to the extent of any applicable pre-commencement restrictions and any specific post-commencement statutory restriction of the power, and Section 111 of the Local Government Act 1972 contains the Council's ancillary financial and expenditure powers in relation to the discharge of its functions including the disposal and acquisition of property.
- 7.2.3 The Local Government Act 2003 and guidance issued under it authorises the Council's investment management functions.
- 7.2.4 Exempt information: Schedule 12A of the Local Government Act 1972 (as amended) Paragraph 3. Information relating to the financial or business affairs of any particular person (including the Council). Exempt Appendices 2, 3 and 5 are exempt as they contain commercially sensitive information of a financial or business nature, which if disclosed to the public could be prejudicial to a named person, individual or company.
- 7.2.5 The Council's in-house Legal team will complete all legal matters associated with the transaction.

7.3 Financial Implications

- 7.3.1 The transaction will generate a capital receipt for the Council, as set out in Exempt Appendix 2.
- 7.3.2 The property currently generates a gross annual rental of £3,760 per annum (derived from the two leases under which it is occupied). This will be lost to the City Council, provision for which is being made in the Financial Plan 2024 to adjust the commercial portfolio income budget for disposals under the programme. The use of the capital receipt from this specific asset will contribute to the City Council's Financial Recovery Plan 2024, to ensure a balanced budget and prioritise the generation of capital receipts.
- 7.3.3 As the site is currently let on full repairing and insuring terms (the tenant picks up all those costs), the holding costs related to this asset are limited to the cost of City Council officer time incurred in managing the agreements as part of the wider City portfolio of properties and these are not specifically recorded or measured.
- 7.3.4 The purchaser will pay a contribution towards the City Council's professional costs related to the disposal as detailed in Exempt Appendix 2.
- 7.3.5 The purchase price, including any contribution towards the City Council's professional costs relating to the disposal, is exclusive of VAT. However, as the City Council has not opted to tax the site, nor intends to do so prior to the disposal, VAT is not chargeable on the purchase price.

7.4 Procurement Implications

- 7.4.1 Not applicable

7.5 Human Resources Implications

- 7.5.1 Internal resources and external agents are used to evaluate and execute the transaction.

7.6 Public Sector Equality Duty

- 7.6.1 An Equality Impact Assessment has been carried out – **EIA000365** dated 09/02/2024 is attached as Appendix 4. This identifies no adverse impacts on any groups protected under the Equality Act 2010.

8. Appendices

8.1 List of Appendices accompanying this Report (if any):

- Appendix 1 – Site Plan
- Appendix 2 - (Exempt) – Recommendations
- Appendix 3 – (Exempt) – Recommendation Report and Heads of Terms
- Appendix 4 - Equality Impact Assessment EIA000365
- Appendix 5 - (Exempt) - Decision Matrix

9 Background Documents

- Property Strategy (Approved by Full Cabinet – November 2018)
- Property Investment Strategy (Approved by Full Cabinet – July 2019)