

# Birmingham City Council

## Report to Cabinet Committee Property

26<sup>th</sup> June 2024



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**Subject:** Sale of Land at Fox Street, Birmingham, B5 5AD.

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

**Relevant Cabinet Member:** Councillor Sharon Thompson - Deputy Leader of the Council

**Relevant O & S Chairs:** Councillor Katherine Iroh - Economy, Skills & Culture

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Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Nechells		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 012689/2024		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Exempt Appendices 2,3,4 and 6 contain sensitive commercial information on the sale price and valuation. 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)		

## 1 **Executive Summary**

- 1.1 This report seeks authority for the sale of underutilised Council owned land at Fox Street, Birmingham, B5 5AD by the grant of a new 255 year lease, at a premium.
- 1.2 The subject property has a site area of 1497.33 sqm approximately and is shown edged bold black on the attached plan at Appendix 1.

## 2 **Recommendations:**

- 2.1 Authorises the Assistant Director of Investment & Valuation to conclude an unconditional sale of underutilised Council owned land at Fox Street, Birmingham, B5 5AD (“the Property”) as shown edged bold black on the attached plan at Appendix 1 and extending to 1497.33 sqm by the grant of a new 255 year lease to the Purchaser as detailed in Exempt Appendix 2/3/4.
- 2.2 Notes that the purchaser will also pay a contribution towards the Council’s surveying and legal costs, as detailed in Exempt Appendix 2/3/4.
- 2.3 Authorises the Assistant Director of Investment and Valuation to revert to the under bidders in the event of a failure to complete and proceed to completion.
- 2.4 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 land is situated within a locality of residential and commercial uses in a prime location in the city centre in close proximity to Millenium Point, Eastside City Park and the proposed HS2 Curzon Street Station.
- 3.2 The land is currently vacant, having most recently been used as a temporary contractor’s compound.
- 3.3 Following the appointment of marketing agents, Jones Lang Lasalle, the property was offered for sale to the open unrestricted market by informal tender with a closing date of 27<sup>th</sup> March 2024. The outcome of this tender process is set out in further detail in the Exempt Appendix 2/3.
- 3.4 Tenders were invited on either an unconditional or conditional (subject to planning only) basis, and detailed planning guidance was produced to support and inform the process.
- 3.5 The outcome of the tender process, tenders received and recommendations for sale are detailed at Exempt Appendix 3 which also includes an estimate of value of the Property, pre-sale.
- 3.6 The proposed sale represents best consideration and has been validated by Jones Lang Lasalle and the Assistant Director of Investment & Valuation, based upon

analysis of the bidders' proposals. The offer represents the least risk to the Council in terms of deliverability and overall conditionality.

#### **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 capital receipt would not be realised at this time and would not be available to fund the City Council's Financial Recovery Plan and there would be no guarantee of a future opportunity.
- 4.2 **Option 2 – Property Retained for Reuse and / or Development by the Council.** The property prior to being offered for sale on the open market, has been considered for potential internal reuse, and or development by the Council to support its business priorities, with no interest expressed or identified.
- 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 fund the Council's Financial Recovery Plan.

#### **5. Consultation**

- 5.1 The transaction is recommended by the Councils external agent Jones Lang Lasalle as detailed in Exempt Appendix 3/4.
- 5.2 The Nechells ward member has been notified of the proposed sale of this property and the comments set out in the Ward member consultation form accompanying this report.

#### **6. Risk Management**

- 6.1 To meet the expectations of the prevailing property market, the Council has committed to deliver this sale in accordance with delivery milestones set out in the particulars of sale. Failure to meet these milestones would result in a potential loss of the capital receipt.

#### **7. Compliance Issues:**

##### **7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?**

The decisions recommended in this report will facilitate the development of the Site:

- 7.1.1 The proposed sale transaction and generation of a capital receipt supports the Financial Recovery Plan by generating resources and thus helping to achieve a balanced budget.

7.1.2 It is consistent with the City Council Financial Plan 2020-2024 and Financial Plan 2021-2025 as the additional income helps the Council to meet the aspirations to be:

- Prosperous: through continued economic growth, tackling unemployment, attracting inward investment and infrastructure. The scheme will deliver on actions within the Council Plan to concentrate on significant areas of opportunity, by facilitating jobs and training opportunities in an area of deprivation within East Birmingham, using the City Council's property assets to accelerate regeneration and investment.
- Inclusive: through empowered citizens, supporting young people to fulfil potential, and promoting diversity, opportunities, and culture.
- Safe: through tackling anti-social behaviour & hate crime, housing provision and addressing homelessness, and improving living environments, civic pride & culture.
- Healthy: through tackling health inequalities, encouraging and enabling physical activity and healthy living, quality of care, and helping to support mental health.
- Green: by improving the cleanliness of our city and its streets, improving the environment and air quality, carbon reduction and enabling an inclusive green transition.

## 7.2 Legal Implications

7.2.1 Sections 120-123 of the Local Government Act 1972 authorises 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. Jones Lang Lasalle and the Assistant Director of Investment & Valuations have confirmed that the recommended sale, as detailed in Exempt Appendix 2, 3 and 4, 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 4 are considered to 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 and in the public interest to keep exempt.

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 2/3/4. The use of the capital receipt from this asset disposal is intended to support the City Council's Financial Recovery Plan to ensure a balanced budget and prioritise the generation of capital receipts.

7.3.2 The purchaser will pay a contribution towards the Council's professional costs related to the disposal as detailed in Exempt Appendix 2/3.

7.3.3 Upon exchange of contracts the purchaser will pay a nonrefundable deposit as set out in Exempt Appendix 2/3.

7.3.4 The purchase price, including any contribution to the Council's costs, is exclusive of VAT.

### **7.4 Procurement Implications**

7.4.1 N/A

### **7.5 Human Resources Implications**

7.5.1 Internal resources are used to evaluate and execute the transaction and external consultants have been used to provide an independent assessment of value and sale recommendation.

### **7.6 Public Sector Equality Duty**

7.6.1 An Equality Assessment has been carried out EIA000381 dated 29<sup>th</sup> February 2024 and is attached at Appendix 5. 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 – Sale of Land at Fox Street, Birmingham. B5 5AD - Site Plan
- Exempt Appendix 2 – Private Report
- Exempt Appendix 3 – Sale of Land at Fox Street, Birmingham. B5 5AD – Jones Lang Lasalle Disposal Strategy and Recommendation Report
- Exempt Appendix 4 – Sale of Land at Fox Street, Birmingham – Head of Terms
- Appendix 5 – Equality Impact Assessment EIA000381
- Exempt Appendix 6 – Ward Member Consultation
- Appendix 7 – Ward Member Consultation Public

## **9 Background Documents**

- Property Strategy (Approved by Cabinet – November 2018)