

# Birmingham City Council

## Report to Cabinet

29<sup>th</sup> October 2019



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**Subject:** PROPERTY PROSPECTUS 2 – TENDERS FOR PROPERTY DISPOSALS

**Report of:** ASSISTANT DIRECTOR PROPERTY SERVICES, INCLUSIVE GROWTH

**Relevant Cabinet Member:** Councillor Ian Ward – Leader of the Council

**Relevant O &S Chair(s):** Councillor Tahir Ali – Economy and Skills  
Councillor Sir Albert Bore – Resources

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|--|---|--|
| Are specific wards affected?   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No – All wards affected |
| If yes, names of wards: Newtown, Ladywood, Sparkbrook and Balsall Heath East, Soho and Jewellery Quarter, Oscott.                          |   |  |
| Is this a key decision?  | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No                      |
| If relevant, add Forward Plan Reference: is 006426/2019.   |   |  |
| 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 Information paragraph 3 Information relating to the financial or business affairs of any particular person (including the council). |   |  |

### 1 Executive Summary

- 1.1 This report provides information on the outcome of the informal tender process for the disposal of Council owned land and property assets as part of the second phase of prospectus disposals, as detailed in the Disposal of Surplus Properties report approved by Cabinet on 25<sup>th</sup> June 2019. The report seeks approval to the subsequent sale of these freehold and leasehold interests.
- 1.2 The Exempt Appendix 1 contains confidential commercially sensitive information which could impact on the tender process.

## **2 Recommendations**

That Cabinet:

- 2.1 Approves the freehold and leasehold disposal of the Council owned land and property assets identified to the highest recommendable offer as detailed in the Exempt Appendix 1.
- 2.2 Authorises the Assistant Director Property Services to revert to the under bidders where appropriate should any of the recommended sales not proceed to completion.
- 2.3 Delegates approval of the final sale terms agreed under 2.2 above to the Leader of the Council jointly with the Assistant Director Property Services.
- 2.4 Authorises the City Solicitor to negotiate, execute and complete all relevant documentation to give effect to the above recommendation.

## **3 Background**

- 3.1 The strategic approach was outlined in a report of the Director, Inclusive Growth entitled "Property Strategy 2018/19-2023/24 (the Property Strategy) approved by Cabinet in November 2018. Southside Business Centre, Northside Business Centre and Lawson Street Car Park were declared surplus in a subsequent report entitled Disposal of Surplus Properties dated 25<sup>th</sup> June 2019. The site at Queslett Road, Old Horns Crescent was declared surplus in a report to Cabinet entitled "Disposal of Surplus Properties' dated March 2014 as part of a previous marketing exercise. The site at Upper Gough Street was declared surplus previously in a report entitled Commercial Investment Property Portfolio dated 16<sup>th</sup> March 2015 as part of the Lee Bank House disposal. As shown edged black on the plan's attached at Appendix 4.
- 3.2 The sites have been offered for sale through the Birmingham Sites Prospectus 2 (June 2019) to the open unrestricted market by informal tender, with a closing date of 15<sup>th</sup> July 2019.
- 3.3 Tenders were invited on either an unconditional or conditional subject to planning basis.
- 3.4 To assist prospective bidders, officers held planning workshops where prospective bidders were given the opportunity to discuss their development proposals and were provided with guidance on their development proposals.
- 3.5 The disposal of the assets will follow the timetable prescribed in the Birmingham Sites Prospectus 2 (June 2019) and in accordance with the original timeframe, ensuring approved sales exchange of contracts are concluded within six weeks of the offer being accepted.
- 3.6 The offers were reviewed and evaluated based on the level of financial offer and the proposed scheme plan/layout, where requested. A moderation panel comprising officers from Property Services and Legal Services reviewed the

evaluated offers. Where necessary officers have sought best and final offers as set out in and attached to Exempt Appendix 1.

- 3.7 Individual Tender Reports detailing the outcome of the process for each site is also appended as Exempt Appendix 1, and provides the confidential tender information.
- 3.8 The assets have been marketed on an unrestricted basis to ensure the maximum return to the Council and any planning proposals that may be brought forward by the successful purchaser will be protected by the prevailing planning policy. In particular sites containing Tree Preservation Orders (TPO's), Sites of Importance for Nature Conservation (SINC), (designation of high ecological value), adjoining or including a designated Nature Reserve or open space, listed buildings and those located within conservation areas must be protected and mitigated as a result of any development in accordance with the Birmingham Development Plan.
- 3.9 The recommended sales represent best consideration, and have been validated by the Assistant Director Property based upon analysis of the offers received.

#### **4 Options considered and Recommended Proposal**

- 4.1 Not to proceed would mean not realising capital receipts from the sale of surplus assets.
- 4.2 The sale of the subject sites will remove ongoing management liability to the Council.
- 4.3 The sale of the subject sites will promote private investment into the city region economy.

#### **5. Consultation**

- 5.1 The Leader of the Council has been consulted regarding the contents of this report and is fully supportive of the report proceeding to an executive decision.
- 5.2 The relevant Ward Members have been consulted and the Ward Members for Oscott Ward have commented that they object to any development proposals for the Queslett Road site. The reasons are that for many years that area has been adopted into the adjoining area of the Queslett Rd Nature Reserve and should remain so as it now forms part of an area of natural beauty. Councillor Dring and Councillor Linnecor's comments are included in full together with officer's response at Appendix 2 of this report. The site at Queslett Road, Old Horns Crescent was declared surplus in a report to Cabinet entitled "Disposal of Surplus Properties' dated March 2014.
- 5.3 No other comments have been received to the reports content. The detail of consultation is set out in Appendix 2 of this report.
- 5.4 Letters were sent to the tenants of Southside Business Centre and Northside Business Centre to inform of the proposed marketing process on the 7<sup>th</sup> of May 2019. Otherwise no external consultation has taken place regarding the contents of this report.

## **6. Risk Management**

- 6.1 Inability to meet property market timelines: To meet the expectations of the prevailing property market the Council has committed to deliver this second programme of land and property sales in accordance with the Delivery Milestones set out in the Birmingham Sites Prospectus 2 (Appendix 1). Approval of this report will support adherence to these milestones and enable sale receipts to be realised.
- 6.2 Interim reduction in existing rental income. The disposal of assets will impact upon existing rental income budgets. The reduction in rental income from this second phase of disposals is detailed in the Finance section below in Table 1. Associated mitigation measures are noted in 7.3.6 of the Finance section.

## **7. Compliance Issues:**

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

- 7.1.1 The Property Strategy is aligned with the strategic outcomes outlined in the Council Plan 2018-2022 – to create a city of growth where every child, citizen and place matters. The Property Strategy will help make Birmingham: an entrepreneurial city to learn, work and invest in; by releasing surplus property assets on the open market.
- 7.1.2 The Birmingham Development Plan and Birmingham Connected support the reduction of carbon emissions to mitigate against climate change in planning and development, sustainable transport and parking. Any development proposals brought forward will be in accordance with the Birmingham Development Plan and in the context of Birmingham Connected encouraging the increased use of public transport, walking and cycling.
- 7.1.3 As the largest local authority in the country with the biggest property portfolio, the Council has the opportunity to utilise its property and land assets in a strategic way to deliver its priorities.
- 7.1.4 The Property Strategy takes a medium to long term strategic approach to how the City Council utilises its commercial property assets and will ensure a balanced delivery of maximised commercial and social returns. Re-aligning the Council's property will provide a catalyst for development and underpin the social fabric of communities across the city.

### **7.2 Legal Implications**

- 7.2.1 The power to hold, appropriate and dispose of land is contained in Sections 120 - 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 and S111 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 information in the Exempt Appendix 1 is commercially sensitive with regard to the tender process. Exempt information is set out in section 12A of the Local Government Act 1972 (as amended) and includes information relating to the financial or business affairs of any particular person (including the council). The exempt appendix is considered to be in the public interest as it contains commercially sensitive information of a financial or business nature, which if disclosed to the public could be prejudicial to a named, individual or company.

### **7.3 Financial Implications**

7.3.1 All offers received are detailed in the individual Tender Reports attached as Appendix 1 of the private report. Any unconditional offers received will be required to exchange contracts within six weeks and pay a 10% deposit, with the balance of the purchase monies payable 28 days thereafter.

7.3.2 The purchasers will be responsible for paying the Council's reasonable surveyors and legal fees.

7.3.3 The combined sales will generate a capital receipt of £8.45m, allocated between Investment Portfolio and the Non-Investment Portfolio in line with the Property Strategy, (section 2 of the private appendix 1 provides the detailed financial information). These capital resources will be utilised as follows:

- Investment Portfolio – Capital receipts from disposals of assets currently classified within the Investment Portfolio will be reinvested in new assets within the Investment Portfolio, in line with the Property Strategy and subject to Capital Board approval. To this end Cabinet approved the Property Investment Strategy report on 30<sup>th</sup> July 2019;
- Non-Investment Portfolio – capital receipts will be available to support the Council priorities, subject to Capital Board approval and Council Governance process.

7.3.4 Investment Portfolio - Rationalisation of the Investment Portfolio and the associated sale of existing income generating assets will initially result in a reduction net rental revenue income of £0.116m, (as shown in Table 1 below). This loss of income will be mitigated by the allocation of the capital receipts generated from the disposals to the Investment Portfolio, either to acquire better performing assets or for re-investment in the retained estate to generate increased returns. Table 1 below provides additional information on an asset by asset basis, including the reduction in net rental revenue income:

Table 1 Investment Portfolio

| <b>Address</b>   | <b>Ward / Portfolio</b>                                 | <b>Tenure</b>                              | <b>Gross Rental Income 2018/19<br/>£m</b> | <b>Gross Expenditure 2018/19 *<br/>£m</b> | <b>Net Rental Income Foregone<br/>£m</b> |
|--|---|--|---|---|--|
| Southside Business Centre<br>Ladypool Road<br>Sparkbrook | Sparkbrook & Balsall Heath East<br>Commercial Portfolio | Freehold subject to existing leases        | (0.079)                                   | 0.060                                     | (0.019)                                  |
| Northside Business Centre<br>Winson Green                | Soho & Jewellery Quarter<br>Commercial Portfolio        | Freehold subject to all existing tenancies | (0.148)                                   | 0.051                                     | (0.097)                                  |
| Car Park Upper Gough Street<br>City Centre **            | Newtown Commercial Portfolio                            | 250 year lease                             | (0.000)                                   | (0.000)                                   | (0.000)                                  |
| <b>Totals</b>  |   |  | <b>(0.227)</b>                            | <b>0.111</b>                              | <b>(0.116)</b>                           |

\* Gross expenditure comprises the total annual management cost associated with holding each asset. This includes the costs of such items as necessary repairs, staff time/costs, statutory maintenance, void business rates and bad debt provision.

\*\* No income generated. Negligible holding costs.

### 7.3.5 Non-Investment Portfolio

The sale of Lawson Street Car Park in the city centre will result in a net loss of car parking income of £0.016m. This loss will be mitigated through a realignment of the Civil Parking Enforcement net income budget within the Highway service. Analysis of the outturn position for the previous financial years indicates that this increased annual net income will be deliverable on an ongoing basis.

Table 2 below provides additional information on an asset by asset basis:

Table 2 Non-Investment Portfolio

| <b>Address</b>                        | <b>Ward / Portfolio</b>          | <b>Tenure</b>  | <b>Gross Rental Income Budget 2018/19<br/>£m</b> | <b>Gross Expenditure Budget 2018/19 ***<br/>£m</b> | <b>Net Rental Income /Cost Foregone<br/>£m</b> |
|---------------------------------------|----------------------------------|----------------|--|--|--|
| Car Park Lawson Street<br>City Centre | Newtown Non-Investment Portfolio | 250 year lease | (0.017)  | 0.001  | (0.016)  |

|   |   |          |         |       |         |
|---|---|----------|---------|-------|---------|
| Queslett Road<br>Old Horns<br>Crescent **** | Oscott<br>Non-<br>Investment<br>portfolio | freehold | (0.000) | 0.000 | (0.000) |
| Totals                                      |   |          | (0.017) | 0.001 | (0.016) |

\*\*\* Gross expenditure budget comprises the total annual management cost associated with holding each asset. This includes the costs of such items as necessary repairs, staff time/costs, statutory maintenance, void business rates and bad debt provision.

\*\*\*\* Cleared site. No budgeted costs or income.

## 7.4 Human Resources Implications

7.4.1 Internal professional property, legal and planning resources only have thus far been utilised to deliver this programme of sales.

## 7.5 Public Sector Equality Duty

7.5.1 The Birmingham Sites Prospectus 2 (June 2019) sales programme has been undertaken in accordance with the Property Strategy. The Property Strategy is a policy document setting out the strategy principles associated with property assets and at this stage there are no specific implications. An Equality Assessment Ref No. EQUA368 dated 12th September 2019, is attached as Appendix 3. The assessment confirms there is no adverse impact on the characteristics and groups protected under the Equality Act 2010 and a full Equality Assessment is not required for the purpose of this report.

## 8. Background Documents

8.1 Relevant officer's files save for confidential documents.  
Property Strategy 2018/19-2023/24 – Cabinet report 13<sup>th</sup> November 2018  
Disposal of Surplus Properties – Cabinet report 25<sup>th</sup> June 2019  
Property Investment Strategy – Cabinet report dated 30<sup>th</sup> July 2019

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

- 1. Exempt Appendix 1
- 2. Ward Member Consultation
- 3. Equality Assessment
- 4. Site Plans