

BIRMINGHAM CITY COUNCIL

**CABINET COMMITTEE
PROPERTY MEETING
WEDNESDAY, 20 DECEMBER
2023**

**MINUTES OF A MEETING OF THE CABINET COMMITTEE PROPERTY
HELD ON WEDNESDAY 20 DECEMBER 2023 AT 0900 HOURS IN
COMMITTEE ROOM 2, COUNCIL HOUSE, VICTORIA SQUARE,
BIRMINGHAM, B1 1BB**

PRESENT: - Councillor John Cotton, Leader in the Chair

Councillor Jayne Francis, Cabinet Member for Housing and Homelessness
Councillor Brigid Jones, Cabinet Member for Finance and Resources
Councillor Sharon Thompson, Deputy Leader

ALSO PRESENT:-

Councillor Robert Alden, Leader of the Opposition, (Conservative)
Councillor Deborah Harries, (Liberal Democrat)
Kathryn James, Assistant Director of Investment and Valuation
Rob King, Property Sales Manager
Philip Nell, Director for Property and Investment
Marie Rosenthal, Interim City Solicitor & Monitoring Officer
Mohammed Sajid, Assistant Director Financial Strategy
Sushil Thobhani, Head of Law, Property, Planning & Regeneration
Mandeep Marwaha, Committee Services

NOTICE OF RECORDING/WEBCAST

1. The Chair welcomed attendees and advised, and the Committee noted, that this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite ([please click this link](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

APOLOGIES

2. An apology for absence were submitted on behalf of Deborah Cadman, Chief Executive.
-

DECLARATIONS OF INTERESTS

3. The Chair reminded Members that they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at the meeting.

If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

Any declarations will be recorded in the minutes of the meeting.

There were no interests declared.

EXEMPT INFORMATION – POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC

The Chair advised that the report at Agenda item 11 contained an exempt appendix within the meaning of Section 100I of the Local Government Act 1972.

The Chair then enquired whether there were any matters that Members would like to raise on the exempt appendix that may affect the decision to be made or to ask for clarification on a point on the exempt appendix.

Councillors Alden and Jones indicated that they may have questions to raise in relation to this item which presumably needed to be raised in the private session, however, they would be guided by the Chair.

The Interim City Solicitor and Monitoring Officer proposed that the Committee move to a private session for discussions around item 11, appendix 2 – Proposed Reserve Values (Auction Sales).

The Chair agreed with the proposal to move into a private session and make the decision in when the meeting returned to the public session.

4. **RESOLVED:-**

That, in accordance with Regulation 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the public be excluded from the meeting during consideration of those parts of the agenda designated as exempt on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the

Cabinet Committee – 20 December 2023

proceedings, that if members of the press and public were present there would be disclosure to them of exempt information.

MEMBERSHIP OF THE COMMITTEE

5. **RESOLVED:-**

That the membership of the Committee was noted.

Labour Group (3):-

Councillor John Cotton (Leader) (Chair)
Councillor Sharon Thompson (Deputy Leader),
Councillor Brigid Jones (Cabinet Member),
Councillor Jayne Francis (Cabinet Member)

Observers (no voting rights)

Conservative Group (1):-

Councillor Robert Alden

Liberal Democrat Group (1):-

Councillor Deborah Harries

TERMS OF REFERENCE

The following schedule was submitted:-

(See document No. 1 of the agenda pack)

6. **RESOLVED:-**

That Cabinet Committee Property noted the Terms of Reference for the Cabinet Committee – Property which was approved by Cabinet on 12 December 2023.

SALE OF 150 CHURCH LANE, HANDSWORTH

The Leader highlighted this Item was no longer coming to the Cabinet Committee Property meeting and officers would provide an explanation of the reasoning.

The Assistant Director of Investment and Valuation notified the Committee the report was currently going through the approval process as a Cabinet Member report via the Investment Strategy therefore, advice had been provided that it was not appropriate to make the decision at this Committee.

Cabinet Committee – 20 December 2023

The same reasons applied to item 8 – Sale of Unett Street, Hockley.

7. RESOLVED:-

That Cabinet Committee Property noted that the item on the Sale of 150 Church Lane, Handsworth would be taken as a Cabinet Member decision, using existing delegations, rather than a decision made by Cabinet Committee Property.

SALE OF UNETT STREET, HOCKLEY

The Leader informed the Committee, officers had already highlighted the reasons as to why this item was no longer on the agenda. The Officers comments had been noted by the Committee.

8. RESOLVED:-

That Cabinet Committee Property noted that the item on the Sale of Unett Street, Hockley would be taken as a Cabinet Member decision, using existing delegations, rather than a decision made by Cabinet Committee Property.

SALE OF 337 – 339 SOHO ROAD, HOCKLEY

The Assistant Director of Investment and Valuation informed the Members, at present the report was not in a position to share with Committee. On this basis, the report would be deferred to the next meeting.

9. RESOLVED:-

That Cabinet Committee Property noted that the item on Sale of 337 – 339 Soho Road, Hockley be deferred to a future meeting of the Committee.

SALE OF ELEGANCE SUITE, GREAT FRANCIS STREET

The Assistant Director of Investment and Valuation informed the Members, at present the report was not in a position to share with Committee. On this basis, the report would be deferred to the next meeting.

10. RESOLVED:-

That Cabinet Committee Property noted that the item on Sale of Elegance Suite, Great Francis Street be deferred to a future meeting of the Committee.

11. PROPOSED SALE OF SURPLUS FREEHOLD PROPERTY ASSETS BY PUBLIC AUCTION

At 0905 hours, the Committee moved into a private session.

EXCLUSION OF THE PUBLIC

12. RESOLVED:-

That, in view of the sensitive nature of the discussion due to take place relating to item 11 – Exempt appendix 2 – Proposed Reserve Values (Auction Sales), the public be now excluded from the meeting.

(Note: Minute 13 is in private)

14. The private minutes of the 20 December 2023 were reviewed by the Legal Team and the sections that were not commercially sensitive have been placed back into the public minutes. These were as follows:

The Director for Property and Investment informed members the exempt appendix 2 contained a list of 35 properties which were a part of the Disposal Programme. In 2019, these properties had been identified for disposal under the previous strategy. It was intended these properties would go to auction on 08 February 2024.

Members raised the following questions and made the subsequent comments;

- Lot No.2 – Four Dwellings Children Centre Quinton Road - Further questions were raised around the council's land registry titles and how this would be checked.
- Members queried what assessment had been undertaken to see if individual properties would be better off being mortgaged rather than sold i.e. would it be better to borrow against the assets?
- Members requested further information in future reports i.e. how much income is generated from selling the properties as this would assist with the budget setting. The Chair agreed that a dashboard or an overview of the financial position would be useful for the Committee to have oversight.
- Properties listed on New John Street - Several properties were listed on New John Street for sale. Members queried if the row of properties in the street were vacant.
- A question was raised around tenancy agreements and contractual implications.

In response to members questions, the Property Sales Manager, Head of Law, Property, Planning & Regeneration, Assistant Director for Financial Strategy, Director for Property and Investment and Assistant Director of Investment and Valuation made the following points:

- A report went to Cabinet regarding the surplus properties in September 2022. Therefore, the assets were able to proceed to auction straightaway.
- Sales of properties would be checked through the Head of Law, Property, Planning & Regeneration and his team. Due diligence checks would take place whilst compiling the document packs for submission to auctions.

Cabinet Committee – 20 December 2023

- Local authorities were prohibited, under Local Government Act 2003 from mortgaging their properties. Details around borrowing, loans and savings were shared with Members of the Committee by the Assistant Director of Financial Strategy.
 - As part of the wider strategy refinancing had been considered however, currently the borrowing rates were high. There was a possibility this may reduce over the next two years.
 - Auctioneers in Birmingham will be used for the 08 February auction and auctioneers in London too as some specialist sales will be involved later.
 - Some properties had tenancy agreements in place. Further information would be shared with the Committee. Members were advised that as these properties were being sold at auction the Lessees had the right to bid. The Council had a duty to ensure the best consideration had been obtained when selling the properties. These were long leasehold.
-

RE-ADMITTANCE OF THE PUBLIC

(The Committee moved back to Item 11 on the agenda)

At 0922 hours, following discussions on item 11 – Exempt appendix 2 – Proposed Reserve Values (Auction Sales), the Committee moved back into the public meeting.

(Note: Due to the number of questions raised by members, these have been grouped in a section within the minutes followed by responses by officers).

- Concerns were raised around the reports preventing the provision for request for call-in. It was queried if this would be standard practice for reports coming to the Committee and if sufficient timescales would be built into reports. A special form was suggested to be made available to allow individual items from the full set of properties to have the ability for a request for call in to be submitted. This would avoid any delays to the rest of the properties listed within the reports.
- Furthermore, the report did not contain a section on comments from Ward Councillors. It was highlighted, property related reports that went to Cabinet contained a section on ward consultation which were found to be constructive and would allow decisions to take place smoothly without objections.
- In reference to Lot 1, Sandcastle Day Nursery, there was concerns around a nearby school where there was a lot of traffic and congestion by the dual carriage way. It was not safe to drop off the children therefore it was suggested this site could be potentially used to drop children to school safely. In addition, there was concerns around rats within the building and near the school. It was queried if there were alternatively ways to address this rather than through environmental health to avoid the issue getting worse. A query was also raised whether this property was subject to grant funding in the past which may need to be repaid in the event of its sale as there was no indication of this in the Land Registry records.
- This site was surrounded by both a nursery and primary school. It was queried if a covenant was required on the site preventing this from being

Cabinet Committee – 20 December 2023

converted to an HMO or exempt accommodation in the future. The Council had applied this previously to specific sites and this should be considered on this site as well as for Lot 2, Four Dwellings Children Centre.

- In reference to site 25, 455 Yardley Wood Road, appeared to be currently running as a nursery. It was queried if engagement had taken place with existing tenants to ensure they had been well informed.
- A clear process to be made available for all Members on what needs to take place as part of the process of selling assets. This suggestion was seconded by the Leader, and it was suggested a briefing session in addition to a briefing note take place for Members. This would ensure Members had the opportunity to ask questions and have clarity on the process and their rights to be involved in the process.
- Decisions could not be based on not having enough time left to sell the property as this would encourage the process not to undertake due diligence due to time.
- Lot 1 and 2 had been vacant for several years, it was queried what had the building been used for whilst they were vacant and why they were being sold now?

In response to Members questions, Interim City Solicitor and Monitoring Officer, Director for Property and Investment and the Property Sales Manager made the following points:

- The governance of the programme was important to the Local authority and Members. The Asset disposal programme was a very large programme to address the position the Council was currently in. Birmingham City Council had to demonstrate to Government for the purposes of its application for a capitalisation directive that it could achieve this programme. There were over 500 properties to dispose of over the next 12 months. A clear governance arrangement had to be in place to ensure Members were involved. However, to fulfil the wider financial obligations the Council had to balance the budget over the coming years.
- A pipeline of properties was currently being developed which was a huge set up as external legal colleagues would assist in developing the packs. The progress would be reported to members. Once the pipeline was established, consultation with Ward Members would take place early in the process.
- Call In was recognised as an issue. This was a constitutional right for members to request a Call In. Executive key decisions were subject to a call in unless it was an urgent item. Discussions would be taking place with the Chair of Overview and Scrutiny around waiving the Call-In rights. This would be considered where required, however, the programme was very complex and large. Emergency meetings of the Committee would take place where required.
- Lot 1, Sandcastle Day Nursery – EdSI colleagues had advised dialogue had taken place with the school. Details around the lease were shared with the Committee. The proposal for the drop off facility was discussed, however, the Nursery did not have the financial capability to facilitate the drop off area. Similarly, the Council do not have the budget to support this. With regard to the issue of the need to repay any grant, this would normally have been the subject of a restriction at the Land Registry if there was such an obligation.

Cabinet Committee – 20 December 2023

Also, due diligence would be carried out as part of preparing the particulars for sale.

- A standard provision can be placed for future use of the sites which would be enforced by planning laws. Details were shared on this matter.
- Covenants can be enforced against original parties, however, their transmissibility to successors was dependant on different circumstances. A chain of Indemnity covenants would be in place (this is placed on the new owner to observe the covenant).
- Lot 1 and 2 was declared as surplus last year via Cabinet and in the interim, these were considered for Affordable Housing Development Plan and were deemed unviable together with Birmingham Municipal Housing Trust (BMHT). The Corporate Landlord Programme would elevate a lot of the problems. Details around this was shared with the Committee.

The Leader suggested a note to be shared with the Committee on covenants placed onto sites and properties a number of issues may arise in the future.

15. RESOLVED: -

That Cabinet Committee Property:-

- (i) Authorised the Director of Property & Investment to conclude the sale of the Council's freehold property interests at a minimum of the reserve values listed in Exempt Appendix 2 by public auction on 8th February 2024.
- (ii) Authorised the Director of Property & Investment, where deemed appropriate, to set individual reserve prices in excess of £200,000; and
- (iii) Authorised the City Solicitor to prepare, negotiate, execute, and complete all relevant legal documentation to give effect to the above.

This decision was not Subject to Call in.

16. OTHER URGENT BUSINESS

The Interim City Solicitor and Monitoring Officer requested for the committee to meet monthly with the option to meet urgently when requested. This was noted by the Committee.

The meeting ended at 0939 hours.

.....
CHAIRPERSON