

**Birmingham City Council
Report to Leader of the Council**

04 January 2024



Subject: Sale of Unett Street Service Station, New John Street West, Birmingham B19 3ND

Report of: Strategic Director of Place, Prosperity and Sustainability – Paul Kitson

Relevant Cabinet Member: Councillor John Cotton – Leader of the Council

Relevant O & S Chairs: Councillor Jack Deakin – Finance & Resources
Councillor Aikhlaq Ahmed – Economy & Skills

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Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Newtown		
Is this a key decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant add Forward Plan reference: N/A		
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 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, 4 and 6 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 land and premises at Unett Street Service Station, New John Street West, Birmingham B19 3ND to the parent company of the occupying tenant following a marketing exercise.
- 1.2 The subject site has a site area of approximately 1,886 sqm and is shown edged red on the attached plan at Appendix 1.
- 1.3 The report seeks authority under the delegated authority in Section E3.2 (xi) of Part E of the Constitution, for the approval of acquisitions and disposals from the Investment Property Portfolio to the Leader and Cabinet Member for Finance and Resources, jointly with Strategic Director, Place, Prosperity & Sustainability, Director Council Management and the City Solicitor, or their delegates, up to a limit of £25m in any one transaction.
- 1.4 The recommendations contained in this report and the Exempt Appendices 2, 3, 4 and 6 are fully in line with the Council's wider ambitions and plans for inclusive growth and financial stability. The recommendations are in compliance with the Birmingham City Council Plan, the 2022-26 Medium Term Financial Plan and the Property Investment Strategy.
- 1.5 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 a successful bidder.
- 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 subject site comprises a Motor Fuel Service Station and associated buildings, currently held within the Council's Investment Portfolio and located within an area of similar industrial commercial uses/ Residential Housing close to the city centre.
- 3.2 The overall site is shown edged red on the plan at Appendix 1 of this report.
- 3.3 The site is owned freehold by the City Council and is occupied on the basis of a 75 Year lease from 25/12/1960 at a rent of £700pa.

- 3.4 Following a comprehensive review of the Council's Investment 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, Avison Young (on behalf of the City Council) have offered on the open market and negotiated terms with a suitable bidder 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 Appendix 2. The agreed Heads of Terms are attached at 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 of the Council's Property Strategy, and wider aspirations and ambitions for the City. Exempt Appendix 4 contains the marketing recommendation and sales report from the appointed surveyor.
- 3.8 Exempt Appendix 6 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 strategy aims to enable better management of the portfolio value through a process of continual review maximising returns from poorly performing properties via sales and proactive redeployment of receipts gained, driving better returns from retained properties with targeted refurbishment investment and investment into new properties (for regeneration purposes).

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 the 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 and would require significant investment to convert to alternative uses should the Council gain control of the property.
- 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 fund the Council's Property Investment Strategy programme by recycling into new acquisitions for regeneration purposes or reducing debt and generating revenue savings as well saving created by the removal of the management obligation. The sale to the selected bidder will give them 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 No further external consultation is necessary for this commercial transaction.

5.3 The relevant Ward Councillor was notified of the intended proposal to dispose of the holding.

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 for potential reinvestment via a sale of the Council's interest in the property and the subsequent need to outlay significant funds if the property is retained.

7. Compliance Issues:

7.1.1 The proposed sale transaction and generation of a capital receipt supports the Council's Medium Term Financial Plan.

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.

7.1.3 It supports the aims set out in the Birmingham Property Strategy 2018-2023 and Property Investment Strategy.

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 4 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 is currently achieving a rental of £700 per annum which will be lost to the City Council. The Council Financial Plan 2022-2026 made financial provision to enable delivery of the Property Investment Strategy aim of rebalancing the portfolio. A sum of £2m was made available to compensate for income forgone under the disposal strategy which will generate capital receipts for recycling into new acquisitions for regeneration purposes or reducing debt and generate revenue savings.
- 7.3.3 As the site is currently held on lease the holding costs related to this asset will be restricted to that of officer management time as part of a functioning wider City portfolio of properties and these costs 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 Assessment has been carried out EQUA1220 dated 21/11/23 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 – Site Plan
- Appendix 2 - (Exempt) – Recommendations
- Appendix 3 – (Exempt) – Heads of Terms
- Appendix 4 - (Exempt) – Recommendation Report and Heads of Terms
- Appendix 5 – Equality Assessment EQUA1220
- Appendix 6 – (Exempt) – Sale Decision Matrix

9 Background Documents

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