

Birmingham City Council

Report to Cabinet Committee Property



28th March 2024

Subject: **DISPOSAL OF COUNCIL OWNED LAND AT BORDESLEY PARK BIRMINGHAM**

Report of: Strategic Director – Place, Prosperity & Sustainability

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

Relevant O &S Chair(s): Councillor Jack Deakin, Finance and Resources
Councillor Katherine Iroh, Economy and Skills

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Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s): <i>Bordesley & Highgate</i>		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 012550/2024		
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 2,4 and 5 Information relating to the financial or business affairs of any particular person (including the council)		
Schedule 12A Local Government Act 1972		

1 Executive Summary

- 1.1 The City Council has recently received an unsolicited offer for the site.
- 1.2 This report seeks approval to dispose of the freehold interest in the Bordesley Park site, together with additional Council owned land interests as detailed in Exempt Appendix 2. The sites are shown at Appendix 1 highlighted in green.

2 Recommendations

- 2.1 Approves the disposal on a freehold basis of Council owned land at Bordesley Park, together with additional Council owned land interests as detailed in Exempt Appendix 2.
- 2.2 Delegates approval of the final sale terms agreed under 2.1 above to the Assistant Director of Investment and Valuation.
- 2.3 Authorises the City Solicitor (or their delegate) to negotiate, execute and complete all relevant documentation to give effect to the above recommendation.
- 2.4 Notes that the purchaser will reimburse the City Council's reasonable and proper surveyor and legal costs on completion.
- 2.5 Notes that upon disposal, the City Council will continue to consult with the Department for Levelling Up, Housing and Communities (DLUHC) on options to apply the Levelling Up Fund (LUF) grant awarded for Bordesley Park for future remediation, reclamation, and acquisition within the area and consistent with the purposes of the grant application.

3 Background

- 3.1 The Bordesley Park (former Wheels) site is a significant site of 48 acres and is identified as a key opportunity for development close to the city centre and within East Birmingham. The Birmingham Development Plan (2017) (BDP) recognises the City as one of the most important employment areas within the UK and that strengthening this position and ensuring a successful and prosperous economy will require the provision for a wide range of opportunities for economic development and job creating activity. The Wheels site and its environs is identified both in the Bordesley Park Area Action Plan (AAP) and BDP as a major opportunity for transformational change and job growth in the area.
- 3.2 The East Birmingham Inclusive Growth Strategy (2021) sets out the strategy for a comprehensive multi-agency approach focussed on East Birmingham that seeks to ensure that the benefits of growth are shared more fairly, providing new opportunities for local people to change their lives for the better and delivering lasting improvements to living standards, education and skills, access to jobs and opportunities, health, the environment, local places and transport. It is intended that future development will deliver employment and training opportunities to people in East Birmingham and the Council will work with employers, and training and employment support providers, to develop clear pathways for local people into jobs. The initial proposals estimate that 3,000 jobs will be created by the purchaser's proposed scheme.
- 3.3 On the 28th June 2022 Cabinet gave authority to dispose of the site, however this did not proceed to completion. Since then, the Council has continued to progress the remediation of the site using a grant secured from the LUF with the intention to facilitate its development and secure a developer at a future date.

- 3.4 A offer for the site has been received and is detailed in Exempt Appendices 4 and 5. The offer has been reviewed and evaluated by Savills based on the level of financial offer and the proposed scheme. The future development of the site is to be delivered by an experienced project team with access to significant levels of funding.
- 3.5 The Bordesley Park AAP identifies the site as an employment site. The current proposal will bring an equivalent, if not greater, number of jobs to the area, and generate the potential benefits below:
- The delivery of long-term regeneration benefits driven by a major anchor occupier and new economic clusters that will create a centre of excellence for sport.
 - The development will be a conduit for further investment. It will align with the growth interests of the City Council, having international prominence and connections, which will be leveraged to drive wider investment into the area.
 - The generation of business rates - driving value through the delivery of commercial uses and complementing the recently awarded Levelling Up Zone status for this part of East Birmingham.
 - Social value investment, including the stimulation of growth through investment in local communities and infrastructure.
- 3.6 The development of the Bordesley Park site will also provide the catalyst for the regeneration of the wider area including Bordesley Green Local Centre and the adjacent Cherrywood Road and Adderley Park areas. The site will be a catalyst for regeneration in a part of the city where unemployment rates are significantly above the city and UK average (as evidenced by unemployment claimant counts of 16.6% and 17.5% in Ladywood and Hodge Hill respectively (January 2024)).
- The development of this underutilised site will contribute to the creation of up to 3000 jobs within the AAP area with employment and skills programmes put in place to connect these opportunities to the local community. The proposals will also complement and reinforce other opportunities that will be generated in the area including through the arrival of HS2 in the city centre at the new Curzon Street Station, the extension of the Midland Metro from the City Centre to Birmingham Airport and the proposed HS2 Interchange Station.
- 3.7 The proposed sale represents best consideration under S123 of the Local Government Act 1972 and has been validated by Savills and the Assistant Director of Property and Valuation. The report appended at Exempt Appendix 5 provides confidential financial information on this point.

- 3.8 On 31st January 2020, the City Council regained control of the Wheels site following non-payment of rent and forfeiture of the lease. A temporary contracted out lease was then granted to one of the former occupiers of the site which expired on the 31st October 2021. As matters stand, the City Council has taken vacant possession of the site and is now responsible for the site's management and maintenance.
- 3.10 A LUF Bid for the remediation of Bordesley Park was submitted to the DLUHC on 17th June 2021 totalling £19.05m (£17.145 from government with City Council match funding of £1.905m (the LUF guidelines require a 10% contribution)). The bid was successful, and work has been undertaken including treating the substantial Japanese Knotweed on site and the remediation of Phase 1 (land off Bordesley Green Road and Venetia Road). A planning application has also been submitted for the remediation of Phase 2, the main body of the former Wheels site. If the disposal proceeds, officers will liaise with government and the purchaser regarding the use of the LUF grant going forward.

4 Options Considered and Recommended Proposal

- 4.1 The City Council and its property advisors have previously considered a range of options for the development of the site as set out in earlier reports.
- 4.2 The Savills report at Exempt Appendix 5 concludes that the proposed disposal as recommended represents the best way forward and, in their opinion, fulfils the requirements of S123 of the Local Government Act 1972.
- 4.3 The sale of the sites will promote investment into the city region economy and enable the City Council to receive an early receipt.

5 Consultation

- 5.1 As the proposals for development of the Bordesley Park site are progressed, further public consultation will take place including all future planning applications relating to the site.
- 5.2 No external consultation has taken place regarding the contents of this report.
- 5.3 The transaction is recommended by the Council's external agent as detailed in the Report at Exempt Appendix 5.
- 5.4 Bordesley & Highgate Ward Councillor Yvonne Mosquito has been briefed. Shabana Mahmood MP, and Liam Byrne MP were contacted on 5th March 2024 to arrange a briefing, but we have had no response to date.
- 5.5 The Economy and Skills Overview and Scrutiny Committee carried out pre-decision scrutiny of this report on 20 March 2024. A summary of its recommendations, key points and a response are provided in Exempt Appendix 6.

6 Risk Management

- 6.1 To meet the expectations of the prevailing property market the Council has committed to deliver a programme of land and property sales in accordance with the Property Strategy. Approval of this report will support adherence to these objectives and enable sale receipts to be realised.
- 6.2 From completion the purchaser will assume the project management risks associated with the development of the site including future remediation and ongoing obligations to maintain the Japanese Knotweed (JKW) treatment with the Council's appointed JKW contractor, together with site maintenance and site security.

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.

- 7.1.3 The development of the Wheels Site for employment uses is a key part of the **BDP, Bordesley Park AAP and East Birmingham Inclusive Growth Strategy** and will be complemented by skills and training programmes to connect the local community to the job opportunities created.
- 7.1.4 **Prosperity and Opportunity for All: Birmingham City Council's Levelling Up Strategy** sets out the vision of levelling up for the city rooted in the belief that we must encourage growth and stimulate investment in the city, whilst at the same time making Birmingham a fairer and more equal place. Levelling up must mean that our citizens share in the economic benefits of Birmingham's development and live longer, healthier, and happier lives.
- 7.1.5 **Everyone's Battle, Everyone's Business: Birmingham's Equality Action Plan 2022/2023.** The proposal accords with the objectives of Everyone's Battle, Everyone's Business to make long term council-wide improvement to embed equity in a wide range of policy and practice. This includes Place Matters, one of five key principles, which focuses on place approaches that improve access to opportunities for local communities.
- 7.1.6 **Net Zero Carbon Measures** – The preparation of the Bordesley Park AAP was both supported and informed by a Sustainability Appraisal (a statutory process incorporating the requirements of the European Union Strategic Environmental Assessment (SEA) Directive). Both the SA and the AAP were subject to independent examination by an Inspector appointed by the Secretary of State and found to be sound.
- 7.1.7 The purchaser's proposals will be required to meet the policies within the BDP including Policy TP3 Sustainable Construction and Policy TP4 Low and Zero Carbon Energy Generation. The City Council's Route to Zero (R20) initiative will also be at the heart of the proposals for the site going forward including a zero-carbon approach to development. The remediation of an under-utilised and contaminated site in an accessible location close to the city centre and local communities will be a significant brownfield and sustainable development within East Birmingham supporting the Route to Zero objectives.

7.2 Legal Implications

- 7.2.1 The power to dispose of land is contained in Section 123 of the Local Government Act 1972. The disposal power in Section 123 of the Local Government Act 1972 is subject to the best consideration test. The Council's appointed property consultant and the Assistant Director of Investment & Valuation have confirmed that the recommended transaction, as detailed in Exempt Appendices 4 and 5 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 relevant legal powers for the making of a Compulsory Purchase Order (CPO) are contained in section 226 Town and Country Planning Act 1990. In considering whether to make a CPO the Public Sector Equality Duty and Human Rights considerations apply. Any proposed compulsory acquisition will be in accordance with the requirements of the Department for Levelling Up, Housing and Communities, Compulsory Purchase Process Guidance February 2018 (updated July 2019) which governs the use of Compulsory Purchase Powers. Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 is relevant in respect of acquiring new rights.
- 7.2.4 The giving of subsidies or the making of subsidy schemes is governed by the subsidy control requirements contained in the Subsidy Control Act 2022.
- 7.2.5 The information in Exempt Appendices 2, 4 and 5 is commercially sensitive with regard to the disposal process. Exempt information is set out in Schedule 12A of the Local Government Act 1972 (as amended) paragraph 3 includes information relating to the financial or business affairs of any particular person (including the council). It is in the public interest to treat the information in Exempt Appendices 3 and 4 as exempt information as they contain 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 The transaction will generate a capital receipt for the Council, as set out in Exempt Appendix 4. The use of the capital receipt from this asset 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 Assistant Director of Investment & Valuations and external advisors consider this proposed sale represents best consideration based upon analysis of the bidders' proposal.

- 7.3.3 The loss of rental income totalling £0.130m p.a. from the acquisition of additional Council interests listed in Exempt Appendix 2 can be accommodated from the revenue budget for loss of rental income built into the 2024/25 Medium Term Financial Plan.
- 7.3.4 The purchasers will be responsible for paying the Council's reasonable surveyors, and legal fees on completion of the contract.
- 7.3.5 The purchaser will be required to take on ongoing site management obligations to maintain active JKW spraying / treatment with the Councils appointed JKW contractor, together with site maintenance and site security.
- 7.3.6 A LUF bid totalling £19.05m (£17.145 from government with City Council co-funding of £1.905m) has been secured and works on site have commenced. If the disposal progresses officers will consult with government on the future use of the LUF grant at the site. This will include options to apply the grant awarded for further remediation, reclamation, and acquisition consistent with the purposes of the grant application.
- 7.3.7 The DLUHC have paid £5.561m of LUF grant to date, which is more than the £2.77m of current LUF spend (£90% of £3.084m total spend). If not spent, theoretically the DLUHC could ask for the unspent money back, but the City Council has planned projects such as the upgrading of Adderley Road South and further demolition on site which will utilise the amounts received.

7.4 Procurement Implications

- 7.4.1 There are no procurement implications with the recommendations of this report.

7.5 Human Resources Implications (if required)

- 7.5.1 The Council is using existing staff from the Investment and Valuation team and the Planning and Development Service to progress this project. External consultants have been used to provide an independent assessment of value and sale recommendation as well as legal advice.

7.6 Public Sector Equality Duty

- 7.6.1 An Equality Assessment has been carried out EIA000386 dated 4th March 2024 and is attached at Appendix 3. This identifies no adverse impacts on any groups protected under the Equality Act 2010.

7.7 Appendices

List of Appendices accompanying this report:

1. Site plan
2. Exempt - Additional Land Schedule

3. Equality Impact Assessment
4. Exempt - Report
5. Exempt - Disposal Recommendation Report (Savills)
6. Exempt – Economy and Skills Overview and Scrutiny Committee – Pre Decision Scrutiny - Summary of Recommendations – to follow

8 Background Documents

- 8.1 Bordesley Park Area Action Plan (BPAAP) 2020 adopted by Council 14th January 2020.
- 8.2 East Birmingham Inclusive Growth Strategy 2021 Cabinet report to 9th February 2021 meeting for adoption.
- 8.3 Wheels Strategic Business Case, Report to Council 17th March 2020.
- 8.4 Levelling Up Fund - Tranche 1 Bids, Report to Cabinet 8th June 2021.
- 8.5 Bordesley Park (Wheels Site) Strategic Business Case Update, Report to Cabinet 12th October 2021.
- 8.6 Prosperity and Opportunity for All: Birmingham's Levelling Up Strategy, November 2021
- 8.7 Disposal of Council owned land at Bordesley Park, Report to Cabinet 28 June 2022.
- 8.8 Bordesley Park Remediation (former Wheels site): Full Business Park, Report to Leader 28 July 2023
- 8.9 Everyone's Business, Everyone's Battle, Birmingham's Equality Action Plan 2022/23.