

**Birmingham City Council**  
**Report to Cabinet Committee Property**

20<sup>th</sup> December 2023



**Subject:** **Proposed Sale of Surplus Freehold Property Assets by Public Auction**

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

Director of Property & Investment– Philip Nell

**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?

Yes  No

Balsall Heath West, Billesley, Bordesley & Highgate, Bordesley Green, Erdington, Garretts Green, Ladywood, Nechells, Newtown, Quinton, Soho & Jewellery Quarter, Sparkbrook & Balsall Heath East

Is this a key decision?

Yes  No

If relevant, add Forward Plan Reference: Not in Forward Plan

Is the decision eligible for call-in?

Yes  No

Does the report contain confidential or exempt information?

Yes  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 Appendix 2 contains 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 property interests listed in Appendix 1 of this report by public auction.
- 1.2 The subject properties are shown edged bold on individual attached plans at Appendix 3.
- 1.3 The recommendations contained in this, and the Exempt Appendix 2 are fully in line with the Council's wider ambitions and plans for financial stability.
- 1.4 Options for these property interests have been considered and the recommended sale route provides the best outcomes for the City as detailed in this report.
- 1.5 Approval for immediate implementation has been received from the Chair of Overview and Scrutiny Committee, Chief Executive and the Leader as set out via the separate cover sheet on the agenda.

## **2 Recommendations:**

- 2.1 Authorises 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 8<sup>th</sup> February 2024.
- 2.2 Authorises the Director of Property & Investment, where deemed appropriate, to set individual reserve prices in excess of £200,000.
- 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 properties comprise surplus operational, as well as other commercial / industrial interests currently held within the Council's Investment Portfolio. The sales are in line with the Council's investment strategy to reduce the number of small assets in its portfolio.
- 3.2 The current property lease, and rent details are shown at Exempt Appendix 2. Individual identification plans showing the properties to be sold edged bold are shown at Appendix 3 of this report.
- 3.3 The sales methodology to deliver the proposed sale programme will fully recognise market sentiment and individual circumstance. The proposed delivery strategy and mode of sale adopted is tailored to maximise both the prospect of a sale completion and receipt realisation in order to demonstrate best consideration.

## **4 Options Considered and Recommended Proposal**

- 4.1 **Option 1 – Do Nothing.** The Council is under no obligation to proceed with this proposal and would suffer no reputational consequences if it did not proceed. It would not however, be in line with the aims of the Council's Financial Recovery Plan or the Council's investment strategy to reduce the number of small investment assets held. The properties are not allocated for inclusion in any existing strategic

planning proposals, nor do they have planning consent for an alternative use and are therefore not immediate development opportunities. The properties do not have an obvious alternative use which would benefit the Council.

- 4.2 **Option 2 – Proceed with Agreed Transaction.** It is recommended to proceed with the recommendations outlined in this report, in line with the aims of the Council's Financial Recovery Plan.

## 5. Consultation

- 5.1 The Property Disposals Board comprising officers from Investment & Valuation, Finance and Legal Services recommends proceeding with the transaction.
- 5.2 No further external consultation is necessary for these commercial transactions.
- 5.3 Ward members will be notified as each asset comes forward for sale.

## 6. Risk Management

- 6.1 There are no immediate risks to the investment interests listed in Appendix 1 if the proposed transactions do not complete since its interests are protected under the terms of the existing leases.
- 6.2 In terms of the surplus operational assets listed in Appendix 1, if sales are not concluded then the Council will incur extended interim management holding cost liabilities.
- 6.3 The 'risk' of not proceeding could only be seen of in terms of a lost opportunity to generate a potential capital receipt and reconciliation of the Council's financial position.
- 6.4 Execution risk is deemed to be limited by use of an auction as the disposal method.

## 7. Compliance Issues:

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

### 7.2 Legal Implications

- 7.2.1 Sections 120 - 123 of the Local Government Act 1972 authorises the Council to hold, 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 Director of Property & Investment 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 powers in relation to the discharge of its functions including the disposal and acquisition of property and incurring of expenditure.
- 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 Appendix 2 is considered to be exempt as it contains 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.

### **7.3 Financial Implications**

7.3.1 The proposed sale programme at the proposed reserve values, as set out in Exempt Appendix 2, will generate capital receipts for the Council. The capital receipt will be available to fund the Council's Financial Recovery Plan, providing resources to support delivery of a balanced budget.

7.3.2 The Council will complete the sale of its freehold interests in the properties listed to generate estimated potential minimum capital receipt of £5.3m.

7.3.3 For each individual sale, the purchaser will pay the Council's reasonable legal costs together with a surveyor's fee. These sums will be payable on completion of sale.

7.3.4 With respect to the disposals being at best consideration, the Council will offer the individual assets at a reserve value representing the current minimum value at which the Council is deemed to be a willing seller as shown in Exempt Appendix 2.

7.3.5 The basis of valuation is an Open Market appraisal of worth. Achieving the reserve value will satisfy best consideration under S123 of the Local Government Act 1972.

7.3.6 Final reserve values will be validated as such prior to auction (having specific regard to RICS guidelines) by both the Director of Property & Investment and the Council's retained auctioneers (Bond Wolfe). Validation being based upon an analysis of available market evidence.

7.3.7 The sale of these assets will result in a loss of income in the sum of £142,555 per annum. Given the priority to generate capital receipts to support the Council's Financial Recovery Plan, provision for loss of this income is being provided in the MTFP as a pressure to rebase the income budget.

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

### **7.4 Human Resources Implications**

7.4.1 Internal resources in conjunction with the Council's retained auctioneers, Bond Wolfe are being used to evaluate and execute the proposed sales programme.

## **8. Appendices**

8.1 List of Appendices accompanying this report:

- Appendix 1 – List of Assets to be Sold
- Exempt Appendix 2 – Proposed Reserve Values
- Appendix 3 – Site Plans

## **9 Background Documents**

9.1 Nil