

Birmingham City Council
Report to Cabinet Committee Property
29th February 2024



Subject: **Proposed Sale of Surplus Freehold Property Assets to Existing Tenants**

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

Report author: Robert King
Business Manager – Investment & Valuations
0121 303 3928 / robert.king@birmingham.gov.uk

Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Balsall Heath West, Nechells, Soho & Jewellery Quarter		
Is this a key decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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 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 to the existing commercial tenants.
- 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.

2 Recommendations

- 2.1 Authorises the Assistant Director of Investment & Valuation, in consultation with the Interim Finance Director (s151 Officer) and the City Solicitor, to conclude the sale of the Council's freehold reversionary interest, to the current lessees at the values listed in Exempt Appendix 2.
- 2.2 Notes that the purchaser will pay a contribution towards the Council's surveyor 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 properties comprise 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 have been negotiated adopting a marriage value assessment of worth with the Council taking an agreed share of the value released to the lessee on merger of their existing leasehold and freehold interest in addition to the value of its freehold reversionary interest. The settlement figures set out in Exempt Appendix 2 have been agreed with the lessees professional agent and represents best consideration under S123 of the Local Government Act 1972.

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 therefore 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 have been notified of the proposed sales.

6. Risk Management

- 6.1 There are no immediate risks to the Council from the sale investment interests listed in Appendix 1, as if the proposed transactions do not complete, its interests are protected under the terms of the existing leases.
- 6.2 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.
- 6.3 Should the sales not proceed to completion within a defined timescale by the 31st March 2024, then the Council's interests will be offered for sale via public auction.

7. Compliance Issues:

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

- 7.1.1 The proposed sales will generate a capital receipt supporting 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 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 reversionary interests in the properties listed to generate estimated potential minimum capital receipts as set out in the Exempt Appendix 2.

7.3.3 For each individual sale, the purchaser will pay the Council's reasonable legal costs in addition to surveyor's costs as detailed in Exempt Appendix 2. These sums will be payable on completion of sales.

7.3.4 The Assistant Director of Investment and Valuation has confirmed the agreed sales, negotiated on the basis of taking a share in the marriage value accruing on merger of interests through sale, as detailed in Exempt Appendix 2, demonstrate achieving best consideration under S123 of the Local Government Act 1972.

7.3.5 The sale of these assets will result in a loss of income in the sum of £30,925 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 Medium-Term Financial Plan as a pressure to rebase the income budget.

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

7.4 Procurement Implications (if required)

7.4.1 N/A

7.5 Human Resources Implications

7.5.1 Internal resources are currently being used to evaluate and execute these proposed sales.

7.6 Public Sector Equality Duty

7.6.1 An Equality Assessment has been carried out – EIA000364 dated 9th February 2024, and is attached at Appendix 4. This identifies no adverse impacts on any groups protected under the Equality Act 2010.

8. Appendices

8.1 List of Appendices accompanying this report:

- Appendix 1 – List of Assets to be Sold.
- Exempt Appendix 2 – Proposed Disposal Values.
- Appendix 3 – Site Plans
- Appendix 4 – EIA000364.

9 Background Documents

9.1 None