

**BIRMINGHAM CITY COUNCIL**

**CABINET MEMBER AND CHIEF OFFICER**

**TUESDAY, 24 MARCH 2020 AT 00:00 HOURS**  
**IN CABINET MEMBERS OFFICE, COUNCIL HOUSE, VICTORIA**  
**SQUARE, BIRMINGHAM, B1 1BB**

**A G E N D A**

**3 - 14**

**1 SURRENDER AND RE-GRANT OF LEASE FOR PRIORY AND CANNON**  
**HOUSE**

Report of Interim Director, Inclusive Growth  
Report of Interim Chief Finance Officer  
Report of Interim City Solicitor



# Birmingham City Council

## Report to Leader and Cabinet Member

### Finance and Resources

23 March 2020



**Subject:** Surrender and Regrant of Lease for Priory and Cannon House

**Report of:** Interim Director; Inclusive Growth  
Interim Chief Finance Officer  
Interim City Solicitor

**Relevant O & S Chairs:** Councillor Sir Albert Bore – Resources  
Councillor Lou Robson – Economy & Skills

**Report author:** Warren Bird, Strategic Investment Property Manager  
0121 303 3489 / [warren.bird@birmingham.gov.uk](mailto:warren.bird@birmingham.gov.uk)

Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Ladywood		
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 12A of the Local Government Act 1972 (as amended) 3. Information relating to the financial or business affairs of any particular person (including the council) Exempt Appendices 2a and 2b contain sensitive commercial information on the purchase price, valuation and property lease rents.		

## **1 Executive Summary**

- 1.1 This report seeks authorisation to surrender an existing long lease for Priory and Cannon House and grant a new longer lease in exchange for a premium paid to the Council.
- 1.2 The new lease will be granted to the same tenant, Railway Pension Nominees Limited on the terms set out in exempt Appendix 2b. The main change will be an extension of its remaining length from 120 years to 250 years remaining.

## **2 Recommendations:**

- 2.1 Approve a surrender and regrant of the lease for Priory-Cannon House to the same tenant, Railway Pension Nominees Limited, on the terms set out in exempt Appendix 2b.
- 2.2 Authorise the City Solicitor to negotiate, execute and complete all necessary legal documents to give effect to the transaction.

## **3 Background**

- 3.1 Priory and Cannon House comprise two adjacent buildings in the central business core of Birmingham city centre, as shown on the plan in Appendix 1.
- 3.2 They are owned freehold by the City Council and leased to the Railway Pension Nominees Limited on a 150-year lease granted in 1989.
- 3.3 The tenant requires an extension of the lease term beyond the 120 years unexpired.
- 3.4 The transaction will take the form of a surrender of the existing lease and grant of a new lease for a 250-year term. There are some minor amendments to other lease clauses, but these have little material value or effect to the Council's position.
- 3.5 Details of the current lease and proposed changes are set out in exempt Appendix 2b.

## **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. The negotiated capital receipt would not be realised at this time and there would be no guarantee of a future opportunity.
- 4.2 Option 2 – reject the deal and attempt to negotiate a higher premium figure. This would involve considerable risk of the surrender and regrant falling through. The terms set out in Exempt Appendix 2a are recommended by an independent firm of Chartered Surveyors and existing negotiation is already deemed to have yielded the highest possible return for the Council in the opinion of the Assistant Director of Property.
- 4.3 Option 3 – Proceed with the transaction as set out in this report. An investment decision matrix is included at Appendix 4 and shows that the case for completing on these terms is very strong. It is therefore recommended to proceed with the surrender and regrant.

## **5. Consultation**

- 5.1 The Property Investment Board comprising officers from Property Services, Finance and Legal Services recommends proceeding with the transaction.
- 5.2.1 The transaction is also recommended by independent external valuer Lambert Smith Hampton.
- 5.2.2 No further external consultation is necessary for this commercial transaction.

## **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. The 'risk' of not proceeding could only be seen in terms of a lost opportunity to generate a capital receipt via the lease premium.

### **7.1 Compliance Issues:**

- 7.1.1 The proposed lease surrender and renewal for a capital receipt supports the Financial Plan 2019-2023 by generating resources and thus helping to achieve a balanced budget.
- 7.1.2 It is consistent with Birmingham City Council Plan and Budget 2018-2022 (amended 2019) priorities as the additional income helps the Council to meet its aspirations to be:
  - an entrepreneurial city to learn, work and invest in;
  - an aspirational city to grow up in;
  - a fulfilling city to age well in;
  - a great city to live in;
  - a city where residents gain the most from hosting the Commonwealth Games;
  - a city that takes a leading role in tackling climate change.
- 7.1.3 It supports the aims set out in both the Birmingham Property Strategy 2018-2023 which seeks to grow income and the Property Investment Strategy 2019 which sets out more detailed guidelines for investment decisions.

### **7.2 Legal Implications**

- 7.2.1 Sections 120 - 123 of the Local Government Act 1972 authorises the City Council and its solicitors 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 which is discharged in relation to this report as set out in the Recommendation Report of Lambert Smith Hampton at exempt appendix 2a
- 7.2.2 Section 1 of the Localism Act 2011 contains the Council's general power of competence 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.
- 7.2.4 Exempt information 12A of the Local Government Act 1972 (as amended) 3. Information relating to the financial or business affairs of any particular person (including the Council). Exempt Appendices 2a and 2b are considered to be in the public interest 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 2a and 2b. As the property falls within the Investment Portfolio, the receipt generated will be ringfenced for reinvestment in the Investment Portfolio in line with the Property Strategy and subject to Capital Board Approval, in order to generate revenue income and capital growth.
- 7.3.2 The capital receipt, as set out in Exempt Appendix 2a and b, has been recommended by an independent firm of Chartered Surveyors and existing negotiation is deemed to have yielded the best consideration for the Council in the opinion of the Assistant Director of Property.
- 7.3.3 Each party will bear their own costs, with the Council responsible for valuation fees of approximately £1,350 and in-house legal fees, which will be treated as Investment Portfolio expenditure, funded from investment income.

### **7.4 Human Resources Implications**

- 7.4.1 Internal resources are used to evaluate and execute the transaction and external consultants have been used to provide an independent assessment of value.

### **7.5 Public Sector Equality Duty**

- 7.5.1 An Equality Assessment has been carried out in connection with Property Investment Strategy transactions (EQUA475) and is attached at Appendix 3. This identifies no adverse impacts on any groups protected under the Equality Act 2010.

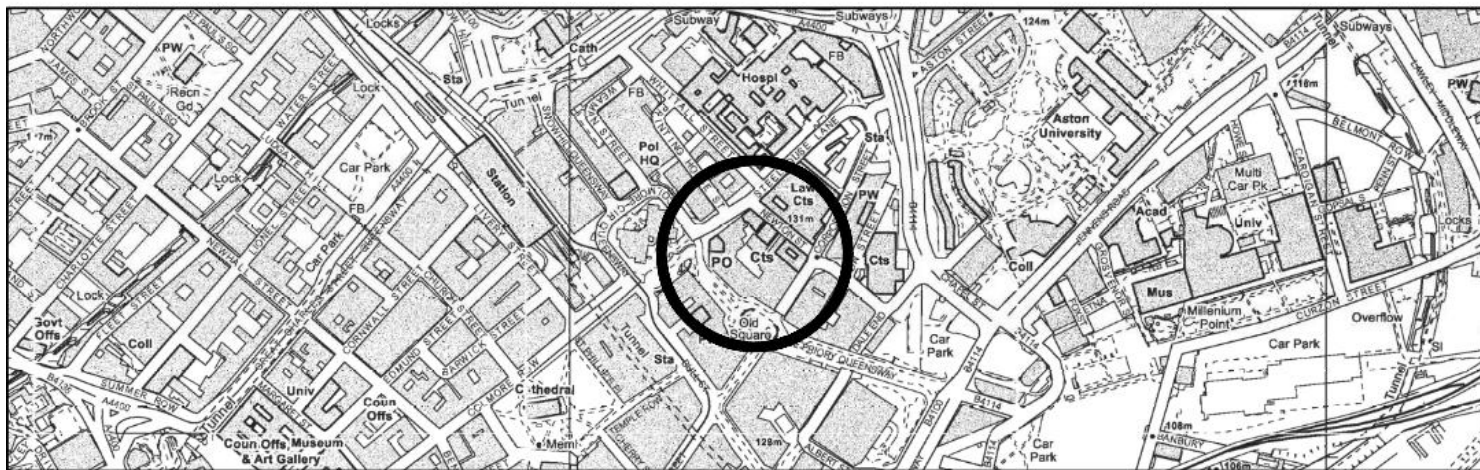
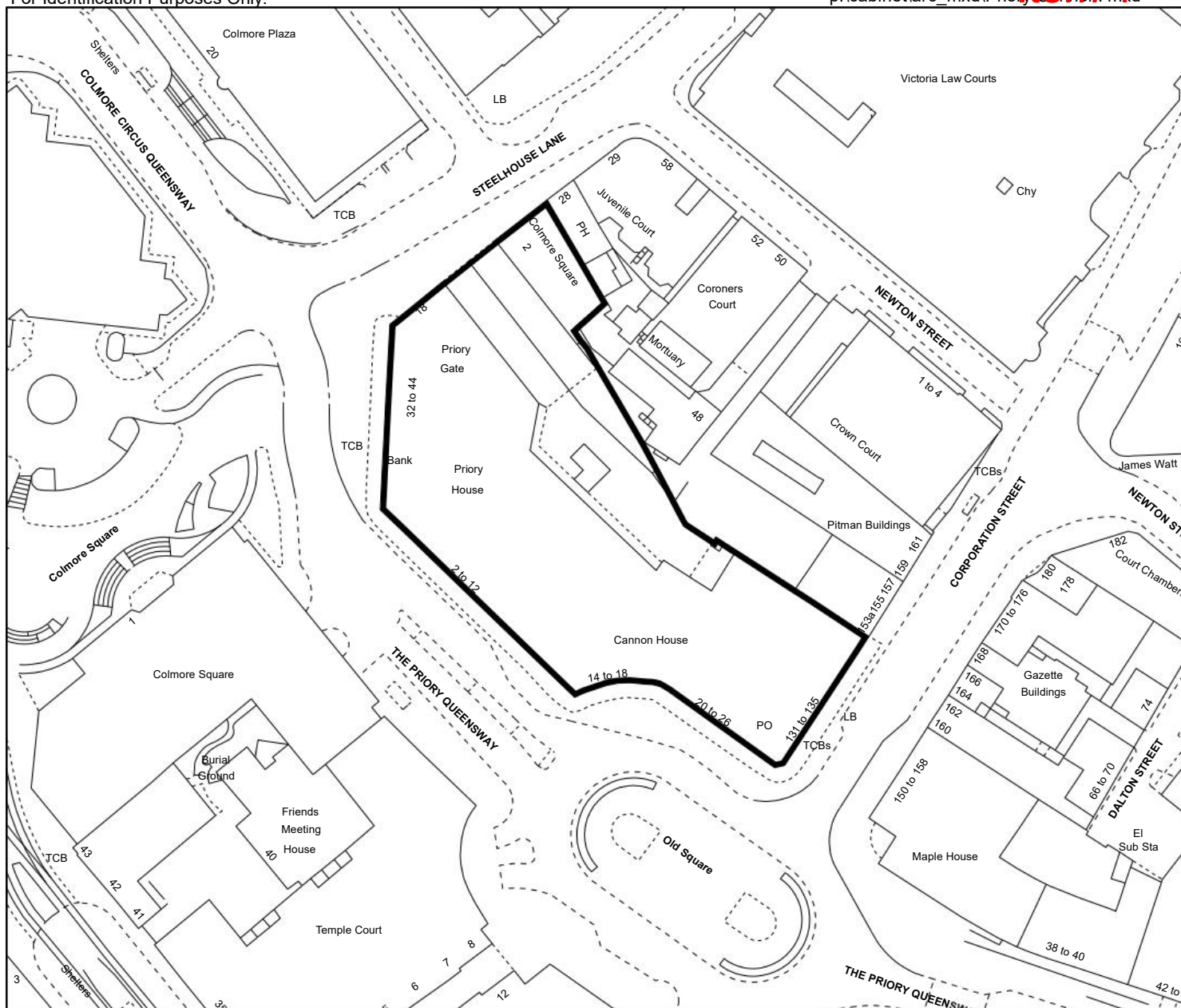
## **8. Appendices**

- 8.1 List of Appendices accompanying this Report (if any):



Appendix 1 – Site Plan  
Exempt Appendix 2a– Recommendation Report by Lambert Smith Hampton  
Exempt Appendix 2b– Lease and financial information  
Appendix 3 – Equality Assessment  
Appendix 4 – Investment Decision Matrix

## **9 Background Documents**

Property Strategy  
Property Investment Strategy






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 <b>Birmingham</b> City Council		Kathryn James Assistant Director Property Inclusive Growth Directorate 10 Woodcock Street Birmingham B7 4BG		
Priory Gate, Priory House & Cannon House Steelhouse Lane/The Priory Queensway & Corporation Street Ladywood	 Page 7 of 14	Scale (Main Map)	Drawn	Date
		1:1,250	MI	17/02/2020
		Ref SP0787SW		





Title of proposed EIA	Surrender and re-grant for lease at Priory and Cannon House
Reference No	EQUA475
EA is in support of	New Function
Review Frequency	Six Months
Date of first review	10/08/2020
Directorate	Inclusive Growth
Division	Birmingham Property Services
Service Area	Investment Property Management
Responsible Officer(s)	 Felicia Saunders
Quality Control Officer(s)	 Eden Ottley
Accountable Officer(s)	 Eden Ottley
Purpose of proposal	To seek authorisation to surrender of an existing long lease for Priory Cannon House
Data sources	Consultation Results; relevant reports/strategies
Please include any other sources of data	
ASSESS THE POTENTIAL IMPACT AGAINST THE PROTECTED CHARACTERISTICS	
Protected characteristic: Age	Not Applicable
Age details:	
Protected characteristic: Disability	Not Applicable
Disability details:	
Protected characteristic: Gender	Not Applicable
Gender details:	
Protected characteristics: Gender Reassignment	Not Applicable
Gender reassignment details:	
Protected characteristics: Marriage and Civil Partnership	Not Applicable
Marriage and civil partnership details:	
Protected characteristics: Pregnancy and Maternity	Not Applicable
Pregnancy and maternity details:	
Protected characteristics: Race	Not Applicable
Race details:	
Protected characteristics: Religion or Beliefs	Not Applicable
Religion or beliefs details:	
Protected characteristics: Sexual Orientation	Not Applicable

Sexual orientation details:

Please indicate any actions arising from completing this screening exercise.

Please indicate whether a full impact assessment is recommended **NO**

What data has been collected to facilitate the assessment of this policy/proposal?

Consultation analysis

Adverse impact on any people with protected characteristics.

Could the policy/proposal be modified to reduce or eliminate any adverse impact?

How will the effect(s) of this policy/proposal on equality be monitored?

What data is required in the future?

Are there any adverse impacts on any particular group(s) **No**

If yes, please explain your reasons for going ahead.

Initial equality impact assessment of your proposal

The report authorises for an existing lease to be surrendered and regranted at a longer term in exchange for a capital receipt. This will generate resources for the Council.

The proposal is to extend the lease extension for Priory and Cannon House from 120 years remaining to 250 years to facilitate loan financing for an existing tenant. This will not impact on users or stakeholders.

Consulted People or Groups

Informed People or Groups

Summary and evidence of findings from your EIA

The Leader of the Council is supportive of the report. The Property Investment Board comprising officers from Property Services, Finance and Legal recommends to proceed. Officers from Legal Services, City Finance and other relevant officers from Inclusive Growth Directorate have been involved in the preparation of this report and support its proposals. The relevant Ward Member has been consulted and is supportive of the proposal.

As this is a commercial transaction with an existing tenant no external consultation is necessary. The transaction is recommended by independent external valuer Lambert Smith Hampton.

The disposal of surplus assets will generate capital receipts for the Council to support the Council Plan 2018-2022, and contribute to key business priorities.

At this stage there have been no equality impacts identified linked to the protected characteristics.

#### QUALITY CONTORL SECTION

Submit to the Quality Control Officer for reviewing?

Yes

Quality Control Officer comments

Decision by Quality Control Officer

Proceed for final approval

Submit draft to Accountable Officer?

Yes

Decision by Accountable Officer

Approve

Date approved / rejected by the Accountable Officer

11/02/2020

Reasons for approval or rejection

Please print and save a PDF copy for your records

Yes

Content Type: Item

Version: 19.0

Created at 10/02/2020 04:22 PM by  Felicia Saunders

Last modified at 11/02/2020 10:33 AM by Workflow on behalf of  Eden Ottley

Close



#### Appendix 4 - Investment Decision Matrix for Priory & Cannon House Surrender and Renewal

Criteria	Criteria description	Weighted score	Exceptional	Good	Acceptable	Marginal	Poor
			5	4	3	2	1
Portfolio Strategy Context	The extent to which the property meets the strategy and contributes to the achievement of a diversified portfolio.	12		✓			
Location: Macro	Quality of the area with regard to the property use.	12		✓			
Location: Micro	Quality of the locality within the wider area with regard to property use.	12		✓			
Tenant Covenant	Ability of the tenants to pay the rent for the duration of the lease - credit rating.	15	✓				
Building Quality	Quality of the building compared to Grade A.	12		✓			
Lease Term	Length for which income is secured.	15	✓				
Lease Structure	Rent reviews, tenant repairing obligations.	12		✓			
Rental Growth Prospects	Rent review timing and likelihood of an increase/decrease.	12		✓			
Occupational Demand	Anticipated demand from alternative occupiers if tenants leave.	12		✓			
Management Intensity	Complexity / costs of managing the property.	10	✓				
Liquidity	Ability to quickly sell the property in return for cash.	6			✓		
Alternative Use / Underlying Value	The opportunity to explore added value by changing use.	6			✓		
Tenure	Freehold / leasehold, ground rent considerations.	10	✓				
Asset Management Opportunities	Opportunities to add value.	2				✓	
Financial Return		16		✓			

Weighted score

164

out of maximum 200

