

**BIRMINGHAM CITY COUNCIL**

**CABINET MEMBER AND CHIEF OFFICER**

**MONDAY, 21 FEBRUARY 2022 AT 00:00 HOURS**  
**IN CABINET MEMBERS OFFICE, COUNCIL HOUSE, VICTORIA**  
**SQUARE, BIRMINGHAM, B1 1BB**

**A G E N D A**

**3 - 16**

**1     SALE OF PREMISES AT 101 AMINGTON ROAD, BIRMINGHAM, B25**  
**8EP**

Report of  
Strategic Director for Place, Prosperity and Sustainability – Paul Kitson  
Director of Council Management – Rebecca Hellard  
City Solicitor and Monitoring Officer (Interim) – Satinder Sahota



**Birmingham City Council****Report to Leader and Cabinet Member Finance and Resources**10<sup>th</sup> February 2022

**Subject:** **Sale of Premises at 101 Amington Road, Birmingham, B25 8EP**

**Report of:** Strategic Director for Place, Prosperity and Sustainability – Paul Kitson  
 Director of Council Management – Rebecca Hellard  
 City Solicitor and Monitoring Officer (Interim) – Satinder Sahota

**Relevant O & S Chairs:** Councillor Mohammed Aikhlaq – Resources  
 Councillor Saima Suleman – Economy & Skills

**Report author:** Rob King  
 Business Manager - Property Services  
 0121 303 3928 / robert.king@birmingham.gov.uk

Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Tyseley & Hay Mills		
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 reversionary interest in Premises at 101 Amington Road, Birmingham, B25 8EP to the current lessees, MKF Investments Limited.
- 1.2 The subject property has a site area of 2,561sqm approximately and is shown edged bold on the attached plan at Appendix 1.
- 1.3 The report seeks authority under paragraph 3.2(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 the Director - Inclusive Growth, Chief Finance Officer and the City Solicitor (or their delegates, now Strategic Director Place, Prosperity and Sustainability, Director of Council Management and City Solicitor and Monitoring Officer - Interim) up to a limit of £25m in any one transaction.
- 1.4 The recommendations contained in this report and the Exempt Appendix 2 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 and Budget 2018-2022 and the Property Strategy.
- 1.5 Options for this property interest have been fully considered and the recommended sale provides the best outcomes for the city as detailed in the Exempt Appendix 2.

## **2 Recommendations:**

- 2.1 Authorises the Assistant Director of Property to conclude the sale of the Council's freehold reversionary interest, to the current lessees, MKF Investments Limited for a premium as detailed in Exempt Appendix 2.
- 2.2 Notes 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 property is a plot of land, mainly laid out for use as a storage/yard facility, currently held within the Council's Investment Portfolio. The property is located within a locality having a mixture of established industrial/commercial uses.
- 3.2 The property is shown edged bold on the plan at Appendix 1 of this report.
- 3.3 The property is owned freehold subject to a lease for 99 years from 1<sup>st</sup> August 1986, at a ground rent of £0.020m per annum (subject to 7-year rent reviews). The lease is currently held by MKF Investments Limited.
- 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, terms have initially been offered to, and agreed with the current lessee to acquire the Council's freehold interest in the property.
- 3.6 The outcome of the negotiations and recommendations for sale are detailed at Exempt Appendix 2 of this report.

- 3.7 The proposed sale represents best consideration and has been validated by the Assistant Director of Property based upon an analysis of the financial terms of the recommended sale, consideration the Council's Property Strategy, and wider aspirations and ambitions for the City.
- 3.8 The City Council Financial Plan 2020-2024 and Financial Plan 2021-2025 approved in February 2021 approved the flexible use of capital receipts to support the transformation programme and it is proposed that the receipts from this disposal be allocated to support this programme.

#### **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's transformation programme and there would be 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.
- 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, in order to deliver a capital receipt to fund the Council's transformation programme and remove the Council management obligation. The sale to lessee will give the tenant the ability to invest in the asset and create jobs.

#### **5. Consultation**

- 5.1 The Property Investment Board comprising officers from Property Services, Finance and Legal Services recommends proceeding with the transaction.
- 5.2 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 of in terms of a lost opportunity to generate a potential capital receipt.
- 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.

#### **7. Compliance Issues:**

- 7.1.1 The proposed sale transaction and generation of a capital receipt supports the Financial Plan 2021-2025 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 (2019 update) priorities as the additional income helps the Council to meet the 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 and a city that takes a leading role in tackling climate change.
- 7.1.3 It supports the aims set out in both the approved 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 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 Assistant Director of Property 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 Appendix 2 is considered to be exempt and in the public interest to keep confidential 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 (including the Council).
- 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. The capital receipt will be available to fund the City Council's transformation programme, in line with the Financial Plan 2020-2024 and the Financial Plan 2021-2025 approved in February 2021, providing resources to support delivery of a balanced budget.
- 7.3.2 The property is currently subject to an annual rental of £0.020m per annum which will be lost to the City Council. This income forms part of the existing Property Services budget allocation. The loss of income will be mitigated on a one-off basis in 2021/22 from corporate resources and factored in on an ongoing basis with effect from 2022/23 as part of the City Council rolling Medium Term Financial Plan (MTFP) refresh.
- 7.3.3 As the property is currently let on full repairing and insuring terms (the lessee picks up all of those costs), the holding costs related to this asset are limited to the cost of Council officer time incurred in managing the lease as part of the wider city centre portfolio of properties, and not specifically recorded or measured.

- 7.3.4 The purchaser will pay a contribution towards the Council's professional costs related to the disposal as detailed in Exempt Appendix 2.
- 7.3.5 The purchase price, including any contribution to the Council's costs, 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 Human Resources Implications**

- 7.4.1 Internal resources are being used to evaluate and execute the transaction.

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

- 7.5.1 An Equality Assessment has been carried out EQUA795 dated 2<sup>nd</sup> December 2021, 2021 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:
- Appendix 1 – Site Plan
  - Appendix 2 - (Exempt) - Recommendations
  - Appendix 3 – Equality Assessment EQUA795

### **9 Background Documents**

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





Title of proposed EIA	Sale of Premises at 101 Amington Road, Birmingham, B25 8EP
Reference No	EQUA795
EA is in support of	New Function
Review Frequency	Annually
Date of first review	02/12/2022
Directorate	Inclusive Growth
Division	Property Services
Service Area	Property Valuation & Sales
Responsible Officer(s)	<input type="checkbox"/> Felicia Saunders
Quality Control Officer(s)	<input type="checkbox"/> Eden Ottley
Accountable Officer(s)	<input type="checkbox"/> Eden Ottley
Purpose of proposal	To seek authority for the sale of the Council's freehold reversionary interest in Premises at 101 Amington Road, Birmingham, B25 8EP to the current lessees, MKF Investments Limited.
Data sources	Consultation Results; relevant reports/strategies; relevant research
Please include any other sources of data	
ASSESS THE IMPACT AGAINST THE PROTECTED CHARACTERISTICS	
Protected characteristic: Age	Service Users / Stakeholders; Wider Community; Not Applicable
Age details:	The sale of 101 Amington Road will not have a negative impact on the grounds of age due to the fact any sale will have to be to an individual of an adult age.
Protected characteristic: Disability	Service Users / Stakeholders; Wider Community; Not Applicable
Disability details:	The sale of 101 Amington Road will not have a negative impact on the grounds of disability. However, subject to future use the purchaser/new owner would be responsible for any access to work obligations.
Protected characteristic: Sex	Service Users / Stakeholders; Wider Community; Not Applicable

## Gender details:

The sale of 101 Amington Road has been a negotiation with the existing tenant and will not be conducted on the basis of gender. Therefore, there are no negative impacts in relation to this protected characteristic.

## Protected characteristics: Gender Reassignment

Service Users / Stakeholders; Wider Community; Not Applicable

## Gender reassignment details:

The sale of 101 Amington Road has been a negotiation with the existing tenant and will not be conducted on the basis of gender reassignment. Therefore, there are no negative impacts in relation to this protected characteristic.

## Protected characteristics: Marriage and Civil Partnership

Service Users/ Stakeholders; Wider Community; Not Applicable

## Marriage and civil partnership details:

There are no known conditions for which this asset at 101 Amington Road will be disposed of in the context of marital status. It has been conducted on a negotiation with the existing tenant. Therefore there are no negative impacts or implications for this characteristic.

## Protected characteristics: Pregnancy and Maternity

Service Users / Stakeholders; Wider Community; Not Applicable

## Pregnancy and maternity details:

There are no criteria which prevent pregnant individuals wishing to purchase 101 Amington Road as it has been a negotiation with the existing tenant. By implication there will be no negative impact on the grounds pregnancy.

## Protected characteristics: Race

Service Users / Stakeholders; Wider Community; Not Applicable

## Race details:

The sale of 101 Amington Road has been a negotiation with the existing tenant and will not be conducted on the basis of race.

Therefore, there are no negative impacts in relation to this protected characteristic.

Protected characteristics: Religion or Beliefs

Service Users / Stakeholders; Wider Community; Not Applicable

Religion or beliefs details:

The sale of 101 Amington Road has been a negotiation with the existing tenant and will not be conducted on the basis of religion. Therefore, there are no negative impacts in relation to this protected characteristic.

Protected characteristics: Sexual Orientation

Service Users / Stakeholders; Wider Community; Not Applicable

Sexual orientation details:

The sale of 101 Amington Road has been a negotiation with the existing tenant and will not be conducted on the basis of sexual orientation. Therefore, there are no negative impacts in relation to this protected characteristic.

Socio-economic impacts

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 proposal seeks authority for the sale of the Council's freehold reversionary interest in Premises at 101 Amington Road, Birmingham to the current lessee MKF Investments Limited.

The property is a plot of land, mainly laid out for use as a storage/yard facility, currently held within the Council's Investment Portfolio. The site is located within a locality having a



mixture of established  
industrial/commercial uses.

The purchaser will pay a contribution  
towards the Council's surveyor's and  
legal costs.

The sale represents an appropriate  
consideration and has been validated  
by the Assistant Director of Property.

Members of the community have not  
been disadvantaged or denied access  
to participating in this sale process as  
it is to an existing tenant.

Consulted People or Groups

Informed People or Groups

Summary and evidence of findings from your EIA

The Leader of the Council has been  
consulted and is fully supportive of  
this proceeding to an executive  
decision. Property and Assets Board,  
Officers from Legal Services, City  
Finance, and other relevant officers  
from Inclusive Growth Directorate.

As this is a routine commercial  
transaction between the Council as  
freeholder and the current lessee,  
neither Ward Members nor external  
consultation is required.

The proposed sale transaction and  
generation of a capital receipt  
supports the Financial Plan 2021-2025  
by generating resources and thus  
helping to achieve a balanced budget.

There are additional holding costs  
related to this asset for the cost of BCC  
officer time incurred in managing the  
estates as part of the wider city  
portfolio.

This site has been identified as an asset  
the City Council should consider  
disposing.

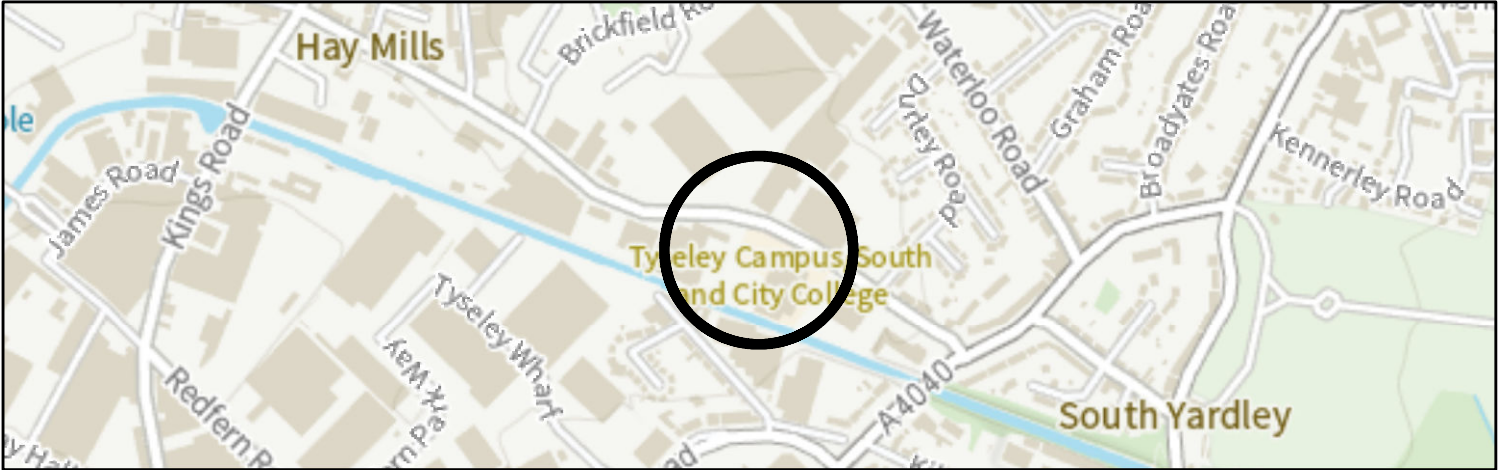
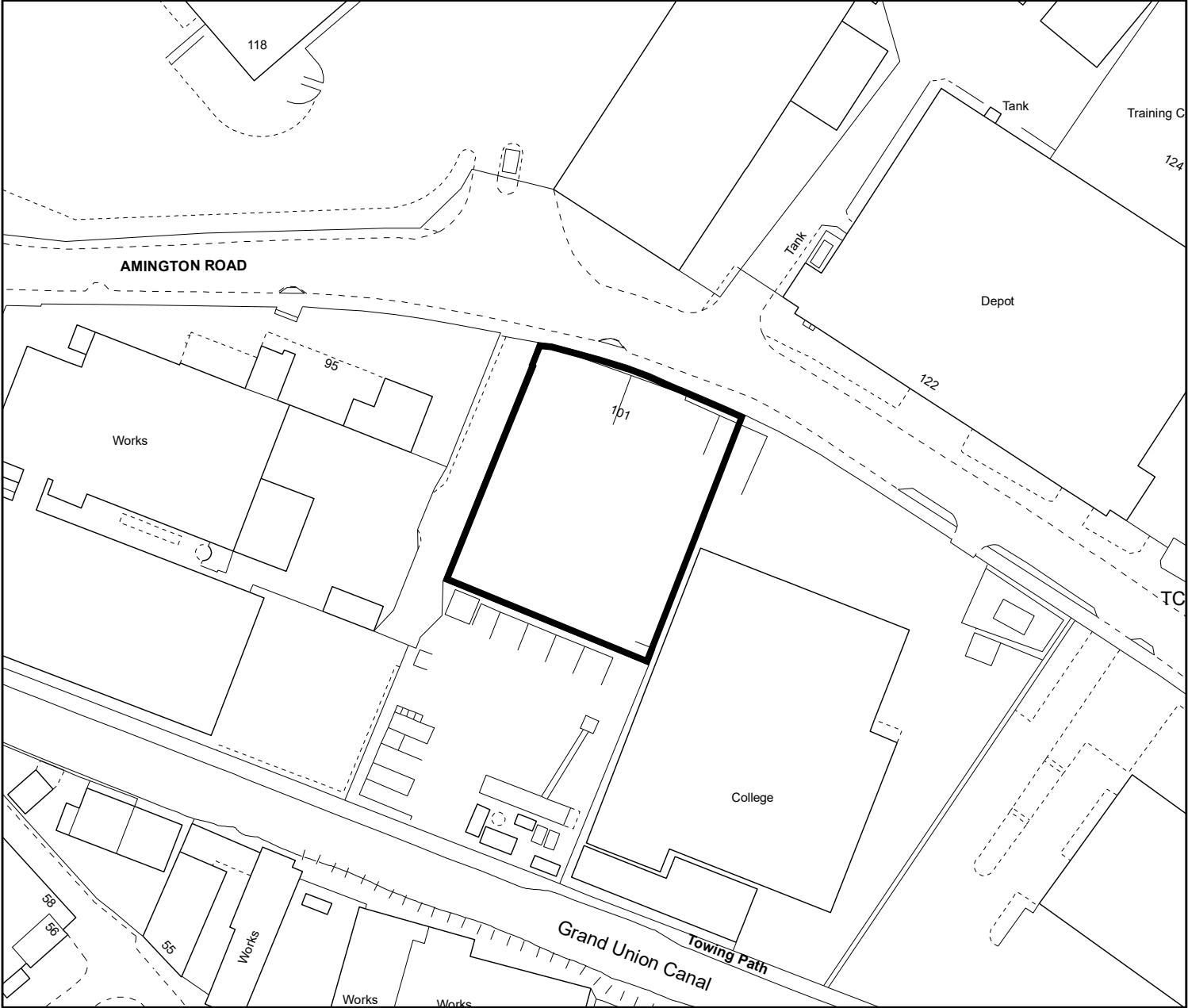
Having reviewed all protected  
characteristics, it has been determined  
there are no issues which impact

06/12/2021, 08:58	Assessments - Sale of Premises at 101 Amington Road, Birmingham,...	negatively on any members of the community and therefore a full equality assessment is not required.
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?	No	
Decision by Accountable Officer	Approve	
Date approved / rejected by the Accountable Officer	03/12/2021	
Reasons for approval or rejection		
Please print and save a PDF copy for your records	Yes	



Content Type: Item  
Version: 27.0  
Created at 03/12/2021 11:47 AM by ☐ Felicia Saunders  
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   <b>Birmingham</b> City Council		Kathryn James Assistant Director Property Inclusive Growth Directorate 10 Woodcock Street Birmingham, B7 4BG		
101 Amington Road Tyseley & Hay Mills		Scale (Main Map)	Drawn	Date
		1:1,250	MI	01/12/2021
		Page 15 of 16		

