



**Subject:** **Sale of Property to Existing Tenant – Four Sites at Railway Terrace, Nechells, Birmingham B7 5NG**

**Report of:** Acting Director; Inclusive Growth – Ian MacLeod  
Interim Director of Council Management – Rebecca Hellard  
City Solicitor – Suzanne Dodd

**Relevant O & S Chairs:** Councillor Mohammed Aikhlaq – Resources  
Councillor Shabrana Hussain – 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
NECHELLS		
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 contains sensitive commercial information on the purchase price and valuation.		

## 1 Executive Summary

- 1.1 This report seeks authorisation to sell the City Council's freehold interest in four properties at Railway Terrace, Nechells to the existing tenant to enable regeneration of the site, subsequent planned expansion of their existing demise and for the City Council to reinvest the capital receipt in line with the approved Property Investment Strategy.
- 1.2 The transaction seeks authority under the delegation approved in the Property Investment Strategy report in July 2019, for the approval of acquisitions and disposals from, the Investment Property portfolio to the Leader and Cabinet Member for Finance and Resources, jointly with Director - Inclusive Growth, Chief Finance Officer and the City Solicitor (or their delegates) up to a limit of £25m in any one transaction.

## 2 Recommendations:

- 2.1 To approve an intended sale of four properties at Railway Terrace to the existing tenant, as shown in Appendix 1.
- 2.2 Notes that the purchaser will pay a contribution towards the Council's legal and surveyor's costs, as detailed in 7.3.5 below and Exempt Appendix 2.
- 2.3 To authorise the City Solicitor to negotiate, execute and complete all necessary legal documents to give effect to the transaction.

## 3 Background

- 3.1 The site is owned freehold by the City Council. The properties consist of four individual sites at Railway Terrace, Nechells. The units are industrial in nature with associated yards and loading bays. The units are in an overall area of mixed industrial and close to residential provision. The buildings are regarded as being in a dilapidated condition which would require significant investment from the current tenant or the Landlord if they were returned into our control. The locations are shown on the plans in Appendix 1.
- 3.2 The sites have been analysed by our appointed external agents (Avison Young) in line with both the Property Strategy (approved by Cabinet in 2018) and the Investment Strategy (approved by Cabinet in 2019) and have been identified as an asset the City Council should consider disposing of due to future degeneration of the asset requiring increased Estate Management input, thus reducing net income. The property has a current combined gross rental income of £0.0237m per annum.
- 3.3 The valuation and negotiations have been carried out by appropriately qualified Chartered Surveyors within Property Services and benchmarked against market comparables during that process. The Heads of Terms are set out in Appendix 3.
- 3.4 The proposed sale represents Best Consideration and has been validated by the Assistant Director of Property.
- 3.5 This is a conditional purchase. Exchange of contracts will take place within 6 weeks of the issue of legal documentation. Thereafter the purchaser will submit a pre application consultation within four months from exchange and a full planning application within ten months from exchange of contracts and condition precedent will be the grant of an unchallenged satisfactory planning consent.

## 4 Options Considered and Recommended Proposal

- 4.1 **Option 1 - Do Nothing.** The City Council is under no obligation to proceed with the proposal and would suffer no financial or reputational consequences if it did not proceed. However, future rental growth is expected to be nominal due to the review pattern, anticipated market direction and lease wording. Investment in the property at lease end would require a significant financial outlay as any potential rental income would be severely affected/reduced with the property in its anticipated condition. The capital receipt projected would be lost with no guarantee of a future opportunity. As the sale is to be conditional upon development the tenant's expansion plans would not be realised and could hamper growth and employment opportunities. Retaining the asset would not be in line with the aims of the Property Strategy or the advice of the Council's independent property advisors who are supporting delivery of the strategy.
- 4.2 **Option 2 - Dispose of the Property to Council Wholly Owned Company (WOC):** The properties are not deemed to be of a strategic value to the City Council or a significant development opportunity such that it would wish to retain overall control of the assets through transfer into a WOC. There is currently no City Council WOC with the required legal agreements or funding mechanisms in place to facilitate a transaction of this nature nor are there any existing City Council approvals in place.

- 4.3 **Option 3 – Dispose of the Properties:** It is recommended to proceed with selling the properties to the existing tenant in order to generate a capital receipt and remove the management obligation of the City Council whilst providing an opportunity to the tenant to increase their current site and ultimately provide business expansion. Disposal of the asset would be in line with the aims of the Property Strategy and the advice supporting delivery of the strategy.

## 5. Consultation

- 5.1 The overall proposal to dispose is recommended by independent external property advisors Avison Young.
- 5.2 The Property Investment Board, comprising officers from Property Services, Finance and Legal Services, recommends proceeding with the transaction.
- 5.3 Nechells ward members have been notified of the intended transaction.
- .

## 6. Risk Management

- 6.1 There are no immediate financial or reputational risks to the City Council's holding if the property is not offered for sale. The 'risk' of not proceeding could only be seen in terms of a lost opportunity to generate a capital receipt via the sale and a missed opportunity to release a property from the portfolio that is likely to become increasingly more resource intensive (in both financial and time aspects) going forward.

## 7 Compliance Issues:

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

- 7.1.1 The capital receipt generated through disposal of the property supports the City Council's 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 its aspirations to be an entrepreneurial city to learn, work and invest in – an aspirational city to grown 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 the Birmingham Property Strategy 2018-2023.

### 7.2 Legal Implications

- 7.2.1 Sections 120 – 123 of the Local Government Act 1972 authorises the City Council to acquire, appropriate and dispose of land for the purposes any of their statutory functions. The disposal power in S123 of the Local Government Act 1972 is subject to the best consideration test which is discharged in relation to this report by confirmation from the Assistant Director of Property that the recommended sale represents best consideration and satisfies the Council's obligations under Section 123 of the Local Government Act 1972 following analysis of market comparable evidence.
- 7.2.2 Section 1 of the Localism Act 2011 contains the Council's general power of competence to do anything which an individual may do, and which is limited only to the extent of any pre-commencement restrictions and any specific post-commencement limitations of that power, and Section 111 of the Local Government

Act 1972 contains the Council's subsidiary powers to do anything which is calculated to facilitate or is conducive or incidental 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: 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 2 and 3 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 City Council as set out in Exempt Appendix 2. As the property falls within the Investment Portfolio, the receipt generated will be ringfenced for reinvestment in assets within the Investment Portfolio in line with the stated aims of the Property Strategy and Property Investment Strategy approved by Cabinet on 30<sup>th</sup> July 2019, and subject to compliance with prevailing investment regulations and Property Investment Board Member approval.
- 7.3.2 The site currently generates a rental income of £0.0237m per annum in total across the four sites. This would be lost to the City Council. Any loss of potential income will be mitigated by the additional income generated following the reinvestment of the capital receipt into the Investment Portfolio.
- 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 BCC officer time incurred in managing the lease as part of the wider city centre portfolio of properties, and is not measured or attributed to specific assets.
- 7.3.4 The Assistant Director of Property has confirmed that the existing proposed sale method is supported and will achieve the highest possible return for the City Council.
- 7.3.5 As a condition of the sale, the purchaser will pay a contribution of 1% of the sale price in respect of the City Council's legal costs related to the disposal and 1% of the sale price in relation to surveyors costs incurred (as detailed in Exempt Appendix 2). Requiring a contribution in these circumstances is usual practice.
- 7.3.6 The purchase price is not subject to VAT.

### **7.4 Human Resources Implications**

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

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

- 7.5.1 An Equality Assessment has been carried out in connection with Property Investment Strategy transactions (EQUA644) and is attached at Appendix 4. This identifies no adverse impacts on any groups protected under the Equality Act 2010.
- 7.5.2 The sale to the existing Lessee provides Social Value opportunities for members of the community by them owning local businesses which ultimately contribute to the wider economy and encourages reinvestment.

## **8. Appendices**

### **8.1 List of Appendices accompanying this report:**

Appendix 1 – Site Plans

Appendix 2 – Exempt Appendix

Appendix 3 - (Exempt) Heads of Terms

Appendix 4 – Equality Assessment EQUA644

## **9 Background Documents**

Property Strategy (Approved by Full Cabinet – November 2018)

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