

Birmingham City Council

Report to Cabinet

23 June 2020



Subject: Purchase of freehold of land at North side of Redfern Road, Tyseley, Birmingham, B6 4AE and 170-172 Kings Road, Tyseley B11 2AS

Relevant Cabinet Member: Councillor Ian Ward – Leader of the Council
Councillor John O'Shea – Street Scene and Parks

Report of: Acting Director; Inclusive Growth – Ian MacLeod
Acting Director, Neighbourhoods – Rob James

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

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Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Tyseley and Hay Mills, Nechells		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 007526/2020		
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 Appendix 2 contains sensitive commercial information on the purchase price.		

1 Executive Summary

- 1.1 In February 2020, Cabinet approved the freehold sale and leaseback of the City Council owned site, Montague Street (the Montague Street site), Bordesley, Birmingham B9 4BA as described in 3.1 of the report.
- 1.2 The Montague Street site is currently a depot for the Waste Management Service and forms part of a wider 15.8-acre (6.41ha) development opportunity, with the adjacent land at the former SITA recycling plant and Warwick Bar. The Montague Street site was sold to the adjacent landowner, Homes England, to facilitate the creation of a much larger development opportunity that will deliver new homes and jobs.
- 1.3 The sale requires the relocation of the Montague Street site depot to a new site and this report seeks approval to acquire the freehold of a site located on Redfern Road in Tyseley (see Site Plan in Appendix 1) (the Redfern Road site). This location is advantageous in that it is also close to another depot. The plan is to rationalise the facilities and create revenue savings from the reduced operational costs and to potentially generate a capital receipt from any surplus asset in the future.

2 Recommendations:

- 2.1 Approves the freehold acquisition of the Redfern Road site for the relocation of the waste management depot for the amount set out in the attached Exempt Appendix 2.
- 2.2 Approves the release of funds from the sale of the Montague Street site for the amount set out in Exempt Appendix 2 to enable purchase of the Redfern Road site.
- 2.3 Authorises the City Solicitor to negotiate, execute and complete all necessary legal documents to give effect to the acquisition.

3 Background

- 3.1 In February 2020 the Council approved the sale of land at Montague Street site to the adjacent landowner Homes England (HE) to facilitate a nationally significant development that has the potential to deliver a substantial amount of new homes and jobs. The Montague Street site is currently the location of a Waste Management Services depot, which is operating under the terms of the Montague Street site sale which provided for a leaseback to the Council to give sufficient security and time to enable the relocation without compromising the operation of the service.
- 3.2 Following an extensive search by officers, a site for relocating the depot has been identified on Redfern Road. The Redfern Road site is ideally located for the development of a modern depot facility that is future proofed for servicing a modern waste fleet, for example, there is the potential to connect the site with the nearby

incinerator to provide energy from waste, helping reduce operating costs and enabling the use of electric vehicles.

- 3.3 The Redfern Road site is currently safeguarded by HS2 Ltd, through an option to purchase the land for the relocation of the Council's Incinerator Bottom Ash Recycling Plant (IBA plant) from its current location on Tameside Drive, in order to enable the Bromford Tunnel works to progress. HS2 Ltd have advised the Council that alterations to plans for the Bromford Tunnel mean the IBA plant does not need to be relocated, which would release the Redfern Road site from their requirements and make it available for purchase. In the meantime, they have advised that they would not object to any planning application for the depot if it was submitted before they formerly release the Redfern Road site.
- 3.4 In addition to relocating the depot from Montague Street, there is also the opportunity for consolidating another waste depot located on Kings Road, which is less than 0.2 miles from the Redfern Road site. In line with the Council's property and waste management strategies the plan is to accommodate the requirements of both facilities on the Redfern Road site which would then release the other Kings Road site for disposal and potentially generate a further capital receipt. Rationalising facilities would reduce the number of depots from 4 to 3 and in conjunction with the investment already being made at Perry Barr and Lifford Road it would mean the Council would have a fit for purpose waste management estate for the future.
- 3.5 Some initial work has been undertaken to develop an outline programme for building the new depot facility on the Redfern Road site, including planning, demolitions etc. This work identified that the new facility could be operational by the end of 2022, however, this is subject to the precise scope of services to be located at the Redfern Road site. Work is underway on the next stage of the project to complete a feasibility study and surveys to develop the Outline Business Case for the new depot facility, which is expected to be presented to Cabinet in September 2020.
- 3.6 The Redfern Road site purchase will be funded entirely from the capital receipt from the sale of the Montague Street site which completed in March 2020. The costs for constructing the new facility will be set out in the Outline Business Case to follow in due course. The authority to purchase the Redfern Road site is required now as it has been identified following an extensive search of sites that this is the preferred location for the new depot facility. Delaying the purchase until the Outline Business Case for the new depot facility is ready will risk the Redfern Road site being sold and an alternative location not being available. The sale of the Montague Street site enables the depot to remain operational on the site for an initial two years until the new depot facility is constructed, but this period can be extended if required. However, the Council must under the terms of Montague Street site sale use reasonable endeavours to relocate within this timescale, therefore, it's important to complete the purchase of the Redfern Road site.

4 Options Considered and Recommended Proposal

- 4.1 **Option 1 - Do Nothing:** Don't proceed with the acquisition. This would mean that the Council is in breach of the terms for the sale of Montague Street site and would prevent the relocation of the depot.
- 4.2 **Option 2 - Seek an Alternative Site:** This would result in a delay to the relocation of the depot and may mean the Council breaches the terms of the sale. Officers have already conducted an extensive search of sites and a suitable alternative has not been identified.
- 4.3 **Option 3 - Proceed with the Acquisition:** It is recommended to proceed with the acquisition outlined in this report.

5. Consultation

- 5.1 The trade unions have been made aware of plans to relocate the depot from the Montague Street site and recognise the need to move. The Ward Members for Tyseley and Hay Mills and Nechells have been consulted and the proposal is fully supported by the Ward Member for Tyseley and Hay Mills with no comments being received from the Ward Member for Nechells.

6. Risk Management

- 6.1 The main risk is that the landowner cannot secure vacant possession of the Redfern Road site and the purchase cannot be completed in the timescale required by the Council. This risk is reduced as the landowner has already been in discussions with tenants on the site and the landowner is confident that vacant possession can be delivered within the timescales stipulated in the attached Heads of Terms (exempt Appendix 2). The landowner is responsible for all costs associated with securing vacant possession and there is no further risk to the Council. The sale is conditional on vacant possession being delivered by the vendor.
- 6.2 There is a risk that planning permission for the new depot cannot be secured. This risk is reduced as the site is in an industrial area and previous applications such as for the relocation of the Bottom Ash Plant would have been looked on favourably, The Council is confident that any environmental issues can be addressed as part of the Planning process.
- 6.3 There is also a risk that the cost of acquiring the Redfern Road site and constructing the new depot facility exceeds the capital receipt generated by the sale of the Montague Street site. This is reduced through an initial cost assessment which suggest that the funding is sufficient. However, the feasibility study for the new depot will include options to de-scope the facility if it's necessary to reduce the cost to contain them within the available funding envelope.
- 6.4 There are unknown site conditions which affect the construction of the new depot facility at the Redfern Road site. The purchase price includes the demolition of the

buildings on site to remove the foundations and crush the material to the Council's specification for its use on the site as part of its remediation plan.

- 6.5 The land is currently included in the HS2 Act and is safeguarded. The removal of the land from safeguarding would require Directions from the Secretary of State for Transport. There is therefore a minor risk that if the HS2 proposals for a tunnel change as per 3.3 above HS2 could then compulsorily purchase the land. The risk of this is mitigated as HS2 have confirmed that whilst they cannot give an assurance and take the land out of the HS2 Act at present, they are no longer in negotiations to purchase the subject site from the vendors. HS2 have confirmed that they would not object to a planning application for redevelopment of the land and confirmed that no notices to purchase have been served on the landowners and it is not HS2's intention to do so in the future. An e-mail confirmation has been provided to the vendors from HS2 that has been passed onto the Council.

7 Compliance Issues

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

- 7.1.1 The acquisition complies with Government guidance 'Statutory Guidance on Local Government Investments' published in 2018 as well as all current legislation including the Local Government Act 1972.
- 7.1.2 The proposal is consistent with the Birmingham City Council Plan 2018-2022 (updated in 2019) priorities as the acquisition of new investment properties and disposal of under-performing properties will help the Council meet its aspirations to be a great city to grow up in, live in, work and invest in.
- 7.1.3 It supports the Financial Plan 2019-2023 by generating savings and helping to achieve a balanced revenue budget.
- 7.1.4 The acquisition is consistent with 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.
- 7.1.5 Relocating the Montague Street depot supports the Council's Waste Strategy 2017-2040, which was approved by Cabinet in October 2017 and sets out the vision for how the Council will manage waste, prioritise and improve recycling with a range of interventions including investment to improve facilities.
- 7.1.6 The acquisition of the Redfern Road site will enable the delivery of a major regeneration opportunity on the legacy site at the Montague Street site, which also supports the growth aspirations for the city as set out in the Birmingham Development Plan 2031 by facilitating the development of new homes and jobs. It will also support the city aspirations to be clean and green city as it will move the depot outside of the Clean Air Zone (CAZ)

improving the environment and reducing pollution and enable the Council to introduce electric vehicles.

7.2 Legal Implications

- 7.2.1 Sections 120 - 123 of the Local Government Act 1972 authorises the City Council to hold, appropriate and dispose of land for the purpose of any of its functions or for the benefit, improvement or development of its area.
- 7.2.2 S1 of the Localism Act 2011 contains the Council's general power of competence and S111 of the Local Government Act 1972 contains the Council's financial powers to expend and borrow money required for the discharge of its functions including the acquisition of property.
- 7.2.3 Exempt information 12A of the Local Government Act 1972 (as amended) para 3. Information relating to the financial or business affairs of any particular person (including the Council). Exempt Appendix 2 is considered to be in the public interest 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.
- 7.2.4 The Secretary of State for Transport has issued Safeguarding Directions for all the phases of the HS2 route. This means that planning authorities must seek the views of HS2 Ltd when they receive a planning application for the development of land within a safeguarding area. HS2 then assess whether the proposal conflicts with its plans for the railway. The aim of safeguarding land is not to prevent development on the land that may be needed to build the railway but to ensure that there is no conflict created.

7.3 Financial Implications

Acquisition Costs

- 7.3.1 The acquisition cost of the Redfern Road site will be funded entirely from the capital receipt from the sale of the Montague Street site. The purchase price is detailed in Exempt Appendix 2.

Relocation of the Depot

- 7.3.2 The full cost of constructing a new depot facility including legal and procurement costs have not been fully ascertained. This will be set out in the Outline Business Case (OBC) to Cabinet expected in September 2020 in line with the Council's Gateway and related Financial Approvals Framework. In order to ensure best value and to mitigate any future financial risk, the cost of acquiring an alternative site and constructing a new depot facility will need to be contained within a funding envelope equivalent to the value of available capital receipts (net of disposal costs), unless alternative funding sources can be secured.

7.3.3 Where the remainder of the receipt, after acquisition of the Redfern Road site, is insufficient to fund all the construction and other costs, there would be a need to identify external funding sources. Where external funding cannot be secured, options to de scope the facility would need to be identified as part of the OBC development, to reduce the costs in order to contain them within the available capital funding envelope.

7.3.4 The revenue costs of relocating the depot and the on-going operational costs, reflecting any potential efficiencies from relocating and rationalising both the Montague Street and Kings Road depots, will be developed and presented to Cabinet through the OBC and FBC in line with the Council's Gateway and related Financial Approvals Framework. The revenue costs will be contained within the existing budget allocation, however there is a financial risk on cost overrun which will be mitigated through setting the contract.

7.3.5 Incorporating the existing waste management facilities from the Kings Road site within the new depot facility is part of the current plan, which should generate a potential capital receipt. Details will be contained in the OBC.

7.4 Procurement Implications

7.4.1 There are no Procurement implications

7.5 Human Resources Implications

7.5.1 The Council's in-house Legal team will complete all legal matters associated with the transaction.

7.6 Public Sector Equality Duty

7.6.1 An initial Equality Impact Assessment has been undertaken for this report Ref No: EQUA517 dated 21 May 2020, attached at Appendix 3 which discloses that the recommendations are unlikely to have an adverse impact on the characteristics and groups protected under the Equality Act 2010 and a full Equality Assessment is not required for the purpose of this report.

8. Appendices

8.1 List of Appendices accompanying this report:

Appendix 1 – Site Plan

Appendix 2 – Heads of Terms for Approval (exempt)

Appendix 3 - Equality Assessment

9. Background Documents

- 11th February 2020 Cabinet Report: Land at Montague Street, Bordesley, B9 4BA: Disposal
- 30th July 2019 Cabinet report, Property Investment Strategy
- Statutory Guidance on Local Government Investment (v3) published in 2018 by the Secretary of State for Communities and Local Government
- Officers file save as to confidential information