

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

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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