

Birmingham City Council

Report to Cabinet

21st March 2023



Subject: Disposal of land at Langley Sustainable Urban Extension to Homes England

Report of: Strategic Director for Place, Prosperity, and Sustainability – Paul Kitson

Relevant Cabinet Member: Cllr Ian Ward - Leader of the Council
Cllr Sharon Thompson - Housing and Homelessness
Cllr Yvonne Mosquito- Cabinet Member for Finance and Resources

Relevant O & S Chair(s): Councillor Akhlaq Ahmed – Resources
Councillor Saima Suleman – Economy & Skills

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Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, name(s) of ward(s): Sutton Walmley & Minworth		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 011074/2023		
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
If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential: Exempt Appendix 2 - Proposed Sale Terms.		

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)

1 Executive Summary

- 1.1 This report seeks authority for the Council's freehold interest in land at Langley Sustainable Urban Extension (Langley SUE), Walmley Ash Lane, Birmingham, to be declared surplus to City Council requirements, and sold to Homes England.
- 1.2 The subject property has a site area of approximately 6.74 hectares (16.65 acres) and is shown edged black on the attached plan at Appendix 1.
- 1.3 The commercially confidential details relating to the proposed terms of the transaction are set out within Exempt Appendix 2.

2 Recommendations

- 2.1 Declares surplus the 6.74 hectares (16.65 acres) of Council owned land at Langley Sustainable Urban Extension Walmley Ash Lane Birmingham, shown edged black on the attached plan at Appendix 1.
- 2.2 Approves the sale of the Council's freehold interest in the land at a premium to Homes England.
- 2.3 That Cabinet delegate to the Strategic Director of Place, Prosperity, and Sustainability, (or their delegate), the final transaction details for the disposal.
- 2.4 Notes that additional commercially sensitive information is detailed in Exempt Appendix 2.
- 2.5 Authorise the City Solicitor and Monitoring Officer to prepare, negotiate, execute, and complete all relevant legal documentation to give effect to the above.

3 Background

- 3.1 The subject land is situated off Walmley Ash Lane, Minworth extending to 6.74 hectares (16.65 acres) and is shown edged black on the attached plan at Appendix 1 and was formally land earmarked for development as part of the Langley Sustainable Urban Extension.
- 3.2 The land is currently held within the Housing Revenue Account and was earmarked for development by the Birmingham Municipal Housing Trust.
- 3.3 Homes England have approached the Council with a proposal to acquire the site from the Council in order to incorporate it into a Collaboration Agreement with other landowners within the Langley Sustainable Urban Extension (including the existing Homes England land holdings).

3.4 The site to be sold, and the existing Homes England landholdings, together with the wider Consortium land are subject to an existing planning application (ref 2021/10567/PA) which, received a resolution to grant on the 22nd December 2022 by the Planning Committee. This will now enable comprehensive development of the Langley SUE to be brought forward.

3.5 The draft Section 106 agreement for the Langley SUE project makes provision for the funding of various on and off-site highways works in the sum of £7.152m.

The Langley Sustainable Urban Extension is the largest housing allocation in the Birmingham Development Plan which was adopted in 2017. The scheme will deliver 5,500 new homes, significant supporting infrastructure such as new schools, a new local centre, green infrastructure and highway and public transport improvements. The site which is one of the largest housing developments in the country will play a key role in providing family housing in the City and importantly will also deliver 35% affordable housing.

3.6 In 2020 the Council approached Homes England to request their assistance in accelerating the delivery of the site which had slipped significantly behind the housing trajectory set out in the Development Plan. Homes England subsequently secured HMT approval in March 2021 to acquire land within the Langley development extending to approximately 95 hectares (234 acres). This was one of the largest single investments Homes England have made in the country. Since the acquisition significant progress has been made with the development and outline planning consent was granted in December 2022. The S106 agreement will be completed over the coming months, and it is expected construction on the site will begin in early 2024 once a detailed planning consent has been secured.

3.7 The Council's land which is the subject of this report is critical to unlocking the wider Langley scheme with a new junction to the A38, which is fully located on the BCC land, providing access for both the Peddimore employment development and Langley residential scheme. Given the significant funding and support provided by Homes England in accelerating the delivery of Langley and the relatively small scale of the BCC land holding it is recommended the site is sold to Homes England to consolidate their land interest in the development. The alternative option would be for BMHT to deliver the scheme direct but this would involve joining with the Langley consortium and entering equalisation agreements which would entail significant time and resource commitments.

3.8 Under the agreed terms of sale Homes England will also provide nomination rights in favour of the Council (Birmingham Municipal Housing Trust) in respect of the affordable housing elements of the development of the subject land.

3.9 As there are no final known development proposals at present, an Environment and Sustainability Impact Assessment cannot be completed at this stage. Any development outputs arising from the recommendations of this report will be the subject of future reports and subsequent planning applications and consents, where the Environment and Sustainability impact will be fully considered.

- 3.10 The financial detail of the proposed transaction, following negotiations with representatives of Homes England, are contained in Exempt Appendix 2 of this report.
- 3.11 The proposed solus negotiated sale represents best consideration and has been validated by appointed independent Valuers, Avison Young based upon an analysis of the financial terms of the recommended sale as detailed in Exempt Appendix 5.

4 Options considered and Recommended Proposal

- 4.1 Option 1 - Do Nothing. To do nothing would impact the City's relationship with Homes England and miss the opportunity to use their financial support to deliver the Langley scheme. In addition, it would not be in line with the aims of the Property Strategy or the external advice obtained to support delivery of the Strategy. By not proceeding the opportunity to bring forward the site for immediate development would be lost.
- 4.2 Option 2- Council Develops the Land for Housing. The site held within the HRA represents a less than 5% land holding within the Langley Masterplan area and sits outside the land controlled by the Consortium. As a small land holder, it is felt that the sale of the site to Homes England will de-risk delays and costs to bringing the site forward for development through the BMHT programme and enable the Consortium to drive the delivery of homes forward at pace.
- 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, in order to deliver a capital receipt and bring forward an immediate development of the land for residential purposes. The proposed sale will give Homes England the ability to invest in the development of housing, which the Council will benefit from by securing nomination rights to all affordable homes built on the land.

5 Consultation

- 5.1 All relevant Ward Members have been consulted and recorded at Appendix 4.

6 Risk Management

- 6.1 There are no immediate risks to the Council's holdings if the proposal does not proceed.
- 6.2 The 'risk' of not proceeding would be seen in terms of a lost opportunity to accelerate the delivery of housing on the land and wider Langley SUE. Not proceeding would also materially damage a key strategic relationship with Homes England and substantially impact our future ability to deliver our affordable housing targets for the city.

- 6.3 The Council will ensure the new affordable homes are allocated to those most in need from the Council's nominations list and this will remain the first consideration when identifying and allocating to the new build homes.
- 6.4 The proposed sale structure will require the full receipt to be paid by the end of March 2023. There is no contingent liability to the Council following sale completion.

7 Compliance Issues:

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

- 7.1.1 A Bold Prosperous Birmingham: Selling the land to Homes England will allow the Council to capitalise on inward investment, increase the supply of housing and enable contribution to the successful development of Langley SUE.

- 7.1.2 A Bold Healthy Birmingham: the development of the land will provide new mixed tenure housing types which will improve the health of citizens by ensuring safe, sustainable, and suitable homes are delivered. This includes homes for those who have both physical and mental health issues. This also includes those experiencing homelessness

- 7.1.3 A Bold Green Birmingham: the provision of new homes will go some way to meet the City's commitment to route to zero will be delivered. The new homes will be built to modern standards to the Council's specification.

- 7.1.4 A Bold Inclusive Birmingham: the new homes on which nomination rights are secured will be allocated under the Council's policy and help families affected by the cost-of-living crisis as the homes will be built to new higher quality and EPC standards saving money on energy bills.

- 7.1.5 A Bold Safe Birmingham: the provision of new homes will ensure they are "secure by design" and will contribute to safer neighbourhoods.

7.2 Legal Implications

- 7.2.1 Sections 120 - 123 of the Local Government Act 1972 authorise the Council to acquire, appropriate and dispose of land. The power to appropriate land under Section 122 of that Act applies in respect of land which is no longer required for the purpose for it was held immediately before the appropriation and the disposal power in Section 123 is subject to the best consideration test.

- 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 Sections 32 to 34 of the Housing Act 1985 contain the Council's powers to dispose, with the consent of the Secretary of State, of land held for the purposes of the provision of housing accommodation under that Act and the power to impose covenants and conditions in respect of such disposals. The General Housing Consents 2013 (issued March 2013 and corrected July 2013) set out the circumstances where such disposals can take place without the need for specific consent of the Secretary of State. These circumstances include sale of vacant land and sale for a consideration equal to its market value.

7.2.4 The Council's in-house Legal team will complete all legal matters associated with any transactions.

7.3 Financial Implications

7.3.1 This transaction will generate a capital receipt for the Council. The land is held within the Housing Revenue Account and the capital receipt will be available to fund the Housing Capital Programme.

7.3.2 The purchase price, and / or any contribution to the Council's costs, are exclusive of VAT.

7.3.3 The purchaser will pay a contribution towards the Council's professional costs as detailed in Exempt Appendix 2.

7.4 Procurement Implications

7.4.1 Internal and external resources are being used to evaluate and execute the transaction. The valuation advice provided by Avison Young is being covered under an existing commission to make it abundantly clear that no additional procurement was required.

7.5 Human Resources Implications (if required)

7.5.1 None have been identified, internal staff resource is being used to deliver this workstream

7.6 Public Sector Equality Duty

7.6.1 An Equality Assessment has been carried out EQUA1090 dated 23rd February 2023 and is attached at Appendix 3. This identifies no adverse impacts on any groups protected under the Equality Act 2010.

8 Appendices

- Appendix 1 – Site Plan
- Exempt Appendix 2 – Sale Terms
- Appendix 3 - Equality Assessment
- Appendix 4 - Ward Member Consultation

- Exempt Appendix 5 – Avison Young Report

9 Background Documents

- Council's Housing Strategy 2022-2027 presented to and approved by Cabinet on 13th December 2022.
- Property Strategy 2018/19-2023/24