

Birmingham City Council

Report to Cabinet

16 May 2023



Subject: Affordable Housing - Sites for Disposal

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 – All wards affected
If yes, name(s) of ward(s):		
Bartley Green, Brandwood & Kings Heath, Bromford and Hodge Hill, Erdington, Soho and Jewellery Quarter, Moseley, Yardley East, Tyseley and Hay Mills		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference:	010451/2022	
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 Appendices 5 and 6 under 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 to establish the principle for the sale of the Council's freehold or long leasehold (250 years) interest in identified surplus land to Registered Housing Providers and / or Developer Partners to deliver affordable housing depending on the circumstances for each transaction.
- 1.2 The report seeks to declare surplus to the Council's requirements the land listed in Appendix 1 and shown edged bold on the attached plans at Appendix 2, comprising circa 4.9 ha (12.1 acres) that can accommodate approximately 237 affordable housing units as identified in Appendix 1.
- 1.3 The recommendations contained in this report are fully in line with the Council's Housing Strategy 2023-2028 presented to Cabinet on 13th December 2022, that provides the strategic platform and direction for the Council to increase the number of affordable homes delivered by Birmingham Municipal Housing Trust (BMHT), but also through other partnership routes such as Registered Providers and / or Development and Contractor Partners. This strategy will provide much needed quality, energy efficient accommodation for the citizens of Birmingham and surrounding areas.
- 1.4 Options for the identified land assets have been fully considered and the recommended sale to Registered Providers / Developer Partners provides the best outcomes for the Council to deliver affordable homes at an accelerated rate.
- 1.5 Affordable housing takes many forms; affordable rent, shared ownership, subsidised market sale, rent to buy, key worker homes, and the more traditional social rent model are all examples of tenures that are defined as affordable housing. Different tenures need to be accelerated because one size does not fit all and we know from research that 54% of households are unable to afford market housing before subsidy. It is likely that the housing developed as a result of these land disposals will create affordable housing across a number of different tenures including social rent, affordable rent, rent to buy and affordable home ownership.
- 1.6 The definition of what is 'affordable' for households has been much debated within national policy impacting which parts of the community are able to access affordable housing. In the Housing Strategy 2023- 2028 the definition is kept wide to cover a range of household circumstances. The charity Shelter says affordable housing should cost no more than 35% of a household's income after tax and benefits. However the ratio between price and income does not consider household borrowing costs to acquire housing and, because such figures are calculated at an aggregate level, they do not reflect the distribution of housing affordability regionally.

2 Recommendations

- 2.1 That Cabinet approve the principle for the sale of the Council's interest in identified surplus land to Registered Housing Providers / Developer Partners to deliver affordable housing, either as single sales or a combination of packages for sale. Such sales to be either freehold or long leasehold for a minimum term of 250 years.

- 2.2 That Cabinet declare surplus to the Council's requirements the land listed in Appendix 1.
- 2.3 That Cabinet note the land assets have been identified from both the Council's General Fund & Housing Revenue Account (HRA) for sale to Registered Providers and / or Developer Partners to provide affordable housing across the city.
- 2.4 That Cabinet approve the sale of the land identified in Appendix 1 to Registered Providers / Developer Partners for the purpose of delivering affordable housing that is delivered to high quality standards including the minimum national space standards and the Council's planning policy requirements.
- 2.5 That Cabinet approve the principle of identifying surplus land where appropriate over the next 3 years (2023-2026) for both the potential disposal to Registered Providers / Developer Partners for the delivery of affordable housing and development as part of the Council's affordable homes programme.
- 2.6 That Cabinet delegate to the Strategic Director of Place, Prosperity, and Sustainability (or their delegate), in consultation with the Leader and the Cabinet Member for Finance and Resources, approval of the final transaction details for the disposal.
- 2.7 That Cabinet delegates authority to the Strategic Director for Place, Prosperity, and Sustainability, in conjunction with the Assistant Director Corporate Procurement (or their delegate), the Strategic Director of Council Management (or their delegate), and the City Solicitor & Monitoring Officer (or their delegate) to approve the procurement strategy and the award of contract, if required, for the appointment of an external professional adviser to support the sale process.
- 2.8 That Cabinet delegates to the Assistant Director of Housing Delivery authority to negotiate and finalise the disposal terms, subject to 2.6 above.
- 2.9 That Cabinet note the purchasers will pay a contribution towards the Council's surveyors and legal costs, to be determined on agreement of final sale terms.
- 2.10 That Cabinet authorise the City Solicitor and Monitoring Officer or appointed external advisors to prepare, execute, and complete all relevant legal documentation to give effect to the above.

3 Background

- 3.1 The demand for affordable housing across the city and surrounding areas is extremely high. With a higher than national average waiting list and increased numbers of families in temporary accommodation, it is a key priority and objective of the City Council over the coming years to accelerate affordable housing delivery.
- 3.2 The Housing Strategy 2023-2028 presented to, and approved by Cabinet on 13th December 2022, provides the strategic platform, and clear direction for the Council to increase the number of affordable homes. This statement of intent will afford the ability to deliver much needed high quality, energy efficient accommodation for the citizens of Birmingham and surrounding areas.

- 3.3 To achieve this key ambition at scale and pace, the Council will need to engage with key stakeholders and partners. This work is already underway with on-going discussions and forums with Registered Providers, Developer Partners, and Homes England. Through these discussions, it is clear all partners are keen to support the Council in their key objective to accelerate the delivery of affordable housing. Options of working together in joint ventures and partnerships have been discussed and provide opportunity to not just increase delivery of affordable homes, but also secure inward investment and Homes England grant funding into the City.
- 3.4 To help to support both the Council's and Registered Providers / Developer Partners ambitions, the disposal of surplus land through the disposal process identified in this report (i.e., marketing solely to Registered Providers / Developer partners) will increase the land supply to support the accelerated delivery of affordable housing. The sites identified for sale have been provisionally assessed in terms of planning compliance and viability, and subject to further due diligence and planning consultation, are considered suitable for residential development.
- 3.5 It is proposed the Council will benefit from being able to nominate new tenants into all new homes developed (called nomination rights) for a minimum of ten years.
- 3.6 It is proposed that sites will be released in tranches and available solely for sale to Registered Providers / Developer Partners for the delivery of affordable homes of varying affordable tenures.
- 3.7 Over the next 3 years (2023-26), it is the Council's ambition to provide affordable housing delivery partners with a pipeline of development opportunities. These sites will be sold for the delivery of affordable housing, providing the city with a range of tenures such as social rent, affordable rent and a variety of affordable home ownership products.
- 3.8 The delivery of affordable homes on the identified sites will assist the city in meeting its housing target (as detailed in BDP Policy PG1) of 19,400 additional affordable dwellings over the BDP period (2011 to 2031).
- 3.9 To inform and support this proposal, Savills have been appointed as external agents to provide valuation and property professional advice.
- 3.10 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 Environment and Sustainability impact will be fully considered.

4 Options considered and Recommended Proposal

- 4.1 Option 1 - Do Nothing. The Council is not meeting the current demand for affordable housing through its existing delivery vehicle and needs to bring in additional providers to help meet the demand (90% of all new housing units would need to be affordable to meet current demand). Birmingham Municipal Housing Trust (BMHT) has developed a significant amount of affordable housing over recent years

however, through Right to Buy (approx. 600 homes per year) BCC have seen large losses of housing stock and will face a continual loss over the coming years. Therefore, do nothing is not an option as the demand is not being met and the Council would suffer reputational damage if it did not commit with this new approach of supporting the BMHT programme by developing additional affordable homes through this model. As part of the Housing Strategy the Council wishes to promote partnership working with Registered Providers (RPs) to exploit and accelerate the delivery of affordable housing through identifying suitable development land opportunities.

- 4.2 Option 2 - Development of some sites through a sale to Registered Providers to accelerate affordable housing delivery. The route of disposing of some of the Council's surplus land to Registered Providers and / or Developer Partners is just one of the key ways that the Council can accelerate the delivery of affordable housing. The success of BMHT has been significant, however there is now a need for a collective effort from both BMHT, RPs and /or developer partners to bolster the supply of affordable housing, moving away from having just one major player delivering one tenure type.

This route will enable stakeholders to secure additional inward private investment and Homes England grant into the city. It will also facilitate the ability to offer different tenure types such as Shared Ownership and Rent to Buy which are affordable products. Registered providers and their contractor partners have large development portfolios and a variety of different specialisms from sheltered housing to supported accommodation; their stock makes up just over 40,000 units in the city. The Council is already committed to be 'Open for Business' and has welcomed several partners and investors into the city. By accepting this recommendation, the Council will endorse its support to the approved Housing Strategy by providing a framework in which BMHT can work with partners, by providing a supply of land suitable for housing development which will bring additional affordable homes to the city.

- 4.3 Option 3 - Accelerate Development of sites by BMHT. This option would mean BMHT remains the only main affordable housing developer in the city. However, to meet the demand for affordable housing, the BMHT programme would need to be expanded and accelerated to accommodate the additional units required to meet demand. The challenges which are highlighted in Option 2 would also need to be overcome by BMHT – including additional tenure mixes that BMHT currently do not provide. Registered Providers are well practised in providing homes across a wide range of affordable tenure types; including shared ownership and rent to buy. Whilst BMHT continue to play a major role in the delivery of new homes; encouraging RPs to develop in the city through disposing of Council land to them improves the options available for citizens who need affordable homes. Continuing to operate using current systems will not meet the ever-accelerating demand and therefore this option is not viable. The reliance on BMHT being the only main delivery provider of affordable housing also puts additional delivery and cost risk on BCC which an RP would usually be responsible for. By expanding the number of delivery partners in

the city, this risk can be spread amongst providers, and greater inward investment can be attracted into the city. The local housing needs and tenure types will be specified as part of the marketing process and sale of general fund sites would not prejudice 4.2 above.

- 4.4 Option 4 – Sale of sites for a policy compliant mix of tenures. The sites can be sold on the open market for a planning policy compliant mix where 35% of the homes are affordable on sites of 15 dwellings or more. However, as three of the eight sites are below this threshold, instead of 237 homes, a policy compliant package of sites would see this number reduced to just 74 affordable homes. This is not going to help achieve the affordable homes targets BCC has set. In addition, the reduction in overall land receipt between an open market policy compliant scheme and 100% affordable is estimated to be just £1.58m, which means providing those 163 affordable homes will equate to a land receipt lost of just under £9,700 per home. This is in part due to the ability of 100% affordable housing sites to draw in grant funding from Homes England. For this reason, this option has been discounted.
- 4.5 Recommended Option: Option 2 is recommended as being the preferred option to be able to accelerate affordable housing delivery of an estimated 237 new homes whilst reducing build cost and risk to the Council. In addition, the “lost” land receipt anticipated is less than £10k per housing plot.

5 Consultation

- 5.1 All relevant Ward Members have been invited to comment on the paper and responses 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, aside from the risk of holding vacant assets.
- 6.2 The ‘risk’ of not proceeding could only be seen in terms of a lost opportunity to accelerate the delivery of affordable housing on the identified sites.
- 6.3 The Council will ensure that 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 schemes. The RPs and development partners will be asked to provide BCC with 100% nomination rights on lettings on newly-developed homes for a minimum of ten years.

7 Compliance Issues:

- 7.1 The recommendations are consistent with the following plans and strategies:
- 7.1.1 A Bold Prosperous Birmingham: Making sites available for development to Registered Providers and their Partners will allow the Council to capitalise on inward investment, increase the supply of affordable housing and enable successful development to help regenerate communities

- 7.1.2 A Bold Healthy Birmingham: the provision of new affordable housing types 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 affordable homes 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 affordable 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 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 Investment and Valuation will monitor the sales process to ensure it complies with legislation and in the event an under value transaction is recommended under 2.6 above, will seek to comply with Circular 06/03: Local Government Act 1972 general disposal consent (England) 2003 disposal of land for less than the best consideration that can reasonably be obtained or seek specific consent from the Secretary of State to proceed, if required.
- 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. 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.
- 7.2.4 The Council's in-house Legal team can complete all legal matters associated with any transactions.

7.3 Financial Implications

- 7.3.1 These transactions may generate a capital receipt for the Council. The capital receipts will be available to fund the City Council's capital programme, and ringfenced to the HRA where the assets are currently vested within the HRA.
- 7.3.2 An initial valuation appraisal has been undertaken by Savills which estimates the unrestricted open market value of the sites listed in appendix 1 to be £5.40m, and the likely sale value restricted for affordable housing to be £3.83m leading to a potential discount of £1.57m. A summary of the individual site values is set out in Exempt Appendix 5 with Savills full valuation report at Exempt Appendix 6 of this report. The reduced capital receipt sum will need to be balanced against the benefits of developing for 100% affordable housing and the level of reduced receipt will only be fully known once the sites have received offers.
- 7.3.3 It is Government policy that local authorities should dispose of surplus land wherever possible. Generally, it is expected that land will be sold for the best consideration reasonably obtainable. However, there is recognition that there may be circumstances where an authority considers it appropriate to dispose of land at less than the best consideration that may be available under the circumstances. The sites identified are not deemed to be of strategic value such that the Council would wish to retain any control other than through normal legal covenants.
- 7.3.4 VAT advice will be sought for each disposal to ensure the most tax efficient method is being used for each disposal transaction.
- 7.3.5 The purchaser will pay a contribution towards the Council's professional costs.

7.4 Procurement Implications (if required)

- 7.4.1 Internal and external resources are being used to evaluate and execute the transactions. The valuation commission has already been procured.
- 7.4.2 The procurement implications if the appointment of an external professional adviser to support the sale process for this project is required are that the award of contract will be conducted compliantly with the Public Contracts Regulations 2015 (PCR2015) and the Council's Procurement and Contract Governance Rules.

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 EQUA 1016 dated 17th January 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 – List of Sites
- Appendix 2 - Site Plans
- Appendix 3 - Equality Assessment
- Appendix 4 - Ward Member Consultation
- Exempt Appendix 5 – Summary of Site Values
- Exempt Appendix 6 – Savills Valuation Report

9 Background Documents

Council's Housing Strategy 2023-2028 presented to and approved by Cabinet on 13th December 2022.