

Birmingham City Council

Report to Cabinet

12th October 2021



Subject: Sale of Land at Lawson Street Birmingham B4 7AT

Report of: Acting Director; Inclusive Growth – Ian MacLeod

Relevant Cabinet Member: Councillor Ian Ward – Leader of the Council

Relevant O & S Chairs: Councillor Mohammed Aikhlaq – Resources
Councillor Saima Suleman – Economy & Skills

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Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Newtown		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 008894/2021		
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 Appendices 2, 3 and 5 contain sensitive commercial information on the purchase price and valuation. Exempt information Schedule 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)		

1 Executive Summary

- 1.1 This report seeks authority for the sale of the surplus Council owned land at Lawson Street Birmingham B4 7AT by the grant of a new lease at a premium to SiG 23 Ltd (Samma Investments).
- 1.2 The subject property has a site area of 1071 sqm approximately and is shown edged bold on the attached plan at Appendix 1.

2 Recommendations:

- 2.1 Authorises the Assistant Director of Property to conclude an unconditional sale of the surplus Council owned land at Lawson Street Birmingham B4 7AT as shown edged bold on attached plan at Appendix 1, and extending to 1071 sqm, by the grant of a new 250 year lease at a premium to SiG 23 Ltd (Samma Investments) as detailed in Exempt Appendix 2.
- 2.2 Notes that the purchaser will also pay a contribution towards the Council's surveyor and legal costs, as detailed in Exempt Appendix 2.
- 2.3 Notes that to demonstrate their commitment, the purchaser has agreed to provide a "cash payment" exclusivity premium as detailed in Exempt Appendix 2 (which would be non-refundable but deductible in the event of sale completion) for an exclusivity period of 4 weeks to unconditional exchange. Simultaneous exchange and completion to occur within the term of the Exclusivity Agreement.
- 2.4 Authorises the City Solicitor to prepare, negotiate, execute and complete all relevant legal documentation to give effect to the above.

3 Background

- 3.1 The subject land is located within a locality of residential and commercial uses close to the City Centre. The land is currently laid out and operated by the Council as a surface level pay and display car park. This use will cease upon completion of sale and all users will be notified.
- 3.2 The land was declared surplus in a report to Cabinet on 22nd May 2019. The report also approved the subject property being offered for sale.
- 3.3 The land has previously been offered for sale as part of Birmingham Sites Prospectus (May 2019) without a successful sale recommendation being achieved.
- 3.4 Following the appointment of marketing agents Avison Young, the property has been reoffered for sale to the open unrestricted market by informal tender with a closing date of 22nd January 2021.

- 3.5 Tenders were invited on either an unconditional or conditional (subject to planning only) basis, and detailed planning guidance was produced to support and inform the process.
- 3.6 Under the terms of an unconditional sale the purchaser will be required to proceed to an exchange of contracts within six weeks of acceptance of their offer.
- 3.7 The outcome of the tender process, tenders received and recommendations for sale are detailed at Exempt Appendix 2 and in Avison Youngs Marketing Report at Exempt Appendix 3. Exempt Appendix 5 page 3 details Avison Young's estimate of value of the site pre-sale.
- 3.8 The proposed sale represents best consideration and has been validated by Avison Young and the Assistant Director of Property based upon analysis of the bidder's proposals. The offer represents the least risk to the Council in terms of deliverability and overall conditionality.
- 3.9 The City Council Financial Plan 2020-2024 and Financial Plan 2021-2025 agreed in February 2021 approved the flexible use of capital receipts to support the transformation programme and it is proposed that the receipts from this disposal be allocated to support this programme.

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. It would not, however, be in line with the aims of the Property Strategy or the external advice obtained to support delivery of the Strategy. The negotiated capital receipt would not be realised at this time and would not be available to fund the City Council's transformation programme and there would be no guarantee of a future opportunity.
- 4.2 **Option 2 – Dispose of the Property to Council Wholly Owned Company (WOC).** The site is not deemed to be of a strategic value to the Council or a significant development opportunity such that it would wish to retain overall control of the asset through transfer into a WOC.
- 4.3 **Option 3 – Property Retained for Reuse and / or Development by the Council.** In accordance with the Council's surplus property procedures, the property prior to being offered for sale on the open market, has been considered for potential internal reuse, and / or development by the Council to support its business priorities, with no interest expressed or identified.
- 4.4 **Option 4 – 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 and the external advice obtained to support delivery of the Strategy, in order to deliver a capital receipt to fund the Council's transformation programme and remove the Council's management obligation.

5. Consultation

5.1 The transaction is recommended by appointed external agent Avison Young – included in the Marketing Report at Exempt Appendix 3.

5.2 The Newtown Ward Member has been notified of the proposed sale of this property.

6. Risk Management

6.1 To meet the expectations of the prevailing property market, the Council has committed to deliver this sale in accordance with delivery milestones set out in the particulars of sale. Failure to meet these milestones would result in a potential loss of the capital receipt.

7. Compliance Issues:

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

7.1.1 The proposed sale transaction and generation of a capital receipt supports the 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 the 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 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 Council and its solicitors to acquire, 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 Property has confirmed that the recommended sale, as detailed in Exempt Appendix 2 represents best consideration and satisfies the Council's obligations, under Section 123 of the Local Government Act 1972.

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 The Local Government Act 2003 and guidance issued under it authorises the Council's investment management functions.

7.2.4 Exempt information: Schedule 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, 3 and 5 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 2. The capital receipt will be available to fund the City Council's transformation programme, in line with the Financial Plan 2020-2024 and the Financial Plan 2021-2025 approved in February 2021, providing resources to support delivery of a balanced budget.

7.3.2 The land is currently laid out and operated by the Council as a surface level pay and display car park. The Council's Financial Plan 2021-2025 includes a budgeted income of £1,124 p.a. Loss of this income will be managed within existing income budgets. Any costs associated with the existing use of the land will cease upon completion of sale.

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

7.3.4 To demonstrate their commitment, the purchaser has provided a "cash payment" exclusivity premium as detailed in Exempt Appendix 2 (which would be non-refundable but deductible in the event of sale completion) for an exclusivity period to unconditional exchange.

7.4 Procurement Implications

7.4.1 N/A

7.5 Human Resources Implications

7.5.1 Internal resources are used to evaluate and execute the transaction and external consultants have been used to provide an independent assessment of value and sale recommendation.

7.6 Public Sector Equality Duty

7.6.1 An Equality Assessment has been carried out EQUA710 dated 17th June 2021 and is attached at Appendix 4. 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 2 – Recommendations for Sale
- Exempt Appendix 3 – Tender Evaluation Report by Avison Young
- Appendix 4 – Equality Assessment EQUA710
- Exempt Appendix 5 – Avison Young Est of Value Lawson St pg 3

9 Background Documents

- Disposal of Surplus Properties (Approved by Cabinet – May 2019)
- Property Strategy (Approved by Cabinet – November 2018)