

Birmingham City Council

Report to Cabinet

26th May 2020



Subject: PROPERTY PROSPECTUS 2 - TENDERS FOR DISPOSAL OF LAND AT QUESLETT ROAD OLD HORNS CRESCENT

Report of: INTERIM DIRECTOR, INCLUSIVE GROWTH

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

Relevant O & S Chair(s): Councillor Lou Robson – Economy and Skills
Councillor Sir Albert Bore – Resources

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Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No – All wards affected
If yes, names of wards: Oscott.		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 007418/2020		
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 Appendices 2 and 3 - Exempt Information paragraph 3, Information relating to the financial or business affairs of any particular person (including the council).		

1 Executive Summary

- 1.1 This report provides information on the outcome of the informal tender process for the disposal of the Council owned freehold land at Queslett Road as marketed in the Birmingham Sites Prospectus 2 (June 2019) and as shown edged black at Appendix 1 (the Site). The disposal is in line with the Property Strategy 2018/19-2023/24 approved by Cabinet in November 2018. The report seeks approval for the sale of the freehold interest.
- 1.2 Exempt Appendix 2 contains a response to concerns raised in a private session of Cabinet (29th October 2019) and confidential commercially sensitive information which could impact on the tender process.

2 Recommendations

- 2.1 Approves the freehold disposal of the site to the highest recommendable offer as detailed in the Exempt Appendix 2.
- 2.2 Authorises the Assistant Director Property Services to revert to the under bidders in the event the recommended sale does not proceed to completion.
- 2.3 Delegates approval of the final sale terms agreed under 2.2 above to the Leader of the Council in consultation with the Assistant Director Property Services.
- 2.4 Authorises the City Solicitor to negotiate, execute and complete all relevant documentation to give effect to the above recommendations.

3 Background

- 3.1 The strategic approach to the disposal of the land was outlined in a report of the Director, Inclusive Growth entitled "Property Strategy 2018/19-2023/24 (the Property Strategy) approved by Cabinet in November 2018.
- 3.2 The site is situated approximately 6.8 miles (11km) north of the City centre to the North of the Queslett Nature Reserve and was offered for sale through the Birmingham Sites Prospectus 2 (June 2019) to the open unrestricted market by informal tender, with a closing date of 15th July 2019. Tenders were invited on either an unconditional or conditional (subject to planning) basis.
- 3.3 To assist prospective bidders, officers held planning workshops where prospective bidders were given the opportunity to discuss their proposals and were provided with relevant guidance.
- 3.4 An area of the site forms part of a Site of Significance to Nature Conservation (SINC) and as such any development will need to comply with specific ecological mitigation and protection requirements in the Birmingham Development Plan. The site is also subject to a group Tree Preservation Order (TPO) and the area of the site comprising hard standing was formally a depot.
- 3.5 A report to dispose of numerous properties, including Queslett Road, was presented to Cabinet on 29th October 2019. Cabinet's attention was drawn to concerns regarding planning related matters and use of the site and it was agreed consideration of the disposal be deferred subject to further information, with a further report (this report) to be brought to Cabinet at a later date, paragraphs 3.9 to 3.12 provide further information.
- 3.6 The issues raised at Cabinet have been resolved through the provision of additional information and the original bids are being progressed.
- 3.7 All offers received were reviewed and evaluated based on the level of financial offer and the proposed scheme plan/layout, where submitted. A panel comprising representatives of Property and Legal Services evaluated the offers.

- 3.8 The confidential tender information, including the individual tender reports detailing the outcome of the tender process for the site, is appended as Exempt Appendix 2.
- 3.9 The site has been marketed on an unrestricted basis to ensure the maximum return to the Council and any planning proposals that may be brought forward by the successful purchaser will need to comply with prevailing planning policy. In particular sites containing Tree Preservation Orders (TPOs), Sites of Importance for Nature Conservation (SINC), (designation of high ecological value), adjoining or including a designated Nature Reserve or open space, listed buildings and those located within conservation areas must be protected and mitigated as a result of any development in accordance with the Birmingham Development Plan.
- 3.10 Subsequent to the withdrawal of the site from the Cabinet report approved on 29th October 2019, planning officers advised that in relation to the issue of refuse/waste, no specific planning condition would realistically be applied save for conditions around general site management and the provision of refuse bins, refuse collection and removal.
- 3.11 Any planning application, which proposes access off Old Horns Crescent would necessitate access through a SINC and require adequate mitigation and compensation to be secured to address any loss and maintain wider habitat connectivity from the remainder of the SINC across Queslett Road and north-west into Walsall.
- 3.12 For access through a SINC to be considered acceptable, evidence would need to be provided to demonstrate any development proposal complies with BDP policy TP8. Development which directly or indirectly causes harm to local sites of importance for biodiversity and geology (LNRs, SINC and SLINC) are only permitted if it has been clearly demonstrated that the benefits of the proposal outweigh the need to safeguard the designated site, damage is minimised and measures can be put in place to mitigate remaining impacts. If damage cannot be avoided or fully mitigated, appropriate compensation must be secured.
- 3.13 The recommended sale represents best consideration and has been validated by the Assistant Director, Property Services based upon analysis of the offers received.

4 Options considered and Recommended Proposal

- 4.1 **Option 1 – Do Nothing:** Not to proceed would mean not realising a capital receipt from the sale of a surplus asset.
- 4.2 **Option 2 – Proceed with the Sale:** The sale of the site will generate a capital receipt, and release the Council from future management responsibilities.
- 4.3 The sale of the site will promote private investment into the City region.

5. Consultation

- 5.1 The relevant ward members were consulted and the Ward Members for Oscott objected to any development proposals for the Site. The reasons are for many years that the area has been informally adopted into the adjoining area of the Queslett Road Nature Reserve and should remain so, as it now formed part of an area of natural beauty. Ward Members comments are included in full together with officers' response at Appendix 4 of this report.

On the 18th February 2020 Councillor Dring stated "my comments I think will stand alone alongside residents".

Councillor Alden in a public session of Cabinet on 29th October 2019, raised an objection to the sale of the Site stating that it should not be sold as Oscott Ward lacks public open space and that the Site provided a rare opportunity to create public open space in Oscott ward. That the site had formally or informally been used as part of the nature reserve for a number of years and should therefore be formally added to the nature reserve or turned into a park.

- 5.2 No other comments have been received to the report content. The detail of consultation is set out in Appendix 4 of this report.

6. Risk Management

- 6.1 ***Inability to meet property market timelines:***

To meet the expectations of the prevailing property market the Council has committed to deliver a second programme of land and property sales in accordance with the delivery milestones set out in the Birmingham Sites Prospectus 2 (June 2019). Approval of this report will support adherence to these milestones and enable earmarked capital receipts to be realised.

7. Compliance Issues:

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

7.1.1 The Property Strategy is aligned with the strategic outcomes outlined in the Council Plan 2018-2022 (as updated in 2019) – to create a city of growth where every child, citizen and place matters. The Property Strategy will help make Birmingham: 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; and for residents to gain maximum benefit from hosting the Commonwealth Games.

7.1.2 As the largest local authority in the country with the biggest property portfolio there is an opportunity to utilise the Council's property and land assets in a strategic way to deliver priorities.

7.1.3 The Property Strategy outlines a medium to long term strategic approach to utilise the unique asset base and ensure a balanced delivery of maximised commercial and social returns. Re-aligning the Council's property will

provide a catalyst for development and underpin the social fabric of communities across the city.

7.2 Legal Implications

- 7.2.1 The power to hold, appropriate and dispose of land is contained in Sections 120 - 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 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 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 2 and 3 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.

7.3 Financial Implications

- 7.3.1 All offers received are detailed in the individual tender reports attached as Exempt Appendix 3.
- 7.3.2 The purchaser will be responsible for paying the Council's reasonable surveyors and legal fees.
- 7.3.3 The sale will generate a capital receipt allocated to the Non-Investment Portfolio in line with the Property Strategy, Exempt Appendix 2 provides the detailed financial information. The capital receipt will be available to support the Council priorities, subject to Capital Board approval and the Council governance process.
- 7.3.4 The sale of this asset has no rental loss implications, and whilst the disposal will release the Council from future management responsibilities there are no material ongoing holding cost liabilities associated with the asset.
- 7.3.5 The Assistant Director of Property has confirmed that the transaction is at a level that satisfies Section 123 of the Local Government Act 1972 and represents best value.

7.4 Procurement Implications

- 7.4.1 N/A

7.5 Human Resources Implications

7.5.1 Internal professional property, legal and planning resources only have been utilised to deliver this programme of sales.

7.6 Public Sector Equality Duty

7.6.1 The Birmingham Sites Prospectus 2 (June 2019) sales programme has been undertaken in accordance with the Property Strategy. The Property Strategy is a policy document setting out the strategic principles associated with property assets and at this stage there are no specific implications. An initial Equality Assessment Ref No. EQUA368 dated 12th September 2019, has been reviewed and the updated Equality Assessment Ref No. EQUA 506 dated 14th April 2020 is attached as Appendix 5. The further review of this assessment confirms there is no 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 Appendices

1. Site Plan
2. Exempt Appendix
3. Exempt Appendix Tender report
4. Ward Member Consultation Property Prospectus 2-Tenders (July 2019)
5. Equality Assessment

9 Background Documents

9.1 Property Strategy 2018/19-2023/24 including prospectus 2 sites.