

Birmingham City Council

Report to Cabinet

26th March 2019



Subject: Commonwealth Games Acquisitions Update
Birmingham City University Perry Barr Site Acquisition via Land Swap Agreement

Report of: Director, Inclusive Growth

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

Relevant O &S Chair(s): Councillor Mariam Khan, Learning, Culture and Physical Activity; Councillor Tahir Ali, Economy & Skills; Councillor Penny Holbrook Housing and Neighbourhoods

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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): Perry Barr, Bordesley and Highgate | | |
| Is this a key decision? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| If relevant, add Forward Plan Reference: 006317/2019 | | |
| 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, provide exempt information paragraph number or reason if confidential : The financial consequences of the proposed land acquisition are summarised in the attached Exempt appendix 1. This is covered under Exempt information – discretion to exclude public: information falling within the categories outlined in 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 the authority for the Council to acquire the freehold land which was formerly the Birmingham City University site (BCU) at Perry Barr (attached plan appendix 1a) from Homes England (the HE site) to deliver the Commonwealth Games Athletes Village. The acquisition terms agreed with Homes England is via a land swap arrangement comprising the transfer of the Council's land at New Bond Street site at Digbeth (attached plan 1b) (the Council's site) as part consideration for the acquisition of the HE site.

2 Recommendations

That Cabinet;

- 2.1 Declares the Council's site, which is currently held within the Council's commercial portfolio, surplus for sale.
- 2.2 Approves the Council entering into a land swap agreement with Homes England for the Council's acquisition of the HE Site for the consideration set out in Exempt Appendix 1 part of which comprises the exchange of the Council's land at New Bond Street to Homes England.
- 2.3 Approves the payment by Birmingham City Council of a balancing sum representing the difference in valuations of the properties being purchased and disposed of, including associated fees and cost as set out in Exempt Appendix 1.

3 Background

- 3.1 On 15th August 2017, Cabinet approved the decision for Birmingham to submit a bid to be the Host City for the 2022 Commonwealth Games. As part of supporting the bid, Cabinet also approved the strategy to deliver the Commonwealth Games Athletes Village (the Village). Cabinet subsequently approved a further report on 26th June 2018 which delegated authority to the Corporate Director, Economy to negotiate the acquisition of all interests in land to deliver the CWG Village and the wider Perry Barr Regeneration Programme. This delegation does not extend to land swaps as set out in paragraph 2.2 of this report due to the inclusion of the disposal of one of the subject site.
- 3.2 The delivery of the Village is a key component in hosting the Commonwealth Games, and will also form part of the legacy offer by providing new housing development in Perry Barr.
- 3.3 In order to deliver the Village, a number of land and property transactions were identified which included the use of the HE site.
- 3.4 The HE site forms the main part of the Phase 1 Athlete Village site and therefore BCC needs to acquire the site from Homes England to assemble the land for the Athletes Village.

- 3.5 Once the HE site is acquired the Council will be able to hand the site over to its development partner to commence the delivery of the Athletes Village. Therefore this transaction forms a critical component in the programme in the successful delivery of the Games.
- 3.6 The Council has entered into negotiations with Homes England to agree the acquisition via a land swap agreement providing for the transfer of their respective freeholds interest at the HE site, and the Council's site as part consideration of the Council's acquisition of the HE site.
- 3.7 Homes England have also acquired the adjacent Dunelm site on Adderley Street/New Bond Street and therefore wish to acquire the BCC owned New Bond Street interest in order that they can assemble the plots and progress their priorities. Homes England agreed to the sell the HE site to the Council on the understanding that the Council's site is offered as part consideration for the acquisition transaction.
- 3.8 The details of the values have been validated by Birmingham Property Services and are set out in Exempt Appendix 1.
- 3.9 With regards to the HE Site, Homes England are legally bound to pass on to a purchaser, their obligation to agree to pay an extra land payment to BCU if planning consent is obtained that incorporates more than a 1,000 square metre threshold of retail uses. The Commonwealth Games planning consent contains less than this threshold so does not trigger extra payment and BCC will need to ensure that on any disposal of the HE Site any future owner of the site also is bound by the Overage Deed that we are required to enter into.
- 3.10 With regards to the New Bond Street site, the Council has negotiated an overage provision in the transfer contract whereby Homes England share future development sales receipts with BCC based upon a formula and permutations.
- 3.11 The acquisition of the HE site which is required for the Athletes Village will mean that it is under the single ownership of the Council as part of its wider acquisition programme for the CWG.
- 3.12 Birmingham Property Services have negotiated the terms for the transaction which have been agreed and concluded with Homes England, and therefore approval for the exchange of the two sites under a land swap agreement is now required to complete the transaction.
- 3.13 The demolition and remediation of the HE site is progressing at speed in order to assemble the land to hand over to the Council's development partner to deliver the Athletes Village.
- 3.14 In the event that the development of the Commonwealth Games Village does not proceed at the HE site, the acquisition of the HE site will contribute to site assembly required to facilitate a more modest residential led redevelopment proposal.

4 Options considered and Recommended Proposal

- 4.1 The preferred option of housing athletes and officials at a dedicated purpose built Commonwealth Games Village. This has been well received by the Commonwealth Games Federation (CGF) and formed a part of Birmingham's initial bid to the CGF for hosting the games.
- 4.2 Alternative locations for the CGV were considered as part of the bid process, with Perry Barr identified as the preferred site. This would deliver an improved environment within the Perry Barr centre, generate further development opportunities and deliver future growth. It is anticipated that up to 5000 new homes can also be delivered across the wider area over the next 15 years.
- 4.3 Not to proceed with the acquisition of the HE site would render the Athletes Village site undeliverable and would be of immense detriment to the delivery of the Council's vision, legacy and priorities for hosting the Commonwealth Games 2022 as the site forms the main part of the Athletes Village.
- 4.4 Not to proceed with the land swap of the Council site with Homes England. This is a core condition as part of the terms of negotiation with Homes England and therefore the Council is obliged to honour this arrangement to be able to acquire the HE site to deliver the Athletes Village.
- 4.5 The recommended option is to complete the acquisition via the land swap with Homes England.

5 Consultation

- 5.1 Officers from Planning, Highways, Transportation and Connectivity, Housing, Procurement, Birmingham Property Services, Legal Services and Finance have been involved in the preparation of this report.
- 5.2 Councillor Tristan Chatfield Cabinet Member for Finance and Resources was consulted on this report and is supportive of the proposals within the report. Ward members for Perry Barr and Bordesley and Highgate have been consulted and are supportive of the proposals set out in this report.
- 5.3 Opportunities for the regeneration at Perry Barr are set out in the Birmingham Development Plan and Aston, Newtown and Lozells Area Action Plan, both of which were subject to extensive consultation.
- 5.4 Significant local stakeholders have been consulted on proposals for the Commonwealth Games, infrastructure enhancements, and the approach to land acquisitions required to facilitate this. This includes Network Rail, Transport for West Midlands (TfWM), the Owners of One Stop Shopping Centre, the Education Skills Funding Agency, Homes England, Birmingham City University and Holford Drive Community Sports Hub. The West Midlands Combined Authority (WMCA) has been consulted on the proposals for Perry Barr and is supportive. The Commonwealth Games Federation Partnership (CGFP) has been engaged during the Village design process and is pleased with the progress being made.

- 5.5 A meeting of the Perry Barr Ward Committee was held on 15th February 2018 to discuss the emerging proposals for the CGV and Stadium. A Residents Consultation Group has been established. Ongoing consultation with this group and all other affected parties will take place as part of the projects set out here, and the interventions necessary to deliver the projects, including that required as part of the CPO process.
- 5.6 As part of the preparation of the planning application for the residential element of the CGV an exhibition was held on 4th June 2017 for local residents, businesses and stakeholders. This exhibition also provided some details of the wider regeneration proposals for the area.
- 5.7 The freeholders and leaseholders of properties which could be directly affected by acquisitions have been contacted and invited to an information session. Engagement with these parties will continue as the Council seeks to secure acquisitions by voluntary negotiation.

6 Risk Management

- 6.1 If the transaction to acquire the Perry Barr site does not proceed, BCC will be unable to deliver a suitably specified and situated athletes village within the required timeline and programme to meet its contractual obligations. Therefore BCC have entered into formal negotiations to agree this transaction with Homes England.
- 6.2 Not to proceed with the land swap of the Council site with Homes England. This is a core condition as part of the terms of negotiation with Homes England and therefore the Council via formal negotiation is obliged to honour this arrangement to be able to acquire the HE site in time to deliver the Athletes Village.

7 Compliance Issues:

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

- 7.1.1 The proposals set out in this report will support the delivery of the Council Plan and Budget 2019+. They will support the delivery of the ambition set out in the adopted Birmingham Development Plan (BDP), as well as the Aston, Newtown Lozells Area Action Plan (AAP), Birmingham Connected, and the City's role as the Host City for the 2022 Commonwealth Games.

7.2 Legal Implications

- 7.2.1 Section 1 of the Localism Act 2011 contains the City Council's general power of competence.
- 7.2.2 The power to voluntarily acquire, dispose, manage assets in land and property is contained in Sections 120 and 123 of the Local Government Act 1972. Under Section 111 of the Local Government Act 1972 the City

Council may incur expenditure in relation to anything which is incidental to the discharge of its functions.

- 7.2.3 The financial consequences of the proposed land acquisition are summarised in the attached Exempt appendix 1. This is covered under Exempt information – discretion to exclude public: information falling within the categories outlined in 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). In the circumstances Exempt appendix 1 is considered as publication of this information would be prejudicial to the financial or business of a commercially sensitive nature for Birmingham City Council and Homes England as negotiations for the transaction is ongoing and also contains details of third parties and therefore outweighs the public interest in disclosing the information.

7.3 Financial Implications

- 7.3.1 The financial model underpinning the business case approved by Cabinet on 26 June 2018 as part of the report entitled “Commonwealth Games Village and the wider Perry Barr Regeneration Programme – Outline Business Case” included costs of £55.6 million in respect of land acquisition and site preparation to deliver the CWG. The costs will be managed within the overall cash envelope for delivery of the Village as identified in the June 2018 Cabinet Report.

7.4 Procurement Implications (if required)

N/A

7.5 Human Resources Implications (if required)

N/A

7.6 Public Sector Equality Duty

- 7.6.1 An Equality Assessment for the CWG project including the voluntary acquisitions of properties required for the CWG was carried out as part of the Cabinet Authority dated 26th June 2018. There is no further requirement for an equality assessment as the recommendations for this report have no adverse impact on the protected groups under the Equality Act 2010.

8 Appendices

- 8.1 Exempt Private Appendix 1
- 8.2 Appendix 1a: Homes England Perry Barr site
- 8.3 Appendix 1b: Birmingham City Council site, New Bond Street

9 Background Documents

- 9.1 NA