

Birmingham City Council

Report to Cabinet

7th June 2022



Subject: **SALE OF MURDOCH CHAMBERS & PITMAN BUILDINGS, 153 – 161 CORPORATION STREET, BIRMINGHAM**

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

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

Relevant O & S Chairs: 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
Ladywood		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 009239/2021		
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 4, 5 & 5a contain sensitive commercial information on the purchase price & valuation. 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 sale of the surplus Council owned land and property known as “Murdoch Chambers & Pitman Buildings” at 153 – 161 Corporation Street Birmingham to a consortium (MPDevCoLtd – Co Reg Number 07147934) led by CZero Ltd (with Trigram Properties Ltd and Regal Developments Ltd) ; the original selected tendering party following the competitive process in 2018.
- 1.2 The City Centre subject property is shown edged bold on the attached plan at Appendix 1.

2 Recommendations:

- 2.1 Authorises the Assistant Director of Property to conclude a conditional on planning sale of the surplus Council owned property, of the Murdoch Chambers & Pitman Buildings at 153 -161 Corporations Street by the grant of a new 150 year lease¹ at a premium to MP Dev Co Ltd (“the Purchaser”) as detailed in Exempt Appendix 4. and provided for in the previously agreed & signed Agreement for Lease which was dated 7th June 2019 attached as Exempt Appendix 6
- 2.2 Notes that the purchaser will also pay a contribution towards the Council’s surveyor and legal costs, as detailed in Exempt Appendix 4.
- 2.3 Authorises the City Solicitor to conclude the new lease and associated legal documentation to give effect to the above.

3 Background

- 3.1 The Property is situated within close proximity to the Law Courts Area of the City. The property is predominantly vacant in its upper parts, due to declining demand from the legal sector for cellular offices and the reduced provision of legal aid from The Treasury. The Ground Floor retail uses have been largely negotiated to a position of lease surrender to permit the overall redevelopment of the property.
- 3.2 The Property was originally approved by Cabinet for disposal in April 2018 and was approved for sale following a competitive tendered process at that time. It was envisaged (following external planning advice) that a residential conversion project could be forthcoming on the site.
- 3.3 The purchaser has since engaged in an extensive series of discussions with our planning team. A proposal for a residential conversion & development permission for the property was originally made in a pre-application, during the initial tender

¹ The Avison Young (AY) report at Appendix 5 refers to a 250-year lease and their considerations are predicated on a lease of that length, but that would not and does not materially impact the basis of the report recommendations.

period but was viewed unfavourably by the Council's own planning team. Planning colleagues accepted residential use for the front heritage part of the building, but this is not deemed sufficiently viable for the extension or redevelopment of the whole site, or for a necessary proposed rear extension.

- 3.4 The developer/bidder was therefore encouraged to reconsider and has finally settled and submitted a third revision of a planning application (December 2021) for a new 136 unit apartment hotel on the site, based on a retention of the Grade II* Listed façade and a redevelopment of the rear of the property in a contemporary and energy efficient extension. The application was approved on the 28th April 2022.
- 3.5 Subject to any Planning Committee approval of the above planning application (Planning Reference Number 2019/10362/PA) and the Approval Conditions the project could encourage a much needed economic development injection into this historic part of the City Centre, that has not only seen the decline from the legal occupiers sector but also the decline from retail occupier demand following the Covid pandemic. The proposed apartment hotel operator would create much needed employment opportunities in the tourism sector which is seen as a positive diversity to other schemes that offer private and student residential accommodation development.
- 3.6 The area is not currently part of a specified area under consideration through 'Our Future City Plan – Central Birmingham 2040' , however, significant projects, either led by the Council or others (in relation to Central Hall) on Corporation Street are likely to see development activity with changes of use away from the historic legal sector.
- 3.7 The negotiations following the original tender; have become a solus negotiation based on the revised possibilities of an approvable planning consent and the tourism operators that have requirements for development space in the City.
- 3.8 The proposed sale represents best consideration and has been validated by Avison Young in their Independent Valuation Report of October 2021 (Attached as Exempt Appendix 5) and their subsequent follow up advice received in a letter (Attached as Exempt Appendix 5a) of the 18th February 2022. We have considered the following factors in our own recommendations;
- analysis of the bidders' previous financial proposals
 - our knowledge of the apartment hotel marketplace
 - the operator interest shown by the developer for various heads of terms shared with us

3.9 The scrutiny undertaken by our valuers as to the alternative uses and wide-ranging basis of valuations has been quite intensive, including reviews based on:

- property as it is – i.e. in its current condition;
- partial refurbishment & reletting
- complete redevelopment.

The current offer therefore represents best value and the least risk to the Council in terms of deliverability and overall conditionality.

3.10 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 valuation highlighted by the AY report in Exempt Appendix 5 qualifies that doing nothing does not represent the best return to the Council. The building is at significant risk and is likely to further deteriorate. 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).** As detailed in the recommendations; the property is recognised as a significant development opportunity, where there may be future financial benefit to the Council to retain overall control of the asset through transfer into a WOC.

4.3 **Option 3 – Property Retained for Re-use 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. The partial refurbishment options identified in the AY report in Exempt Appendix 5 again are not as financially beneficial the current proposal.

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 management obligation.

5. Consultation

- 5.1 The transaction is supported fully by our external independent advisor Avison Young as detailed in the Independent Valuations Report & Conclusions which are attached as Exempt Appendix 5 & the follow up advice in Exempt Appendix 5a.
- 5.2 The Ladywood Ward members have 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.
- 6.2 The planning process has been an extensive one. The current application is the most favourable one and has received a lot of consultation (over 3 years). Some residual risks still exist, particularly in relation to fire escape provisions and the potential application refusal, but risk mitigation to date has addressed the controllable underlying issues.
- 6.3 The loss of developer interest has been considered, but with the pre-letting to two operators with established heads of terms, the margins for return are maintained, particularly with WMCA grant support intervention. The Council should be confident that a scheme is still viable.

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 Whilst the property is not specifically identified in the approved Birmingham Property Strategy 2018-2023, the recommendations of this report fully support the Strategy's aims.

7.1.4 The economic development advantages offered by the project

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 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 4, 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) Paragraph 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 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 and in the public interest to keep exempt.

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 4. 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 purchaser will pay a contribution towards the Council's professional costs related to the disposal as detailed in Exempt Appendix 4.

7.3.3 Upon exchange of contracts the purchaser will pay a 10% non-refundable deposit.

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

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 was carried out EQUA738 on the 19th August 2021 and is attached at Appendix 2. 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
- Appendix 2 – EQUA738
- Appendix 3 – Summary of Internal Ward Members Circulation
- Exempt Appendix 4 – Commercial Report
- Exempt Appendix 5 – AY Valuation Report
- Exempt Appendix 5a – AY Follow Up Statement
- Exempt Appendix 6 – Agreement for Lease

9 Background Documents:

- Disposal of Surplus Properties (Approved by Cabinet – March 2016)
- Property Strategy (Approved by Cabinet – November 2018)
- Property Strategy: Asset Review - Birmingham City Propco Limited (Propco) (Approved by Cabinet – July 2021)