

BIRMINGHAM CITY COUNCIL

CABINET MEMBER AND CHIEF OFFICER

THURSDAY, 24 FEBRUARY 2022 AT 00:00 HOURS
IN CABINET MEMBERS OFFICE, COUNCIL HOUSE, VICTORIA
SQUARE, BIRMINGHAM, B1 1BB

A G E N D A

3 - 16

1 SALE OF PREMISES 30-31 LOWER TOWER STREET, BIRMINGHAM,
B19 3NH

Report of
Strategic Director for Place, Prosperity and Sustainability – Paul Kitson
Director of Council Management – Rebecca Hellard
City Solicitor and Monitoring Officer (Interim) – Satinder Sahota

Birmingham City Council**Report to Leader and Cabinet Member Finance and Resources**24th February 2022

Subject: **SALE OF PREMISES 30-31 LOWER TOWER STREET, BIRMINGHAM, B19 3NH**

Report of: Strategic Director for Place, Prosperity and Sustainability – Paul Kitson
 Director of Council Management – Rebecca Hellard
 City Solicitor and Monitoring Officer (Interim) – Satinder Sahota

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

Report author: Rob King
 Business Manager - Property Services
 0121 303 3928 / robert.king@birmingham.gov.uk

Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Newtown		
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 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 Appendix 2 contains sensitive commercial information on the purchase price and valuation.		

1 Executive Summary

- 1.1 This report seeks authority for the sale of the Council's freehold reversionary interest in Premises at 30-31 Lower Tower Street, Birmingham, B19 3NH to the current lessee, Bhambra Properties Limited.
- 1.2 The subject property has a site area of 1,279 sqm approximately and is shown edged bold on the attached plan at Appendix 1.
- 1.3 The report seeks authority under paragraph 3.2(xi) of Part E of the constitution, for the approval of acquisitions and disposals from the Investment Property portfolio to the Leader and Cabinet Member for Finance and Resources, jointly with the Director - Inclusive Growth, Chief Finance Officer and the City Solicitor (or their delegates, now Strategic Director Place, Prosperity and Sustainability, Director of Council Management and City Solicitor and Monitoring Officer - Interim), up to a limit of £25m in any one transaction.
- 1.4 The recommendations contained in this and the Exempt Appendix 2 are fully in line with the Council's wider ambitions and plans for inclusive growth and financial stability. The recommendations are in compliance with the Birmingham City Council Plan and Budget 2018-2022 and the Property Strategy.
- 1.5 Options for this property interest have been fully considered and the recommended sale provides the best outcomes for the City as detailed in the Exempt Appendix 2.

2 Recommendations:

- 2.1 Authorises the Assistant Director of Property to conclude the sale of the Council's freehold reversionary interest, to the current lessees, Bhambra Properties Limited.
- 2.2 Notes that the purchaser will pay a contribution towards the Council's surveyor's and legal costs, as detailed in Exempt Appendix 2.
- 2.3 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 property is land and premises comprising offices / workshops, currently held within the Council's Investment Portfolio. The property is located within a locality of established workshop / commercial uses in close proximity of the city centre.
- 3.2 The property is shown edged bold on the plan at Appendix 1 of this report.
- 3.3 The property is owned freehold subject to a lease for 99 years from 30th August 1972, at a ground rent of £11,650 per annum (subject to 21 yearly rent reviews). The lease is currently held by Bhambra Properties Limited.
- 3.4 Following a comprehensive review of the Council's Investment Portfolio supported by appointed advisors Avison Young in 2020, the Council's interest in this property has been identified for potential sale.
- 3.5 In accordance with agreed process, terms have initially been offered to, and agreed with the current lessee to acquire the Council's freehold interest in the property.
- 3.6 The outcome of the negotiations and recommendations for sale are detailed at Exempt Appendix 2 of this report.
- 3.7 The proposed sale represents best consideration and has been validated by the Assistant Director of Property based upon an analysis of the financial terms of the recommended sale,

consideration the Council's Property Strategy, and wider aspirations and ambitions for the City.

- 3.8 The City Council Financial Plan 2020-2024 and Financial Plan 2021-2025 approved 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 Council's transformation programme and there would be no guarantee of a future opportunity. The property is not allocated, nor does it have planning consent for an alternative use and is therefore not an immediate development opportunity. The property does not have an obvious alternative use which would benefit the Council.
- 4.2 **Option 2 – Dispose of the Property to Council Wholly Owned Company (WOC).** The property 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. In addition, there is limited income from the property to support and fund a sale of this nature.
- 4.3 **Option 3 – 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. The sale to lessee will give the tenant the ability to invest in the asset and create jobs.

5. Consultation

- 5.1 The Property Investment Board comprising officers from Property Services, Finance and Legal Services recommends proceeding with the transaction.
- 5.2 No further external consultation is necessary for this commercial transaction.

6. Risk Management

- 6.1 There are no immediate risks to the Council's holding if the transaction does not complete since its interests are protected under the terms of the existing lease. The 'risk' of not proceeding could only be seen in terms of a lost opportunity to generate a potential capital receipt.
- 6.2 The 'risk' of not proceeding could only be seen in terms of a lost opportunity to generate a capital receipt for potential reinvestment via a sale of the Council's interest in the property.

7. Compliance Issues:

- 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 both the approved Birmingham Property Strategy 2018-2023 and Property Investment Strategy.

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 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) paragraph 3. Information relating to the financial or business affairs of any particular person (including the Council). Exempt Appendix 2 is considered to be exempt as it contains 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 property is currently subject to an annual rental of £11,650 per annum which will be lost to the City Council. This income forms part of the existing Property Services budget allocation. The loss of income will be mitigated on a one-off basis in 2021/22 from corporate resources and factored in on an ongoing basis with effect from 2022/23 as part of the City Council rolling Medium Term Financial Plan (MTFP) refresh.
- 7.3.3 As the property is currently let on full repairing and insuring terms (the lessee picks up all of those costs), the holding costs related to this asset are limited to the cost of BCC officer time incurred in managing the lease as part of the wider city centre portfolio of properties, and not specifically recorded or measured.
- 7.3.4 The purchaser will pay a contribution towards the Council's professional costs related to the disposal as detailed in Exempt Appendix 2.

- 7.3.5 The purchase price, including any contribution to the Council's costs, is exclusive of VAT. However, as the City Council has not opted to tax the site, nor intends to do so prior to the disposal, VAT is not chargeable on the purchase price.

7.4 Human Resources Implications

- 7.4.1 Internal resources are being used to evaluate and execute the transaction.

7.5 Public Sector Equality Duty

- 7.5.1 An Equality Assessment has been carried out EQUA855 dated 17th February 2022 and is attached at Appendix 3. This identifies no adverse impacts on any groups protected under the Equality Act 2010.

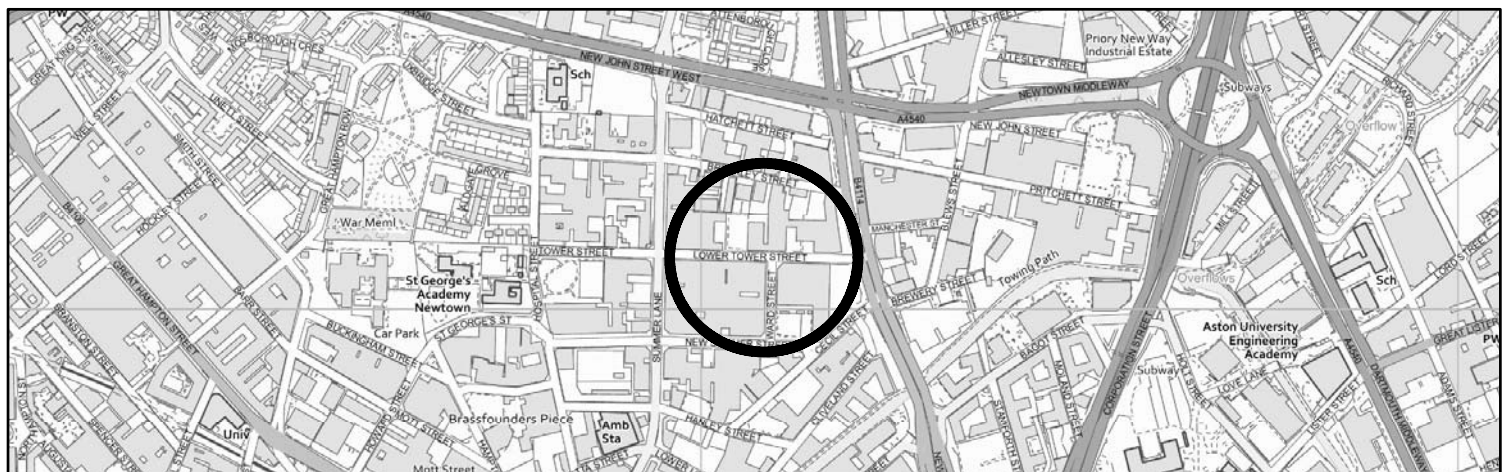
8. Appendices

- 8.1 List of Appendices accompanying this report:

- Appendix 1 – Site Plan
- Appendix 2 - (Exempt) - Recommendations
- Appendix 3 – Equality Assessment EQUA855

9 Background Documents

- Property Strategy (Approved by Full Cabinet – November 2018)
- Property Investment Strategy (Approved by Full Cabinet – July 2019)



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Birmingham
City Council

Kathryn James
Assistant Director Property
Inclusive Growth Directorate
10 Woodcock Street
Birmingham, B7 4BG

**30-31 Lower Tower Street
Newtown**



Scale (Main Map)

Drawn

Date _____

1:1,250

Bharat Patel

06/12/2021

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O.S.Ref SP0788SW

Title of proposed EIA	Sale of Premises at 30-31 Lower Tower Street Birmingham B19 3NH
Reference No	EQUA855
EA is in support of	New Function
Review Frequency	Annually
Date of first review	15/02/2023
Directorate	Inclusive Growth
Division	Property Services
Service Area	Property Valuation & Sales
Responsible Officer(s)	<input type="checkbox"/> Felicia Saunders
Quality Control Officer(s)	<input type="checkbox"/> Eden Ottley
Accountable Officer(s)	<input type="checkbox"/> Eden Ottley
Purpose of proposal	To seek authority for the sale of the Council's freehold reversionary interest in Premises at 30-31 Lower Tower Street, to the current lessee,.
Data sources	Consultation Results; relevant reports/strategies; relevant research
Please include any other sources of data	
ASSESS THE IMPACT AGAINST THE PROTECTED CHARACTERISTICS	
Protected characteristic: Age	Service Users / Stakeholders; Wider Community; Not Applicable
Age details:	The sale of 30-31 Lower Tower Street will not have a negative impact on the grounds of age due to the fact any sale will have to be to an individual of an adult age.
Protected characteristic: Disability	Service Users / Stakeholders; Wider Community; Not Applicable
Disability details:	The sale of 30-31 Lower Tower Street will not have a negative impact on the grounds of disability. However, subject to future use the purchaser/new owner would be responsible for any access to work obligations.
Protected characteristic: Sex	Service Users / Stakeholders; Wider Community; Not Applicable
Gender details:	The sale of 30-31 Lower Tower Street will not have a negative impact on the grounds of sex.

Gender details:

The sale of 30-31 Lower Tower

Street has been a solus negotiation with the existing lessee, and has not been conducted on the basis of gender. Therefore, there are no negative impacts in relation to this protected characteristic.

Protected characteristics: Gender Reassignment

Service Users / Stakeholders; Wider Community; Not Applicable

Gender reassignment details:

The sale of 30-31 Lower Tower Street has been a solus negotiation with the existing lessee, and has not been conducted on the basis of gender reassignment. Therefore, there are no negative impacts in relation to this protected characteristic.

Protected characteristics: Marriage and Civil Partnership

Service Users/ Stakeholders; Wider Community; Not Applicable

Marriage and civil partnership details:

There are no known conditions for which this asset will be disposed of in the context of marital status. It has been conducted on a solus negotiation with the existing lessee. Therefore there are no negative impacts or implications for this characteristic.

Protected characteristics: Pregnancy and Maternity

Service Users / Stakeholders; Wider Community; Not Applicable

Pregnancy and maternity details:

There are no criteria which prevent pregnant individuals wishing to purchase this asset, as it has been a solus negotiation with the existing lessee. By implication there will be no negative impact on the grounds pregnancy.

Protected characteristics: Race

Service Users / Stakeholders; Wider Community; Not Applicable

Race details:

The sale of 30-31 Lower Tower Street has been a solus negotiation with the existing lessee, and will not be conducted on the basis of race. Therefore, there are no negative

impacts in relation to this protected

impacts in relation to this protected characteristic.

Protected characteristics: Religion or Beliefs

Service Users / Stakeholders; Wider Community; Not Applicable

Religion or beliefs details:

The sale of **30-31 Lower Tower Street** has been a solus negotiation with the existing lessee, and will not be conducted on the basis of religion. Therefore, there are no negative impacts in relation to this protected characteristic.

Protected characteristics: Sexual Orientation

Service Users / Stakeholders; Wider Community; Not Applicable

Sexual orientation details:

The sale of **30-31 Lower Tower Street** has been a solus negotiation with the existing lessee, and will not be conducted on the basis of sexual orientation. Therefore, there are no negative impacts in relation to this protected characteristic.

Socio-economic impacts

Please indicate any actions arising from completing this screening exercise.

Please indicate whether a full impact assessment is recommended

NO

What data has been collected to facilitate the assessment of this policy/proposal?

Consultation analysis

Adverse impact on any people with protected characteristics.

Could the policy/proposal be modified to reduce or eliminate any adverse impact?

How will the effect(s) of this policy/proposal on equality be monitored?

What data is required in the future?

Are there any adverse impacts on any particular group(s)

No

If yes, please explain your reasons for going ahead.

Initial equality impact assessment of your proposal

The proposal seeks authority for the sale of the Council's freehold reversionary interest in Premises at 30-31 Lower Tower Street Birmingham, to the current lessee, Bhabra Properties Limited for an appropriate premium.

The site is currently held within the

Council's Commercial Portfolio and located within a locality of largely commercial land uses close to the City Centre.

The purchaser will also pay a contribution towards the Council's surveyor's and legal costs.

The sale represents best consideration and value, and has been validated by the Assistant Director of Property and Property & Investment Board members based upon the needs for investment and growth.

Consulted People or Groups

Informed People or Groups

Summary and evidence of findings from your EIA

The Property Investment Board comprising officers from Property Services, Finance and Legal recommends proceeding with the transaction.

The Leader of the Council and Cabinet Member for Finance and Resources have been consulted regarding the contents and are fully supportive of this proceeding to an executive decision.

As this is a routine commercial transaction between the Council as freeholder and the current lessee, neither Ward Members nor external consultation is required.

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.

This asset has been identified as an asset the City Council should consider disposing to assist and promote investment.

QUALITY CONTORL SECTION

Submit to the Quality Control Officer for reviewing?	Yes
Quality Control Officer comments	
Decision by Quality Control Officer	
Submit draft to Accountable Officer?	Yes
Decision by Accountable Officer	
Date approved / rejected by the Accountable Officer	
Reasons for approval or rejection	
Please print and save a PDF copy for your records	Yes

Content Type: Item

Version: 27.0

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Close

