

Birmingham City Council

Report to Cabinet

08 September 2020



Subject: **WHOLESALE MARKET AND ADJACENT AREA ASSET MANAGEMENT – PROCUREMENT STRATEGY**

Report of: **ACTING DIRECTOR, INCLUSIVE GROWTH**

Relevant Cabinet Member: **Councillor Ian Ward, the Leader of the Council**
Councillor Tristan Chatfield, Cabinet Member for Finance and Resources

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

Report author: Marlene Slater
Project Delivery Manager
Telephone No: 07548 712 816
Email Address: marlene.slater@birmingham.gov.uk

Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s): Bordesley & Highgate		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 007780/2020		
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 Appendix 1 - Item 3. Information relating to the financial or business affairs of any particular person (including the Council).		

1 Executive Summary

- 1.1 The Wholesale Markets were demolished in 2018 as part of early enabling to facilitate the Birmingham Smithfield Development regeneration project. Elements of the Birmingham Smithfield Development site as described in 1.2 of this report are increasingly becoming redundant and vacant. To mitigate the operational costs of maintaining and making secure the buildings thereon, as well as making management of the Smithfield site easier, the Council wishes to commence the procurement of works on 05 October 2020 to enable these parts of the Birmingham Smithfield Development site to be cleared.

- 1.2 This report seeks approval of the procurement strategy outlined in Appendix 2 for demolition of the car parks, office building, relocation of staff and services and for site investigation and surveys with prudential borrowing to fund these works, on the disused former Wholesale Market site located at Pershore Street and on adjacent land owned by the Council (the Works Area) as shown edged black on the plan attached at Appendix 3.

2 Recommendations

- 2.1 Approves the procurement strategy for the demolition, site investigation, surveys and auxiliary works (the Works) as outlined at Appendix 2 within the Works Area as shown at Appendix 3.
- 2.2 Delegates the award of the contracts for the Demolition and the Surveys to the Acting Director Inclusive Growth in conjunction with the Assistant Director, Development and Commercial (or their delegate), the Interim Chief Finance Officer (or their delegate) and the Acting City Solicitor (or their delegate).
- 2.3 Authorises expenditure up to a maximum value of £5.7m for the Works, and prudential borrowing to fund the cost of the Works.
- 2.4 Notes that Acivico Ltd will be providing professional services to support the demolition works and auxiliary works that includes the relocation of Manor House Staff and Retail Market Operation Facilities.
- 2.5 Approves the appropriation of 20.57 acres of land held currently by Commercial and Transportation and managed by the Neighbourhoods Directorate for market functions under the Birmingham Corporation (Consolidation) Act 1883, as identified on the plan at Appendix 3, into the Inclusive Growth Directorate for planning and development purposes under the Town and Country Planning Act 1990.
- 2.6 Authorises the relocation of staff and tenants located at Manor House to secure the Vacant Possession of the site required for the Works.
- 2.7 Authorises the Interim City Solicitor to finalise, execute and complete all relevant legal documentation and legal agreements to give effect to the above recommendations.

3 Background

- 3.1 On 20 September 2016, Cabinet approved the Birmingham Smithfield Masterplan which sets out the vision to transform the former wholesale markets site and its surrounding environs. The vision for Birmingham Smithfield is to create a new destination in the heart of the city centre, including new cultural and leisure attractions, and vibrant retail markets and spaces for new and existing small businesses, as well as a residential neighbourhood with a high-quality public realm and integrated public transport links to the wider city centre. Birmingham Smithfield is one of the five areas of transformation that will deliver the growth of the City Centre, as set out in the Big City Plan (2011), is a major

development site in the statutory Birmingham Development Plan 2031 and the largest Enterprise Zone site.

- 3.2 On 11 December 2018 Cabinet approved the selection of Lendlease Europe Ltd as the Preferred Bidder for the Birmingham Smithfield Development to work with the City Council to produce a detailed Masterplan and Business Case for the development of Birmingham Smithfield.
- 3.3 The City Council is working collaboratively with Lendlease Europe Ltd to produce a robust Business Plan and HM Treasury Green Book-compliant Outline Business Case for the development; and to finalise the Joint Venture Agreement (JVA) and associated contracts. Work is still ongoing in this respect and the award of the Birmingham Smithfield Development contract to Lendlease Europe Ltd is anticipated in Winter 2020/21.
- 3.4 The Commonwealth Games Organising Committee (CWGOC) requires the use of various venues across the city that have good connectivity to the transport networks and are within close proximity to the city centre.
- 3.5 On 22 July 2020 the Council agreed Heads of Terms and anticipates entering into a Venue Use Agreement in February 2021 with the CWGOC for part of the Birmingham Smithfield Development site to be used as a venue to host the Games key sporting events of Beach Volleyball and 3x3 Basketball.
- 3.6 The temporary use of the site (Works Area) will mean that the delivery programme of the Birmingham Smithfield Development is deferred. The Council's intention to bring forward the Works ahead of the Games will help offset, in part, this change to the delivery programme.
- 3.7 The Works would be required in any event to enable any redevelopment of the site and are, therefore, directly beneficial in terms of adding value to the Council's land interest.
- 3.8 CWGOC will prepare and dress the Works Area for Games-time use at its own cost.
- 3.9 The Works will enable the efficient management and utilisation (and showcasing) of the Council's assets in relation to the remaining parts of the former Wholesale Markets site and adjacent land. The Works will enable the unused parts of the Smithfield Development site to be fully activated with temporary uses for the CWGOC which would otherwise remain unused for some time until the construction of Birmingham Smithfield Development commences.
- 3.10 The Works
 - 3.10.1 There is currently a right of access across the site contained within the leases for the Mercat Public House and Sub-Station. Owing to the proposed works an alternative route or provision may be required to ensure this right is maintained. The Council is exploring a number of

options and alternative arrangements which would maintain this provision.

- 3.10.2 The markets fish polystyrene and general cardboard packaging waste recycling facilities and 36 Open Market traders' caged storage units located beneath and adjacent to the Markets car park will be relocated to the Rag Market underground car park as part of the Works. As there would not be capacity to store the current levels of recycling waste bales on site during the CWGOC possession of the site, arrangements will be made to temporarily increase the collection of polystyrene waste and cardboard packaging waste.
- 3.10.3 The route used by Open Market traders to transport their goods by hand pallet pumped trolleys from the caged storage units to the outdoor markets will not be available following demolition of the buildings. As the potential alternative route via Dean Street is too steep to allow safe transportation by hand pallet pumped trolley due to the changes in levels, a new route will be constructed along the north boundary of the site.
- 3.10.4 The Works include the demolition of the Manor House office building and the Markets and Pershore Street car parks which will require the relocation of Council staff and the Indoor, Rag and Open Markets operational services located at Manor House and the Markets car park.
- 3.10.5 The staff located at Manor House will be relocated to Ashted Lock except for staff that manage the Indoor, Rag and Open Markets who will be relocated to accommodation within the Indoor Markets. Vehicle storage facilities for the Illegal Money Lending Team, Pest Control and Waste Enforcement Unit are being sourced in locations across the City.
- 3.10.6 There is currently a parking space outside Manor House for the 15 Tonne Heavy Goods Vehicle (HGV) that is used to transport traders' goods from the new Wholesale Market in Aston to the markets as agreed between the Council and traders to mitigate the impact of the relocation of the Wholesale Market. Provision of this parking space on the works site will not be possible upon commencement of the enabling works and during the CWGOC's possession of the site (Works Area). Therefore, the Council is already seeking to identify an appropriate alternative arrangement to maintain the previously agreed mitigation measure, which would be implemented prior to the disruption of the current arrangement.
- 3.10.7 A trader's refrigerated foods unit located beneath Manor House and subject to a premises lease with the Council as Landlord for the storage of goods, shall be relocated to the Rag Market underground car park. The 7.5 Tonne refrigerated HGV also owned by the trader and parked adjacent to the refrigerated unit that is used to transport goods to the market cannot access the Rag Market underground car park due to height restrictions. Therefore, the Council will seek to identify an

appropriate alternative arrangement prior to the disruption of the current arrangement.

3.10.8 A trader's frozen food unit located beneath Manor House and subject to a premises lease between the Council as Landlord for the storage of goods and parking for a Forklift truck used to transport goods to the market shall be relocated to the Rag Market underground car park.

3.10.9 Six traders' vehicles parked across the existing site (Works Area) cannot be parked in the Rag Market underground car park due to height restrictions and/or lack of capacity. Therefore, the Council will work with the traders to identify appropriate alternative arrangements prior to the commencement of the Works.

3.10.10 The key milestones for the Works are:

MILESTONE	DATE
Invite Tenders for Site Surveys and Ground Investigations	23 September 2020
Relocation of Manor House Staff	17 October 2020
Vacant Possession of Pershore Street Car Park	18 October 2020
Commence Demolition Asbestos Surveys	19 October 2020
Commence Site Surveys and Ground Investigations	26 October 2020
Submit Demolition Planning Application	02 November 2020
Commence Service Disconnections	14 November 2020
Invite Tenders for Demolition Works	21 December 2020
Vacant Possession of Markets Car Park	14 December 2020
Commence Demolition Works	19 April 2021
Relocation of Traders Premises at Manor House	26 April 2021
Vacant Possession of Manor House	26 April 2021
Completion of Site Survey and Ground Investigation Work	28 December 2021
Completion of Demolition Works	10 January 2022
Completion of New Route for Open Market Traders	10 January 2022
Handover Site to CWGOC	14 February 2022

4 Options Considered and Recommended Proposal

4.1 Option 1: Do Nothing - this option is not recommended as the necessary works would not be undertaken to mitigate the change to the Smithfield Development delivery programme, and the site would continue to present a management and security risk.

4.2 Option 2: Undertake Part of the Works – this option is not recommended as undertaking only part of the Works would not mitigate the change to the Smithfield Development delivery programme. In addition, it is not an efficient working methodology and would not provide best value for money where works can be grouped together as one discrete work package to ensure the efficient and effective co-ordination and delivery of high-quality works.

- 4.3 Option 3: Full Delivery of Works (Proposed recommendations in section 2) - this is the preferred option as it will mitigate changes to the Smithfield Development delivery programme.

5 Consultation

- 5.1 The relevant Ward Member for Bordesley and Highgate has been consulted on the proposals outlined in this report and has made no comment as detailed at Appendix 4
- 5.2 The Indoor, Rag and Open market traders have been consulted on the proposals outlined in this report and are supportive of the proposals.
- 5.3 The traders with leases to use premises beneath Manor House have been consulted on the proposals outlined in this report and are supportive of the relocation of their premises.

6 Risk Management

- 6.1 Risks have been, and will continue to be, identified, evaluated and controlled in line with the Birmingham City Council Risk Management Framework 2018. The key risks for the project and their mitigation are detailed in the risk register at Appendix 5

7 Compliance Issues:

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

- 7.1.1 The recommendations support the strategic outcomes of the City Council's Plan and Budget 2018-2022 (as updated in 2019) through Birmingham Business Charter for Social Responsibility (BBC4SR). The supplier will be required to make commitments against homelessness interventions which supports the priority for Birmingham to be a fulfilling city to age well in; employment, skills and training opportunities will be provided that support the priority for Birmingham to be an entrepreneurial city to learn, work and invest in; reducing the provision of car parking in the city centre will encourage the use of public transport that will help reduce the city's carbon footprint and tackle air pollution which supports the priority for Birmingham to be a great city to live in and to take a leading role in tackling climate change.
- 7.1.2 In addition, the recommendations will enable the efficient management and utilisation of the Council's assets in relation to the remaining parts of the former Wholesale Markets site and adjacent land, which support the creation of a resilient and sustainable property portfolio that enables the provision of modern 21st century Council services and transformation change.

7.1.3 The Council's parking strategy that supports the Clean Air Zone policy will be supported by the recommendations to undertake the works that include the demolition of the Markets and Pershore Street car parks.

7.1.4 Birmingham Business Charter for Social Responsibility (BBC4SR)

Compliance with the BBC4SR is a mandatory requirement that will form part of the conditions of these contracts. Tenderers will be required to submit an action plan with their tender that will be evaluated in accordance with the procurement strategy set out in Appendix 2 and the action plan of the successful tenderers will be implemented and monitored during the contract period. Employment and Training outcomes will be maximised for local people by prioritising Birmingham's homeless, those not in education or training (NEET) and job-seeking residents. In addition, practical support shall also be targeted to local projects and community groups that provide services to these specific groups.

7.2 Legal Implications

7.2.1 Section 1 of the Localism Act 2011 contains the Council's general power of competence and under Section 111 of the Local Government Act 1972 the Council has power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. Under Section 1 of the Local Government Act 2003, a local authority may borrow money for the purposes of the prudent management of its financial affairs.

7.2.2 Appendix 1 contains exempt information under 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), and the amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services. The information is considered not 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

7.2.3 Section 122 of the Local Government Act 1972 contains the land appropriation power enabling local authorities to hold and appropriate land for any authorised function

7.3 Financial Implications

7.3.1 The Works are estimated not to exceed £5.7m. This cost includes Acivico's fees and officers' time necessary to deliver the works. This cost will be met from prudential borrowing, the interest on which will be repaid by CWGOC.

- 7.3.2 The capital repayment of the costs will be made from Enterprise Zone funds to the Birmingham Smithfield Development project once approved by the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) and Cabinet. Should the Birmingham Smithfield Development project not proceed, then the capital repayment will be made from the Inclusive Growth budget using the enhanced asset value of a primed development site.
- 7.3.3 The cost of the works will not increase the cost of the Birmingham Smithfield Development project nor require extra funding from the GBSLEP Enterprise Zone facility as the Works are required to deliver the early phases of the Birmingham Smithfield Development project and are included in the financial model for the project.
- 7.3.4 The whole project will be managed by the Inclusive Growth Project Delivery Team in line with the Council's Financial Regulations.
- 7.3.5 Details of the financial implications and issues that are exempt information are included in Exempt Appendix 1.

7.4 Procurement Implications (if required)

- 7.4.1 The procurement strategy for the Works is detailed in Appendix 2.

7.5 Human Resources Implications (if required)

- 7.5.1 This project will necessitate the vacation and demolition of one of the Council's offices for the Regulation and Enforcement Division of the Neighbourhoods Directorate. The Corporate Landlord is working with the Division's Interim Assistant Director to achieve early vacation of the site and staff relocation.
- 7.5.2 Staff were notified of the need to move from Manor House in April 2020 and initial views were sought. The formal consultation process with staff will commence on/or before the end of August 2020 in line with the City Council's human resource policies.
- 7.5.3 Staff at Manor House will be relocated to Ashted Lock, in the main although Markets staff will remain in the vicinity of the existing market area. Given the move will occur during the Covid 19 pandemic restrictions, provisions are being incorporated that will ensure the new building is Covid secure. The service provision in the community means the Regulation and Enforcement Division staff are unable to work from home in the main as recovery progresses. The new office arrangements for the Division will comply with the agile working policies adopted by the City Council.

7.6 Public Sector Equality Duty

- 7.6.1 The Works supports the delivery of the Birmingham Smithfield Masterplan approved by Cabinet on 20 September 2016, for which an Equality Analysis was undertaken. This Equality Analysis has been reviewed and it is concluded that the Works are unlikely to have a disproportionate impact on any of the protected groups and characteristics under the Equality Act 2010. The Equality Analysis will be reviewed again in awarding the Birmingham Smithfield Development Contract.
- 7.6.2 An Equality Impact Assessment of the relocation of Manor House staff has been undertaken and it concludes that the new facilities at Ashted Lock provide a more disabled friendly environment being on one floor at ground floor level, and that there will be a positive impact on staff belonging to a protected group and characteristics under the Equality Act 2010, particularly transgender staff who will be able to access gender-neutral toilets at the new accommodation.

8 List of Appendices accompanying this Report

1. Exempt Appendix 1 - Exempt Information.
2. Appendix 2 Works Procurement Strategy
3. Appendix 3 Works and Appropriation Plan
4. Appendix 4 Ward Member Consultation
5. Appendix 5 Risk register
6. Appendix 6 Equality Analysis

9 Background Documents

- 9.1 Birmingham Smithfield Development Option Appraisal and Selection of Preferred Bidder Cabinet Report 11 December 2018.
- 9.2 City Council Plan 2018-2022.